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MEETING NOTICE
The Administrative Regulation Review Subcommittee is tentatively scheduled to meet on Tuesday, September 10, 2002, at 10 a.m. in Room 149 of the Capitol Annex. See tentative agenda on pages 625 - 628 of this Administrative Register.
The ADMINISTRATIVE REGISTER OF KENTUCKY is the monthly supplement for the 2002 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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Commonwealth Postsecondary Education Prepaid Tuition Trust Fund
20 KAR 2:040. Applying for a prepaid tuition contract.
20 KAR 2:050. Prepaid tuition contract prices, payments, and default.
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40 KAR 2:001 & E. Definitions for 40 KAR Chapter 2. (*E* expires 11/18/03)
40 KAR 2:070E. Procedure for registration of telemarketing companies. (*E* expires 1/18/03)
40 KAR 2:075 & E. Commonwealth of Kentucky Zero Call List. (*E* expires 11/18/02)
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Department of Fish and Wildlife Resources

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301 KAR 1:075. Gigging, grabbing or snagging, tickling and noodling.
301 KAR 1:085. Mussel shell harvesting.
301 KAR 1:122. Importation, possession; live fish.
301 KAR 1:130. Live bait for personal use.
301 KAR 1:150. Waters open to commercial fishing.

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301 KAR 2:041E. Shooting preserves and foxhound training enclosures. ("E" expires 12/18/02) (Deferred from August)
301 KAR 2:081E. Pet and propagation permits. ("E" expires 12/18/02) (Deferred from August)
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Petroleum Storage Tank Environmental Assurance Fund
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503 KAR 1:110E. Department of Criminal Justice Training basic training: graduation requirements; records. (E* expires 1/18/03)
503 KAR 1:160E. Department of Criminal Justice Training - Kentucky Police Corps basic training: graduation requirements; records. (E* expires 12/18/02) (Deferred from August)

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503 KAR 3:090E. Department of Criminal Justice Training - Kentucky Police Corps Program. (E* expires 12/18/02) (Deferred from Aug.)
503 KAR 3:100E. Department of Criminal Justice Training - Kentucky Police corps basic training course cadet conduct requirements; procedures and penalties. (E* expires 12/18/02) (Deferred from August)

Department of Juvenile Justice

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505 KAR 1:150E. Notice of placement. (E* expires 1/18/03)

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Department of Workers' Claims
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803 KAR 25:120E. Training or education programs eligible for retraining incentive benefits and bonuses. (E* expires 1/18/03)

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806 KAR 17:095E. Reimbursement for general anesthesia and facility charges for dental procedures. (E* expires 1/18/03)
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807 KAR 5:095. Fire protection service for water utilities. (Public Hearing in July)
807 KAR 5:100 & E. Board application fees. (E* expires 11/18/02)
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825 KAR 1:030. Penalties for subsequent violations; criteria for modification of civil penalties and fines. (Deferred from August)

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902 KAR 2:065E. Immunization requirements for long term care facilities. (E* expires 1/18/03)

Local Health Departments
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907 KAR 1:065E. Payments for price-based nursing facility services. (E* expires 1/18/03)
907 KAR 1:072E. Payments for homecare waiver services. (E* expires 1/18/03)
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907 KAR 1:145E. Supports for community living services for an individual with mental retardation or a developmental disability. (E* expires 11/18/02) (Deferred from July)
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907 KAR 1:360E. Preventive and renal dialysis public health services provided through interagency agreement. (E* expires 1/18/03)
907 KAR 1:520E. Payments for targeted case management services for adults with chronic mental illness. (E* expires 1/18/03)
907 KAR 1:530E. Payments for targeted case management services for severely emotionally disturbed children. (E* expires 1/18/03)

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907 KAR 4:020E. Kentucky Children's Health Insurance Program Medicaid Expansion Title XXI of the Social Security Act. (E* expires 1/18/03)

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Department of Community Based Services
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K-Tap, Kentucky Works, Welfare to Work, State Supplementation

Food Stamp Program
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Protection and Permanency

Child Welfare
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922 KAR 1:450E. Eligibility determination for tuition waiver. (E* expires 1/18/03)
922 KAR 1:460. Standards for youth wilderness camps. (Amended After Hearing) (Deferred from April)

Block Grants
922 KAR 3:040E. Allocation formula. (E* expires 1/18/03)
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, AUGUST 15, 2002

HIGHER EDUCATION ASSISTANCE AUTHORITY
Kentucky Educational Savings Plan Trust

August 2, 2002
(1) 11 KAR 12:010, Definitions for 11 KAR Chapter 12.
(2) The Kentucky Educational Savings Plan Trust intends to amend an administrative regulation governing the subject matter listed above, particularly to delete the definition of "Kentucky ties" as it relates to the eligibility of beneficiaries and participants in the Kentucky Educational Savings Plan Trust Program.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, September 23, 2002, at 10 a.m., 100 Airport Road, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association agree, in writing, to be present at the public hearing.
(b) If a request for a public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, PO Box 798, Frankfort, Kentucky 40602-0798, (800) 693-8211, fax (502) 696-7293.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to amend an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164A.325(9).
(b) The Kentucky Educational Savings Plan Trust intends to amend 11 KAR 12:010 as follows: delete the definition of "Kentucky ties" as it relates to the eligibility of beneficiaries and participants in the Kentucky Educational Savings Plan Trust Program.
(c) The necessity and function of the proposed administrative regulation are as follows: KRS 164A.325(9) authorizes the board to promulgate administrative regulations to implement the Kentucky Educational Savings Plan Trust. This administrative regulation establishes the definitions for 11 KAR Chapter 12.
(d) The benefits expected from the administrative regulation are: To broaden the eligibility for participants and their beneficiaries in this program to provide expanded opportunity for parents and other relatives to save for the college costs of their children.
(e) The administrative regulation will be implemented as follows: This regulation merely defines terms used in 11 KAR Chapter 12 pertinent to the Kentucky Educational Savings Plan Trust Program.

August 2, 2002
(1) 11 KAR 12:030, Eligibility of beneficiary and participant.
(2) The Kentucky Educational Savings Plan Trust intends to amend an administrative regulation governing the subject matter listed above, particularly to delete the requirements that either the participant or the beneficiary have "Kentucky ties" as it relates to participation in the Kentucky Educational Savings Plan Trust Program.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Monday, September 23, 2002, at 10 a.m., 100 Airport 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.
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(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to amend an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Higher Education Assistance Authority at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to the subject matter of this administrative regulation is KRS 164A.325(9).
(b) The Kentucky Educational Savings Plan Trust intends to amend 11 KAR 12:030 as follows: delete the requirements that either the participant or the beneficiary have "Kentucky ties" as it relates to participation in the Kentucky Educational Savings Plan Trust Program.
(c) The necessity and function of the proposed administrative regulation are as follows: KRS 164A.325(9) authorizes the board to promulgate administrative regulations necessary for the administration of the savings plan trust. KRS 164A.330 authorizes the Kentucky Educational Savings Plan Trust to enter into a participation agreement with a beneficiary on behalf of a beneficiary. KRS 164A.380 provides that KRS 164A.300 to 164A.380 shall be construed liberally in order to effectuate their legislative intent and the powers granted shall be broadly inter-
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preted to effectuate the intent and purposes. This administrative regulation establishes the eligibility criteria for a beneficiary and a participant to participate in the Kentucky Educational Savings Plan Trust Program.

The benefits expected from the administrative regulation are: To broaden the eligibility for participants and their beneficiaries in this program to provide expanded opportunity for parents and other relatives to save for the college costs of their children.

(e) The administrative regulation will be implemented as follows: Neither the participant nor the beneficiary will be required to demonstrate that they have Kentucky ties as a precondition to participate in the Kentucky Educational Savings Plan Trust Program.

KENTUCKY RETIREMENT SYSTEMS

August 15, 2002

(1) 105 KAR 1:220. Annual disability review.
(2) Kentucky Retirement Systems intends to promulgate an administrative regulation governing the subject matter above.
(3) A public hearing to receive oral and written comments on the proposed regulation has been scheduled for September 24, 2002, at 9 a.m., at Kentucky Retirement Systems, Perimeter Park West, 1260 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 September 24, 2002, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: William P. Hanes, Esq., Executive Director, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Phone (502) 564-4646, Fax (502) 564-5656.

(b) On request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(d) Persons who wish to file this request may obtain a request form from the Kentucky Retirement Systems 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 annual disability review is KRS 16.596, 61.610, 78.545, 61.645454.(g).

(b) The administrative regulation that the Kentucky Retirement Systems intends to promulgate will comply with the statutory requirements that annual disability review be conducted until the retiree receiving disability retirement otherwise becomes eligible for normal retirement benefits.

(c) The necessity and function of the proposed administrative regulation is as follows: The controlling statutes require that annual disability review be conducted until the retiree receiving disability retirement otherwise becomes eligible for normal retirement benefits. The current regulation does not conform with statute.

(d) The benefits included in the administrative regulation are: By conforming the administrative regulation that annual disability review be conducted on a retiree receiving disability retirement until the retiree otherwise becomes eligible for normal retirement benefits conforms with the Board of Trustees fiduciary duty to protect the retirement trust and insures that deserving disability retirees continue to receive disability benefits while those retirees who no longer meet the statutory requirements to continue to receive disability benefits do not receive disability benefits.

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

DEPARTMENT FOR LOCAL GOVERNMENT

August 7, 2002

(2) The Department for Local Government intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 25, 2002, at 9 a.m., at Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601.

(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 September 25, 2002, the public hearing will be canceled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Richard J. Orme, Attorney, Department for Local Government, 1024 Capital Center Drive #340, Frankfort, Kentucky 40601, phone (502) 573-2382; fax (502) 573-2939.

(b) On 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."

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

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

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


(b) The administrative regulation that the Department for Local Government intends to promulgate will not amend an existing administrative regulation. It will establish a county cemetery fund within the Department for Local Government and it will provide a mechanism for county governments to apply for and receive grants from this county cemetery fund for purposes related to cemetery maintenance.

(c) The necessity and function of the proposed administrative regulation is as follows: To provide financial assistance to county govern-
mands for the maintenance of county cemeteries.
(d) The benefits expected from administrative regulation are: This regulation will allow for better maintained county cemeteries.
(e) The administrative regulation will be implemented as follows: The Department's Division of Local Resources will mail the Commonwealth's county judge-executives information on the County Cemetery Fund including, but not limited to, information on grant availability.

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary

August 15, 2002
(1) 200 KAR 5:015. Legal documents.
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, 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.
(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 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 an administrative regulation relating to requirements for standard legal forms for transactions under the Finance and Administration Cabinet's jurisdiction is KRS 45A.035.
(b) The proposed administrative regulation will amend 200 KAR 5:015 to require that an agency, without exception, reserve the right to terminate a contract upon 90 days or less notice to the other party. The amendment corrects the administrative regulation to conform to KRS Chapter 13A.
(c) The necessity and function of the proposed administrative regulation is as follows: To assure uniformity among state agencies using legal documents in transactions over which the Finance and Administration Cabinet, by law, exercises administrative supervision or jurisdiction, the Finance and Administration Cabinet may prescribe standard forms to be used by agencies containing provisions considered by the secretary to be in the best interest of the Commonwealth.
(d) The benefit expected from this proposed administrative regulation is as follows: To allow the Finance and Administration Cabinet to approve legal forms used by state agencies to ensure that the forms are adequate to protect the interest of the Commonwealth in leases, land contracts, personal service contracts, and other transactions that the cabinet administers or over which it has jurisdiction.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, 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.
(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 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 an administrative regulation relating to promulgation of the Finance and Administration Cabinet Manual of Policies and Procedures is KRS 45A.045(2).
(b) The proposed administrative regulation will amend 200 KAR 5:021 to add the Finance and Administration Cabinet's website as a location for accessing the Finance and Administration Cabinet Manual of Policies and Procedures and to update policies to reflect changes required by implementation of the Management and Administrative Reporting System (MARS).
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 45A.045(2) requires the Finance and Administration Cabinet to publish a manual of policies and procedures, which is to be incorporated by reference as an administrative regulation pur-
suant to KRS Chapter 13A. This administrative regulation incorporates the Finance and Administration Cabinet Manual of Policies and Procedures.

(d) The benefit expected from this proposed administrative regulation is as follows: To allow the Finance and Administration Cabinet Manual of Policies and Procedures to accurately reflect language and procedures relating to MARS and conform to Kentucky Revised Statutes, Kentucky Administrative Regulations, and preferred Finance and Administration Cabinet processes.

(e) This administrative regulation will be implemented by notifying state agencies of the updated manual and by updating the online version of the manual.

August 15, 2002

(1) 200 KAR 5:051. Repeal of 200 KAR 5:025, 200 KAR 5:050 and 200 KAR 5:304.

(2) The Finance and Administration Cabinet 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 September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.

(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 secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the repeal of an administrative regulation relating to the Model Procurement Code (KRS Chapter 45A) is KRS 45A.035.

(b) The proposed administrative regulation will repeal 200 KAR 5:025, 200 KAR 5:050 and 200 KAR 5:304.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 45A.035 authorizes the secretary of the Finance and Administration Cabinet to promulgate administrative regulations necessary and advisable for carrying out the purposes of the Kentucky Model Procurement Code (KRS Chapter 45A).

(d) The benefit expected from this proposed administrative regulation is as follows: To repeal those administrative regulations that the secretary of the Finance and Administration Cabinet has determined are not necessary.

(e) This administrative regulation will be implemented by notifying state agencies of the repealed administrative regulations.

August 15, 2002

(1) 200 KAR 5:076. Small and small minority business set asides.

(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.

(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 secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to small and small minority business set asides is KRS 45A.670.

(b) The proposed administrative regulation will amend 200 KAR 5:076 to bring the administrative regulation into compliance with 13 CFR 121 and KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 45A.670 provides for the Finance and Administration Cabinet to promulgate administrative regulations defining standards regarding the classifications and definitions for small and small minority business as set asides.

(d) The benefit expected from this proposed administrative regulation is as follows: To allow the Finance and Administration Cabinet to ensure proper classification of small and small minority businesses.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.
August 15, 2002

(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, 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.
(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."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 an administrative regulation relating to delegation of authority by the Finance and Administration Cabinet is KRS 45A.035.
(b) The proposed administrative regulation will amend 200 KAR 5:302 to correct clerical or typographical errors; change references to the Division of Purchases to the Division of Material and Procurement Services, based on the reorganization of the Finance and Administration Cabinet; and authorize the Division of Administrative Policy and Audit to perform periodic procurement audits of any state agency holding a small purchase delegation.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation provides uniformity for all delegations of authority by the Finance and Administration Cabinet and helps to ensure the competency of the agency receiving the delegated authority in the proposed delegated area of purchasing. In addition, this administrative regulation sets out the requirements for the secretarY of the Finance and Administration Cabinet to waive the small purchase authority limitations pursuant to KRS 45A.100.
(d) The benefit expected from this proposed administrative regulation is as follows: To allow the secretary of the Finance and Administration Cabinet to permit an agency to purchase specific goods or services costing up to a specific limit, but more than $1,000, without the prior approval from the Finance and Administration Cabinet.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002

(1) 200 KAR 5:305. Performance bonds.
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, 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.
(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."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 an administrative regulation relating to performance bonds is KRS 45A.035.
(b) The proposed administrative regulation will amend 200 KAR 5:305 to revise the reference to 200 KAR 5:020 to the correct citation, 200 KAR 5:021, for the Finance and Administration Cabinet Manual of Policies and Procedures, change the term "invitation for bids" to "solicitation" and add the current terminology and procedures used by the Management and Administrative Reporting System (MARS). The amendment will also delete the requirement that vendors use a bond form published in the Finance and Administration Cabinet Manual of Policies and Procedures.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements the provisions of KRS 45A.190 and 45A.195.
(d) The benefit expected from this proposed administrative regulation is as follows: To reference the correct administrative regulation and terminology. It also permits agencies to accept performance bond documents from bidders and contractors on the form provided by a surety company.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation and noting any pertinent changes in solicitations.
August 15, 2002
(1) 200 KAR 5:306. Competitive sealed bidding.
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, 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.

(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 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 an administrative regulation relating to competitive sealed bidding is KRS 45A.035.
(b) The proposed administrative regulation will amend 200 KAR 5:306 to update the terminology and procedures resulting from implementation of the Management and Administrative Reporting System (MARS), and change references to the Division of Purchases to the Division of Material and Procurement Services, based on the reorganization of the Finance and Administration Cabinet. In addition, this amendment will allow solicitations to be posted to the eProcurement website to satisfy the public notice requirement and correct language to conform to KRS Chapter 13A.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements KRS 45A.080.
(d) The benefit expected from this proposed administrative regulation is as follows: This amendment will encourage competition by requiring agencies to post solicitations to the eProcurement website, rather than sending emails to 10 vendors. It will also allow online bidding, if permitted in the solicitation.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002
(1) 200 KAR 5:307. Competitively negotiated contracts.
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, 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.

(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 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 an administrative regulation relating to competitive negotiations is KRS 45A.035.
(b) The proposed administrative regulation will amend 200 KAR 5:307 to change the reference to the Division of Purchases to the Division of Material and Procurement Services, based on the reorganization of the Finance and Administration Cabinet, and correct clerical or typographical errors. The amendment will also change outdated terminology and procedures to the current terminology and procedures used by the Management and Administrative Reporting System (MARS) and change the administrative regulation to conform to KRS Chapter 13A.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements KRS 45A.085 and 45A.090.
(d) The benefit expected from this proposed administrative regulation is as follows: To clarify when an agency may award a contract based on best value to the Commonwealth determined through competitive negotiations.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.
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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-8660 Phone, (502) 564-9875 Fax.

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing."
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 the request may obtain a request form from 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 an administrative regulation relating to noncompetitive negotiations is KRS 45A.035.

(b) The proposed administrative regulation will amend 200 KAR 5:310 to change references to the Division of Purchases to the Division of Material and Procurement Services, based on the reorganization of the Finance and Administration Cabinet. It will change the term "sole source" to "sole source" and delete reference to a repealed statute. It will eliminate nonprofit organizations from the types of vendors that agencies may contract with through noncompetitive negotiations, delete a typographical error, and change the administrative regulation to conform to KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements KRS 45A.095.

(d) The benefits expected from this proposed administrative regulation is as follows: To clarify when an agency may award a contract based on best value to the Commonwealth determined through noncompetitive negotiations.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002

1. 200 KAR 5:310. Multiple contracts.

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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-8660 Phone, (502) 564-9875 Fax.

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

1. "I agree to attend the public hearing."
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 the request may obtain a request form from 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 an administrative regulation relating to multiple contracts is KRS 45A.035.

(b) The proposed administrative regulation will amend 200 KAR 5:310 to change the term "invitation for bid" to "solicitation" and update other terms and procedures to conform with those used in the Management and Administrative Reporting System (MARS). The amendment will also delete typographical errors and change language in the administrative regulation to conform to KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements KRS 45A.035(2)(f) and (h).

(d) The benefits expected from this proposed administrative regulation is as follows: To clarify when an agency may award multiple contracts to vendors from bid responses to solicitation.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002


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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-8660 Phone, (502) 564-9875 Fax.

(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."

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

(c) The statutory authority for the promulgation of an administrative regulation relating to contract modifications is KRS 45A.210(1).

(d) The proposed administrative regulation will amend 200 KAR 5:311 to change the term "advice of change in order" to "modification" and update other terms and procedures to conform with those used in the Management and Administrative Reporting System (MARS). The amendment will also delete typographical errors and change language in the administrative regulation to conform to KRS Chapter 13A.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002

(1) 200 KAR 5:312. Termination of contracts.

(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 administrative regulation has been scheduled for September 28, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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: Angela C. Robinson, Assistant General Counsel, 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.

(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 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 an administrative regulation relating to general and special conditions for bidding is KRS
(b) The proposed administrative regulation will amend 200 KAR 5:313 to change the term "invitation for bids" to "solicitation" and update other terms and procedures to conform with those used in the Management and Administrative Reporting System (MARS). It will change references to the Division of Purchases to the Division of Material and Procurement Services, based on the reorganization of the Finance and Administration Cabinet, and delete the section pertaining to competitive negotiations. The amendment will also correct typographical errors and change language in the administrative regulation to conform to KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements the provisions of KRS 45A.035(2)(e).

(d) The benefit expected from this proposed administrative regulation is as follows: To set out the requirements for the Finance and Administration Cabinet to include in its Manual of Policies and Procedures general and special conditions that must be included in solicitations when issued by the Finance and Administration Cabinet or any state agency with delegated purchasing authority.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002

(1) 200 KAR 5:314. Disclosure of contractor's financial records and information to certain governmental entities.

(2) The Finance and Administration Cabinet intends to promulgate an amendment to the administrative regulation cited above.

26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(a) The public hearing will be held if:

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

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

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

26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6660 Phone, (502) 564-9875 Fax.

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."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 an administrative regulation relating to the promulgation of financial records and information to certain governmental entities is KRS 45A.035(2)(g).

(b) The proposed administrative regulation will amend 200 KAR 5:314 to correct typographical errors and change language in the administrative regulation to conform to KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation allows governmental oversight agencies to obtain access to financial data of state contractors.

(d) The benefit expected from this proposed administrative regulation is as follows: To require, in all state contracts, language that will allow specific state agencies to have access to contractors' financial information and release the information to the public.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 15, 2002

(1) 200 KAR 5:315. Disciplinary action for failure to perform.

(2) The Finance and Administration Cabinet intends to promulgate an amendment to the administrative regulation cited above.

26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(a) The public hearing will be held if:

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

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

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

26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6660 Phone, (502) 564-9875 Fax.

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."

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, 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.

(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."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 an administrative regulation relating to disciplinary action for failure to perform is KRS 45A.035.

(b) The proposed administrative regulation will amend 200 KAR 5:315 to correct typographical errors, update terms and procedures to reflect those used by the Management and Administrative Reporting System (MARS), and delete references to the source list that is no longer maintained. It will provide the Finance and Administration Cabinet discretion when determining if disciplinary action, probation or suspension is warranted for a bidder or contractor, and change language in the administrative regulation to conform to KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation implements the provi-
August 15, 2002
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.
(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 secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to cost principles is KRS 45A.215.
(b) The proposed administrative regulation will amend 220 KAR 5:317 to delete references to administrative regulations and the Cabinet for Human Services and add references to OMB circulars. It will change language in the administrative regulation to conform to KRS Chapter 13A.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation states cost principles to be used as guidelines to determine allowable costs incurred by contractors under cost reimbursement-type contracts.
(d) The benefit expected from this proposed administrative regulation is as follows: To state the guidelines for determining cost reimbursement contracts cost principles.
(e) This administrative regulation will be implemented by notifying state agencies and registered vendors of the updated administrative regulation.

August 15, 2002
(1) 200 KAR 5:325. Consideration to be given to use of Kentucky-made wood products.
(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 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: Angela C. Robinson, Assistant General Counsel, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.
(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 secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, (502) 564-6600 Phone, (502) 564-9875 Fax.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to consideration of Kentucky-made wood products is KRS 45A.035 and 45.045(2).
(b) The proposed administrative regulation will amend 200 KAR 5:325 to delete references to terminology, source applications and the Vendor Information Program, which have been replaced by the Management and Administrative Reporting System (MARS). It will require agencies to post solicitations for wood products on the eProcurement website. The amendment also references the Kentucky Wood Products Mall maintained by the Kentucky Wood Products Competitiveness Corporation.
(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation provides for consistent consideration of Kentucky-made wood products by state agencies, in accordance with KRS 154.47.
(d) The benefit expected from this proposed administrative regulation is as follows: To direct state agencies to consider Kentucky-made wood products when issuing solicitations for wood products.
(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.
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August 15, 2002

(1) 200 KAR 5:330. Purchase of goods, supplies, equipment, materials and printing with minimum recycled content.

(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 administrative regulation has been scheduled for September 26, 2002, at 9:30 a.m. in Room 386, Capitol Annex, Frankfort, Kentucky 40601.

(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 person, 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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Angela C. Robinson, Assistant General Counsel, 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.

(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."

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

Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of an administrative regulation relating to the purchase of goods, supplies, equipment, materials and printing with minimum recycled content is KRS 45A.520.

(b) The proposed administrative regulation will amend 200 KAR 5:330 to update the minimum recycled content for some products to conform to revised United States Environmental Protection Agency standards. It will correct typographical errors and bring the administrative regulation into compliance with KRS Chapter 13A.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 45A.520 requires the Finance and Administration Cabinet to promulgate administrative regulations to establish the minimum recycled material content of good, supplies, equipment and other material purchased by state agencies.

(d) The benefit expected from this proposed administrative regulation is as follows: To update the minimum recycled content of commodities based on the standards of the United States Environmental Protection Agency.

(e) This administrative regulation will be implemented by notifying state agencies of the updated administrative regulation.

August 9, 2002

(1) 200 KAR 15:010. Formula for allocation of private activity bonds.

(2) The Finance and Administration Cabinet intends to promulgate an amendment to this administrative regulation related to the above topic.

(3) A public hearing to receive oral and written comments on the proposed amendment to this administrative regulation has been scheduled for September 23, 2002, at 10 a.m. in Room 264, Capitol Annex, Frankfort, Kentucky 40601.

(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.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Gordon L. Mullis, Executive Director, Finance and Administration Cabinet, Office of Financial Management, 702 Capitol Avenue, Room 281, Frankfort, Kentucky 40601, phone (502) 564-2924, fax (502) 564-7416.

(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."

(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 Secretary at the following address: Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 374 Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-6660, fax (502) 564-9875.

Information relating to the proposed amendment to this administrative regulation:

(a) The statutory authority for the promulgation of this administrative regulation is KRS 103.286.

(b) The proposed amendment to this administrative regulation will clarify allocation amounts, modify rules for single issuer pool, and make housekeeping updates.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 103.286(3) requires regulations for administering this program.

(d) The benefit expected from the proposed amendment to this administrative regulation is as follows: The proposed amendment will simplify the process for potential users and provide a more equitable procedure for administering the program.

(e) This administrative regulation will be implemented by the Finance and Administration Cabinet with assistance from the Office of Financial Management.

KENTUCKY BOARD OF MEDICAL LICENSURE

August 12, 2002

(1) 201 KAR 9:310. Continuing medical education.

(2) The Kentucky Board of Medical Licensure intends to amend the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for Friday, Sep-
(4)(c) 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 September 27, 2002, the public hearing shall be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: C. Lloyd Vest, II, Esq., Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, (502) 429-8046, fax (502) 429-9923.

(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 the Kentucky Board of Medical Licensure at the address above.

(7) Information relating to the proposed amendments:
(a) The statutory authority for the amendment of an administrative regulation relating to the subject matter of administrative regulation is KRS 311.565, 311.601, 214.610, 214.615 and 614.620.

(b) The administrative regulation that the Kentucky Board of Medical Licensure intends to promulgate will amend 201 KAR 9:310, Continuing medical education. It will effect physicians who are licensed to practice medicine in the Commonwealth of Kentucky and is necessary for the board's housekeeping purposes.

(c) The necessity and function of the proposed administrative regulation is as follows: Fulfills the requirements of KRS 214.610, 214.615 and 214.620 that physicians, during each 10 year period of their practice, complete a minimum of 2 hours of continuing medical education in HIV/AIDS courses, and approves Continuing Medical Education Certification Form.

(d) The benefits expected from the administrative regulation are: The board feels that the amendment is necessary to fulfill the requirements of KRS 214.610, 214.615 and 214.620 and approves Continuing Medical Education Certification Form.

(e) The administrative regulation will be implemented as follows: The regulation will be implemented during the 10 year period after December 2002. The current reporting cycle runs from January 1, 2000 to December 31, 2002.

BOARD OF NURSING

August 7, 2002

(1) 201 KAR 20:280. Standards for prelicensure registered nurse and practical nurse programs.

(2) The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(4)(a) The public hearing will be held if:
1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, 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 is not received at least 10 days prior to September 23, 2002, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 502-696-3938.

(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

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

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

(c) The necessity and function of the proposed administrative regulation is as follows: To provide sanctions for programs of nursing that fail to meet standards.

(d) The benefits expected from the administrative regulation are: The board will be able to sanction a program of nursing that fails to meet standards short of closing the program.

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

August 7, 2002

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

(2) The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(4)(a) The public hearing will be held if:
1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, 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 is not received at least 10 days prior to September 23, 2002, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 696-3938.

(b) On a request for public hearing, a person should state:
1. "I agree to attend the public hearing."; or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

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

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

(c) The necessity and function of the proposed administrative regulation is as follows: To incorporate new application forms and to clarify the reporting of criminal convictions.

(d) The benefits expected from the administrative regulation are: New application forms will be used and criminal conviction reporting will be clarified.

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

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August 9, 2002

(1) 201 KAR 20:390. Nursing Incentive Scholarship Fund.

(2) The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

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

1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, 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 is not received at least 10 days prior to September 23, 2002, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 698-3938.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

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

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

(c) The necessity and function of the proposed administrative regulation is as follows: HB 376 (2002 Regular Session) amended the statutes dealing with the Nursing Incentive Scholarship Fund. This regulation is being amended to conform to those changes.

(d) The benefits expected from the administrative regulation are: The regulation will conform to the statutory changes. Also, certain grant review procedures will be clarified.

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

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August 7, 2002

(1) 201 KAR 20:410. Expungement of records.

(2) The Board of Nursing intends to promulgate the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 9 a.m. (EST) in the Boardroom, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

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

1. It is requested in writing by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, 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 is not received at least 10 days prior to September 23, 2002, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Nathan Goldman, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, phone (502) 329-7009, fax (502) 698-3938.

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

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

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

(b) Persons who wish to file this request may obtain a request form from the General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

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

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

(c) The necessity and function of the proposed administrative regulation is as follows: To expand what records may be expunged to include reprimands.

(d) The benefits expected from the administrative regulation are: Certain reprimands may be expunged.

(e) The administrative regulation will be implemented as follows: Through normal agency procedures.
August 13, 2002


(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 September 23, 2002 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 September 23, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing," or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040.
(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:020, an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is within KRS 327.050, 327.060 and 327.080. This will amend the language used in the referenced material in applying for a license to address HB 296.
(d) The benefit expected from this administrative regulation is that applications will collect information regarding default of repayment obligation to KHEAA per HB 296, enacted in the 2002 General Assembly.

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

August 13, 2002

(1) 201 KAR 22:031. Therapist's licensing 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 September 23, 2002 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 September 23, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Klusch Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.

(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing," or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040.
(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:031, an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is within KRS 327.050, 327.060 and 327.080. This will amend the language used in the referenced material in applying for a license to address HB 296.
(d) The benefit expected from this administrative regulation is that applications will collect information regarding default of repayment obligation to KHEAA per HB 296, enacted in the 2002 General Assembly.

(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.
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1. "I agree to attend the public hearing.";
2. "I will not attend the public hearing."

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

(a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040.

(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:040, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within KRS 327.050. This will amend the language used in the referenced material in renewing license to address HB 296.

(d) The benefit expected from this administrative regulation is that renewal applications will collect information regarding default of repayment obligation to KHEAA per HB 296, enacted in the 2002 General Assembly.

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

August 13, 2002

1. 201 KAR 22:052. Refusal, revocation, suspension or probation of license or certificate, administrative warning to licensee or certificate.

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 September 23, 2002 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.

(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 September 23, 2002, the public hearing will be canceled.

5(a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Klusch Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.

(b) On a request for public hearing, a person shall state:
1. I agree to attend the public hearing.";
2. I will not attend the public hearing."

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

(a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040.

(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:052, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within KRS 327.050, 327.060 and 327.080. This will amend the language to clarify the complaint and discipline process.

(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.

August 13, 2002


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 September 23, 2002 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.

(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 September 23, 2002, the public hearing will be canceled.

5(a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Klusch Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.

(b) On a request for public hearing, a person shall state:
1. I agree to attend the public hearing.";
2. I will not attend the public hearing."

6(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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.
August 13, 2002
(1) 201 KAR 22:101. Eligibility and method of applying for physical therapist's assistant certification.
(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 September 23, 2002 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.
(4a) 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 September 23, 2002, the public hearing will be canceled.
(5a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing.";
2. "I will not attend the public hearing."
(6a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority for the promulgation of an administrative regulation is KRS 327.040.
(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:101, an existing administrative regulation.
(c) The necessity and function of the proposed administrative regulation is within KRS 327.050, 327.060, and 327.080. This will amend the language used in the referenced material in applying for a license to address HB 296.
(d) The benefit expected from this administrative regulation is that applications will collect information regarding default of repayment obligation to KHEAA per HB 296, enacted in the 2002 General Assembly.
(e) The administrative regulation will be implemented as follows: Through the normal administrative procedures of the agency.

August 13, 2002
(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 September 23, 2002 at 9 a.m. (EST), at the office of the Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222.
(4a) 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 September 23, 2002, the public hearing will be canceled.
(5a) Persons wishing to request a public hearing should mail their written request to the following address: Rebecca Hughes, Executive Director, Board of Physical Therapy, 9110 Leesgate Road, Suite 6, Louisville, Kentucky 40222, phone (502) 327-8497, fax (502) 423-0934.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing.";
2. "I will not attend the public hearing."
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 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.

(b) The administrative regulation that the Board of Physical Therapy intends to promulgate will amend 201 KAR 22:110, an existing administrative regulation.

(c) The necessity and function of the proposed administrative regulation is within KRS 327.060, 327.060 and 327.080. This will amend the language of the requirements a physical therapist's assistant must fulfill to be certified and will eliminate the temporary permit.

(d) The benefit expected from this administrative regulation is to discontinue the use of a temporary license or permit for CAPTE-approved education programs.

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

DEPARTMENT OF AGRICULTURE

July 25, 2002

(1) 302 KAR 5:040, Evaluation table.

(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 September 23, 2002, at 9 a.m. at the Department of Agriculture, Room 188, 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 is not received from the required number of people at least 10 days prior to September 23, 2002, 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, Room 188, Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-5126, ext. 223, fax (502) 564-5016.

(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 302 KAR 5:040 is KRS 258.285.

(b) The administrative regulation that the Kentucky Department of Agriculture intends to promulgate will amend 302 KAR 5:040, Evaluation table. It will update the evaluation table for payments for loss of livestock to comply with changes to KRS 258.295.

(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: The amounts prescribed to be paid for livestock damaged or destroyed by dogs was increased by statute changes and this administrative regulation will update the evaluation table for payment of such losses.

(e) The administrative regulation will be implemented as follows: This administrative regulation will comply with statutory changes and will set forth amounts to be paid for loss or destruction of livestock by dogs.

JUSTICE CABINET
Department of Corrections

August 13, 2002

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

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, at 9 a.m., in the Conference Room, at 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 September 23, 2002, 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, Jack Damron, Deputy General Counsel, 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:
(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter of this administrative regulation is KRS 196.035 and 197.020.

(b) The administrative regulation that the Department of Corrections intends to promulgate will amend 501 KAR 6:020, as follows:
1. The Monitoring and Operation of Private Prisons (CPP 1.4) shall be amended for clarity.
2. Open Records Law (CPP 6.1) shall be amended to correct the address for the Department of Corrections; delete Otter Creek Correctional Center as an official custodian for the Department; and to conform to KRS Chapter 13A requirements.
3. Electronic Detection Equipment (CPP 13.3) shall be amended to update references; clarify proper procedure for using the medical alert system; change Secretary to Commissioner for authorization to promulgate administrative regulations; and conform to KRS Chapter 13A requirements.
4. Dental Services (CPP 13.9) shall be amended to delete reference to an obsolete form; add procedure for providing orthodontic devices; add disciplinary charges may be considered for inmates failing to report for either medical or dental appointments; and to conform to KRS Chapter 13A requirements.
5. Serious Infectious Disease (CPP 13.10) shall be amended to: add ACA Standards to References; delete Corrections Training Basic Academy from training staff in universal precautions and airborne diseases precautions; and to conform to KRS Chapter 13A requirements.
6. Legal Services Program (CPP 14.4) shall be amended to reduce costs of maintaining law libraries as to publications and equipment.
7. Offense and Penalties (CPP 15.2) shall be amended to include 2 new rule violations.
8. Adjustment Procedures and Programs (CPP 15.6) shall be amended to reflect current practice on obtaining information at an inmate's disciplinary hearing.
9. Unauthorized Substance Abuse Testing (CPP 15.8) shall be amended to reflect the current method by which urine samples are collected and tested for illegal drugs.
10. Inmate Visits (CPP 16.1) shall be amended to make more clear the permissible contact between an inmate and his child or step-child.
11. Inmate Correspondence (CPP 16.2) shall be amended to exclude certain prohibitions to comply with the First Amendment.
12. Administrative Remedies: Sentence Calculations (CPP 17.4) shall be established to explain the method of exhausting administrative remedies regarding sentence calculations to comply with KRS 454.415.
13. Governmental Services Program (CPP 19.1) shall be amended to require employees who supervise inmates be 21 years of age or older.
14. Educational Programs and Educational Good Time (CPP 20.1) shall be amended to clarify the award of good time regarding inmates who already have education in the same field.
15. Religious Programs (CPP 23.1) shall be amended to delete the reference made to CPP 17.1 and to conform to KRS Chapter 13A requirements.
16. Public Official Notification of Release of an Inmate (CPP 25.2) shall be amended to: include Circuit Court Clerk, Commonwealth Attorney, and Sheriff be notified 10 days prior to an inmate's release in jurisdiction of commitment; include facsimile or electronic mail as additional means to notify the Sheriff and State Police in the jurisdiction to which the inmate is released; and comply with KRS Chapter 13A requirements.
17. In-State Transfer (CPP 27-23-01) shall be amended to delete Attachment II and III from policy.
18. Reinstatement of Offenders to Active Supervision (CPP 27-24-02) shall be amended to delete the 4 attachments from the policy.
19. The necessity and function of the proposed administrative regulation is as follows:
1. KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.
2. This administrative regulation updates operating procedures at the Department of Corrections to comply with KRS Chapter 13A and to reflect current operating procedures.
3. The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.
4. This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.

August 13, 2002

(1) 501 KAR 6:130, Western Kentucky Correctional Complex.
(2) The Justice Cabinet, Western Kentucky Correctional Complex, 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 September 23, 2002, at 9 a.m., in the Conference Room, at the Office of General Counsel, 2439 Lawrenceburg 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 September 23, 2002, the public hearing will be canceled.

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

(a) 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."

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

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

(d) Information relating to the proposed administrative regulation:
1. 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.
2. The administrative regulation that the Western Kentucky Correctional Complex intends to promulgate will amend 501 KAR 6:130, as follows:
   1. Institutional and Cabinet Policies and Procedures (WKCC 00-01-01) is a new policy developed to address issues in regard to institutional philosophy, goals and operational procedures and to ensure compliance with the institution's program goals.

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2. Organization and Assignment of Responsibility (WKCC 01-00-01) is a new policy developed to provide a written plan that describes the institutional organization, services, and activities into administrative subunits.  
3. Staff Meetings (WKCC 01-00-02) is a new policy submission established to set forth WKCC procedures to address institutional issues.  
4. Public Information Officer and Media Communication (WKCC 01-02-01) shall be amended to conform to KRS Chapter 13A requirements; minor grammatical changes throughout. Changes made on page one to reflect that the fiscal manager shall be the contact person for WKCC as public information officer and the compound unit administrator shall be the alternate PIO.  
5. WKCC Cooperation with Outside Agencies (WKCC 01-07-01) is a new policy developed to permit community agencies to participate in coordinated planning, policy development and interagency consultation.  
6. Smoking: WKCC Facility (WKCC 01-08-01) shall be amended to conform to KRS Chapter 13A requirements; minor grammatical changes on page 1; and on page 2, a change was made to show designated smoking areas.  
7. Fiscal Management Audits (WKCC 02-00-01) shall be amended to: conform to KRS Chapter 13A requirements; and minor changes in wording.  
8. Monetary Receipts During Nonbusiness Hours (WKCC 02-00-04) is to be deleted due to the subject matter being covered in WKCC 02-02-01.  
9. Purchasing Procedures (WKCC 02-00-06) shall be amended to: conform to KRS Chapter 13A requirements; also change made on section D, 1 Small Purchases: to include an explanation of the Procurement Card Program.  
10. Inmate Funds (WKCC 02-01-01) shall be amended to: conform to KRS Chapter 13A requirements; changes made to wording of entire section of III. Procedures to better clarify intent.  
11. Inmate Canteen (WKCC 02-01-02) shall be amended to: conform to KRS Chapter 13A requirements; minor wording changes.  
12. Agency Funds and Accounting Procedures (WKCC 02-02-01) shall be amended to: conform to KRS Chapter 13A requirements; complete set of new definitions added to the Definitions section on page 1.  
13. Finance Training of Generation and Budget Preparation (WKCC 02-05-01) shall be amended to: conform to KRS Chapter 13A requirements; and minor changes in wording throughout.  
14. Property Receipt and Inventory Procedures (WKCC 02-08-01) shall be amended to: conform to KRS Chapter 13A requirements; minor change made on page 2, section B. 2 to read that the equipment inventory issue slip shall be completed and entered into the computer system by the Inventory officer. Also deletion on page 2, section B. 5 which read that the Correction's Property Officer will furnish the institutional a new inventory listing semiannually.  
15. Employee Selection, Retention, Promotion and Lateral Transfer (WKCC 03-00-01) is a new policy developed to address Personnel issues.  
16. Affirmative Action and EEO (WKCC 03-00-02) is a new policy developed to establish and adhere to an Affirmative Action Program which provides for equal employment opportunities for all positions.  
17. Employee Evaluation System (WKCC 03-00-03) is a new policy developed to adhere to 10I KAR 2:180 - Employee Performance Evaluation System.  
18. Employee Guidelines (WKCC 03-00-04) is a new policy developed to provide employees with general guidelines of expected behavior.  
19. New Employees Reporting For Employment (WKCC 03-00-05) is a new policy developed to provide a 40 hours orientation program for all new employees.  
20. Confidentiality of Information By Consultants, Contract Personnel, and Volunteers (WKCC 03-00-06) is a new policy developed to provide that consultants, contract personnel, and volunteers who work with inmates are informed in writing about the institution's policies on confidentiality of information and agree to abide by them.  
21. Employee Personnel Files and Policies (WKCC 03-00-07) is a new policy developed to establish guidelines for maintaining accurate and confidential personnel records on each employee.  
22. Travel Reimbursement (WKCC 04-01-01) shall be amended to: conform to KRS Chapter 13A requirements; to reimburse employees for authorized expenses incurred in the performance of their duty to provide reimbursement and administrative leave, when appropriate.  
23. Training and Development (WKCC 04-02-01) shall be amended to: conform to KRS Chapter 13A requirements; to provide a policy which includes a quality training program to enhance job knowledge and performance.  
24. Research (WKCC 05-01-01) shall be amended to: conform to KRS Chapter 13A requirements; and to encourage the use of outside professionals.  
25. Management Information Systems (05-02-01) is a new policy developed to address institutional issues and is to be included in the WKCC policy manual for further reference.  
26. Offender Records and Information Access (06-00-01) shall be amended to: conform to KRS Chapter 13A requirements; Page 1 - added "Offender Records Training Manual" definition; made changes to section A. to reflect official custodian of all inmate records at WKCC shall be the Offender Records Supervisor; on section H. - deleted old item #8.  
27. Administrative Process For Inmate Court Orders (06-00-02) shall be amended to: conform to KRS Chapter 13A requirements; Page 1 - section III. Procedures, A. 2 - changes made to designate appropriate CTO shall be made aware of detainers, etc.; also changes made to A.3 only the warden or deputy wardens may authorize a change in inmate housing assignment or transfer to a more secure institution.  
28. Preventive Maintenance Program (07-00-01) shall be amended to: conform to KRS Chapter 13A requirements; on Page 2 - request for maintenance action in an emergency situation shall be verbally reported to the maintenance branch manager and addressed immediately; added section B. 4 - emergency generators shall be inspected weekly and load tested quarterly.  
29. Mechanical Equipment Repair and Control of Hazardous Energy (07-00-02) shall be amended to: conform to KRS Chapter 13A requirements; minor grammatical changes throughout; added to Item 6. B. - a qualified person shall visually inspect and conduct tests; added change to 6. D. each lock and tag shall be removed by or under direct supervision, etc.  
30. Health Care Services (13-02-01) shall be amended to: conform to KRS Chapter 13A requirements; Page 1 - added 4 new definitions to section II. And deleted old definitions; section III. Procedures revised in its entirety.  
(a) The necessity and function of the proposed administrative regulation is as follows:  
1. KRS 196.035 and 197.020 authorizes the commissioner to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association.  
2. This administrative regulation updates operating procedures at the Department of Corrections to comply with KRS Chapter 13A and to reflect current operating procedures.  
(b) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.  
(c) This administrative regulation will be implemented as follows: Staff will comply with operational procedures and standards noted in policy changes.
August 13, 2002

(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 regulation that the Department of Corrections intends to promulgate shall amend 501 KAR 6:999, as follows:
1. (CPP 9.1) Use of Force and Mechanical Restraints shall be amended to clarify that medical aid shall be rendered if the inmate may have been injured when the use of force was necessary.
2. (CPP 9.7) Storage, Issue and Use of Weapons Including chemical agents shall be amended to clarify when an employee may carry a concealed weapon.
3. (BCC 09-04-02) Complex Entry and Exit shall be amended to:
   a. Change the words gate officer to Post One officer throughout the policy;
   b. Add that visitors, staff, and vendors shall stop at Post One and show an ID to Post One officer before entering the complex;
   c. Add that all ex-inmates shall have an ID and a memorandum from the current BCC Warden before authorization is granted to enter complex;
   d. Add that staff persons returning from a trip outside the institution shall be responsible to search the vehicle for contraband, escort the inmates to security for a strip search by the security staff, and the sanitation of the vehicle;
   e. Add that staff's personal property shall be locked in their vehicle at all times;
   f. Add that visitors shall not be authorized to have weapons in their possession, locked in their vehicles, or left at Post One for any reason.
4. (BCC 09-05-01) Key Control shall be amended to:
   a. Add that the Master Key Control file be located in the Key Control Office;
   b. Add that supervisors shall notify the R&D Officer when an equipment or job assignment tag shall be made for an inmate;
   c. Add that the R&D Officer shall make the tag with the inmate's name, number, photo, and name of equipment or job assignment.
5. (BCC 09-06-02) Transportation to Courts shall be amended to:
   a. Add that inmates shall wear an orange jumpsuit when leaving BCC for court trips;
   b. Add that a copy of the trial proceedings shall be given to the Records Office when returning from court trips.
6. (BCC 09-08-01) Weapons and Related Security Device Control shall be amended to:
   a. Add that the Range Safety Officer have access to the institutional armory;
   b. Add that weapons shall be inspected and test-fired annually before weapons shall be issued for range qualifications.
7. (BCC 09-15-01) Search Policy and Disposition of Contraband shall be deleted from secured policies and procedures and moved to the nonsecured policies and procedures.
8. (KCIW 08-01-01) Institutional Emergency Plan-Secured shall be added to outline guidelines for staff in emergency situations.
9. (KCIW 08-01-02) Emergency Squad (E-Squad) Secured shall be added to advise staff of the requirements for E-Squad.
10. (KCIW 09-01-01) Inmate Counts-Secured shall be added to outline the procedure relating to inmate counts.
11. (KCIW 09-02-01) Transportation of Inmates-Secured shall be added to advise staff of the complete process of transporting inmates in all types of situations.
12. (KCIW 09-02-02) Use of Restraints-Secured shall be added to advise staff of the appropriate use of restraints.
13. (KCIW 09-03-01) Use of Force-Secured shall be added to advise staff of the guidelines for use of force at KCIW.
14. (KCIW 09-03-02) Weapons and Chemical Agents-Secured shall be added to outline guidelines for the staff.
15. (KCIW 09-03-03) Forced Cell Entry in a Housing Unit or Special Management Unit (SMU)-Secured shall be added to outline specific procedures used when a cell entry shall be necessary.
16. (KCIW 09-04-01) Portable Radios and Mobile Units-Secured shall be added to outline the use of radios and mobile units.
17. (KCIW 09-05-01) Tool Control-Secured shall be added to provide a system for tool control.
18. (KCIW 09-06-02) Key Control-Secured shall be added to advise staff of the appropriate methods for key control.
19. (KCIW 09-06-03) Flammable, Hazardous, Toxic and Caustic Materials shall be added to provide guidelines for staff about these types of materials.
20. (KCIW 09-07-01) Weekly Security Inspections of Security Devices-Secured shall be added to provide a review of the institutions security devices on a weekly basis.
21. (KCIW 09-07-03) Quarterly Security Inspections-Secured shall be established to ensure inspections and corrections of deficiencies.
22. (KCIW 09-08-01) Perimeter Security Plan and Daily Inspections-Secured shall be added to ensure perimeter security.
23. (KCIW 09-12-02) Collection, Preservation and Identification of Physical Evidence-Secured shall be added to ensure procedures for the collection, preservation and identification of evidence.
24. (KCIW 09-15-01) Post One and Sallyport Post Four-Secured shall be added to ensure the control of equipment and the security of the institution.
25. (KSR 09-00-05) Gate #1 Entrance and Exit Procedure shall be deleted since the elements of this policy are covered in KSR 09-01-02.
26. (RCC 08-03-01) Escape Procedures shall be amended to: Page 2, A4, clarify who the shift supervisor shall call and their phone numbers in case of an escape.
27. (RCC 08-08-01) Control and Use of Flammable, Toxic, and Caustic Materials shall be amended to: Page 2, B1 a. reflects the addition of the unit supervisor being able to issue sanitation supplies.
28. (RCC 08-09-01) Institutional Emergency Plan shall be amended to: Page 1, D. reflect change of address of the Kentucky State Police.
29. (RCC 09-01-01) Institutional Security Inspections shall be amended to include as an attachment a new RCC Weekly Security Inspection Form.
30. (RCC 09-06-02) Collection, Preservation, and Identification of Physical Evidence shall be amended to: Page 2, 3b., include the internal affairs officer as a staff member with a master key to evidence lockers. Page 3, 2 through 2b includes the internal affairs officer as staff who may remove evidence from the evidence locker.
31. (RCC 09-07-01) Key Control shall be amended to: Page 2, 4a, deletes Unit V as a place where keys are kept. Page 3, 2d., deletes Unit V for maintaining emergency or fire keys.
32. (RCC 09-15-01) Count Procedure shall be amended to: Page 2, b, change the count time for Units V & V from 6 a.m. to 6:30 a.m.
33. (RCC 09-16-01) Inmate Death shall be amended to: Page 3, 05 delete the statement (and shall be released or disposed of only by written permission of the warden.) D8, D7, and D8 updates proper procedures for claiming a deceased inmate's property.

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34. (RCC 09-19-01) Tool Control shall be amended to: Page 1, A1 delete boot camp and unit director as primary supervisors of tools at RCC; Page 2, delete c, change d to c, e to d, and f to e; Page 3, F2: delete boot camp.

(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."
4. The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to codify current operating procedures.
5. This administrative regulation shall be implemented as follows: Staff shall comply with operational procedures and standards noted in policy changes.

JUSTICE CABINET
Kentucky Law Enforcement Council

August 15, 2002

(1) 503 KAR 1:120, In-service training; graduation requirements; recognized courses; records.
(2) The Kentucky Law Enforcement Council 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 September 24, 2002, at 9 a.m., in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475-3137.

(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 September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3137, phone (859) 622-5897, fax (859) 622-3162.
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 Criminal Justice Training 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 15.330(1)(h).
(b) The administrative regulation that the Kentucky Law Enforcement Council intends to promulgate will amend 503 KAR 1:120, as follows:
1. Update statutory citations;
2. Establish procedures for certified law enforcement officers to receive in-service training credit for the completion of college courses.
(c) The necessity and function of the proposed administrative regulation is as follows:
1. KRS 15.330(1)(f) authorizes the Kentucky Law Enforcement Council to approve law enforcement officers as qualified in-service training credit with completion of college courses.
2. KRS 15.440(1)(e) requires local units of government participating in the Law Enforcement Foundation Program Fund to require all police officers to successfully complete at least 40 hours of in-service training each calendar year at a school certified or recognized by the council.
3. KRS 15.404(2) requires all peace officers with active certification status to successfully complete 40 hours of annual in-service training in-service training course or recognized by the council.
4. This administrative regulation prescribes requirements for graduation from an in-service training course and for maintenance of in-service training credit, establishes procedures for recognizing training at noncertified schools, and establishes procedures for receiving in-service training credit for completion of college courses.
(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to enhance the professional development of law enforcement officers in the Commonwealth by recognizing the benefit that college courses offer in verbal and written skills, and advancement of general knowledge.
(e) This administrative regulation will be implemented as follows: The Kentucky Law Enforcement Council and participating law enforcement personnel will comply with the college credit requirements as established in this policy.
(b) A copy of this Notice of Intent has been mailed to the following primary sponsors of House Bill 154 (2002):
(a) Rep. Adrian K. Arnold, Room 332B - Capitol Annex, Frankfort, Kentucky 40601.
(b) Rep. Harry Moberly, Jr., Room 332C - Capitol Annex, Frankfort, Kentucky 40601.
(c) Rep. Steven Riggs, Room 329C - Capitol Annex, Frankfort, Kentucky 40601.

Department of Criminal Justice Training

July 15, 2002

(1) 503 KAR 4:040, Required instructor training.
(2) The Department of Criminal Justice Training 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 September

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24, 2002, at 9 a.m., in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137, phone (606) 622-5897, fax (606) 622-3162.

(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 Criminal Justice Training 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 237.110(2)(f).

(b) Amend Section 2(2) to require that an instructor or instructor-trainer receive no assistance in range firing;
1. Requires use of the "CCDW Instructor and Instructor Trainer Five-Minute Presentation" form to grade the classroom lecture;
2. Deletes Section 4 relating to the period of time in which a license is valid; and
3. Deletes Section 5 relating to fees.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 237.110(2)(f) requires the department to promulgate administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth. This administrative regulation establishes the training required for certification as a firearms instructor.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to ensure that applicants for a permit to carry a concealed deadly weapon are properly instructed in gun safety procedures.

(e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training will ensure that CCDW instructors comply with the training procedures and standards as established in policy.

July 15, 2002

(1) 503 KAR 4:050, Required content and conduct of the applicant training course.

(2) The Department of Criminal Justice Training 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 September 24, 2002, at 9 a.m., in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.

(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 September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funderburk Building, Richmond, Kentucky 40475-3137, phone (659) 622-5897, fax (659) 622-3162.

(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 Criminal Justice Training 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 237.124.

(b) The administrative regulation that the Department of Criminal Justice Training intends to promulgate will amend 503 KAR 4:050, as follows:
1. Amend the required hours of classroom training from 8 hours to 6 hours;
2. Require that an applicant perform the live firing exercises without assistance from the instructor or another individual;
3. Creates a "Verification form" which can be used to report an instructor who fails to comply with the requirements of teaching an applicant course;
4. Requires the course fee to be sent to the Department with the Applicant request for training for license to carry concealed deadly weapons;
5. Incorporates by reference the "Applicant Request for Training for License to Carry Concealed Deadly Weapons" and "Verification form."

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 237.124 requires the department to promulgate administrative regulations concerning the operation of a program for the training of applicants for a concealed deadly weapons license. This administrative regulation establishes that program.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to ensure that applicants for a permit to carry a concealed deadly weapon are properly instructed in gun safety procedures.

(e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training will ensure that CCDW instructors comply with the training procedures and standards as established in policy.
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(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 24, 2002, at 9 a.m., in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.

(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 September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Stephanie C. Bingham, Funkenburk Building, Richmond, Kentucky 40475-3137, phone (859) 622-5897, fax (859) 622-3162.

(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 Criminal Justice Training 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 237.124.

(b) The administrative regulation that the Department of Criminal Justice Training intends to promulgate will amend 503 KAR 4:050, as follows:
1. Amend the necessity, function, and conformity paragraph to comply with newly enacted KRS 237.124; and
2. Amend the amount of time in which the graded examinations and course application forms have to be sent to the department from 3 working days to 5 working days.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 237.124 requires the department to promulgate administrative regulations concerning the operation of a program for the training of applicants for a concealed deadly weapons license. This administrative regulation establishes the requirements for reporting test scores to the department and the issuance of a certificate of successful completion of the course.

(d) The benefits expected from this administrative regulation are: To comply with KRS Chapter 13A and to ensure that applicants for a permit to carry a concealed deadly weapon are properly instructed in gun safety procedures.

(e) This administrative regulation will be implemented as follows: The Department of Criminal Justice Training will ensure that CCDW instructors comply with the training procedures and standards as established in policy.

KENTUCKY BOARD OF EDUCATION

August 12, 2002

(1) 702 KAR 3:041, Repeal of 702 KAR 5:040, District board's responsibilities; 704 KAR 5:050, Supervision and discipline of students; 702 KAR 5:070, Liability insurance for buses; and 702 KAR 5:090, Pupil's responsibilities.

(2) The Kentucky Board of Education intends to promulgate an administrative regulation repealing the regulations on the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 10 am, in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

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

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority is KRS 156.070, 156.160, 157.320, and 157.420.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 3:041.

(c) The necessity, function, and conformity of the proposed administrative regulation: the Kentucky Board of Education is repealing administrative regulations to implement statutory requirements for pupil transportation. The repeal will reflect updated administrative regulations, consolidation and/or elimination of guidance provided and improved business practices for local districts and the Department of Education, which is also reflected in the amended regulations on pupil transportation (702 KAR Chapter 5) which are concurrently going through the Kentucky Code of Regulations process.

(d) The benefits expected from this administrative regulation is to make the regulations which are concurrently going through the process more user friendly and to conform to updated administrative regulation drafting guidelines and update guidance to local districts in pupil transportation and reduce paperwork. Also, this repealer regulation, by repealing four regulations, eliminates unnecessary regulations.

(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents, transportation directors, and other interested parties.
August 12, 2002

(1) 702 KAR 3:060, Procedure for payment of employees.

2. The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, at 10 am, in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, Frankfort, Kentucky 40601.

4.(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

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

7. Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 157.955, 156.070.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 3:060.

(c) The necessity, function, and conformity of the proposed administrative regulation: KRS 157.395 requires the Kentucky Board of Education to promulgate administrative regulations to provide a public school teacher who has attained certification from the National Board for Professional Teaching Standards with an annual salary supplement.

(d) The benefits expected from this administrative regulation is to encourage teachers to become the better teachers.

(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents and other interested parties.

August 12, 2002

(1) 702 KAR 3:310, Differentiated compensation.

2. The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.

3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, at 10 am, in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, Frankfort, Kentucky 40601.

4.(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

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

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

7. Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 156.070, 156.160, 157.320, and 157.420.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 3:310.

(c) The necessity, function, and conformity of the proposed administrative regulation: 2002 GA HB 402 requires the Kentucky Board of Education to define the factors that may be included in a local district differentiated compensation plan and procedures for the development and approval of a plan.

(d) The benefits expected from this administrative regulation is to identify factors that may be included in a local board of education's salary schedule and establish a grant program for differentiated compensation plan. The teacher is the most important factor to higher student achievement. Teacher salaries must be competitive with other professional occupations and other states' salaries for teachers.

(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents and other interested parties.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

(b) on a request for a public hearing, a person shall state:
    1. "I agree to attend the public hearing;" or
    2. "I will not attend the public hearing."

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 156.160, 157.370, 189.370, 156.070.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 5:010.

(c) The necessity, function, and conformity of the proposed administrative regulation is 156.160 requires the Kentucky Board of Education administrative regulations relating to the safety and welfare of public school children, the transportation of such children to and from school, and the operation of school buses; and KRS 157.37 also defines the method of calculating transportation cost for the state public school funding programs.

(d) The benefits expected from this administrative regulation are to provide guidelines under which the Department of Education may offer direct assistance to the school districts in these areas: service to pupils, school bus safety, and economy of operation.

(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents, transportation directors, and other interested parties.

**August 12, 2002**

(1) 702 KAR 5:030, Superintendent's responsibility.

(2) The Kentucky Board of Education intends to promulgate and administrative regulation governing subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002 at 10 am in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, Frankfort, Kentucky 40601.

(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

(b) On a request for a public hearing, a person shall state:
    1. "I agree to attend the public hearing;" or
    2. "I will not attend the public hearing."

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 156.160, 189.540.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 5:080.

(c) The necessity, function, and conformity of the proposed administrative regulation requires the Kentucky Board of Education to promulgate administrative regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the welfare and safety of public schoolchildren.

(d) The benefits expected from this administrative regulation is to implement the duties relative to the qualifications and responsibility of school bus drivers.

(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents, transportation directors, and other interested parties.

August 12, 2002

(1) 702 KAR 5:130. Vehicle to carry nine (9) passengers or less - standards for.

(2) The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.

A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, 10 am, in the State Board Room, 1st Floor, Capital Plaza, 500 Mero Street, Frankfort, Kentucky 40601.

(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.

(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.

(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

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

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

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority is KRS 156.160, 189.540.

(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 702 KAR 5:150.

(c) The necessity, function, and conformity of the proposed administrative regulation requires the Kentucky Board of Education to promulgate administrative regulations regarding the transportation of children to and from school. KRS 189.540 requires the Kentucky Board of Education to promulgate administrative regulations to govern the design and operation of school buses. This administrative regulation provides school districts with guidelines necessary to provide transportation for preschool children.

(d) The benefits expected from this administrative regulation are to provide guidelines to local school districts for the transporting of 3 and 4 year old children.

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(e) The administrative regulation will be implemented as follows: Information will be disseminated to local school district superintendents, transportation directors, and other interested parties.

August 12, 2002
(1) 704 KAR 3:390, Extended school services.
(2) The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, 10 a.m. in the State Board Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to: Mr. Kevin Noland, Deputy Commissioner and General Counsel, Bureau of Operations and Support Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request from the Department of Education at the address listed above.
(7) Information relating to the proposed administrative regulation.
(8) The statutory authority is KRS 156.070 and 158.070.
(9) The administrative regulation that the Kentucky Board of Education intends to promulgate is 704 KAR 3:390.
(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 158.070 requires schools to provide continuing education beyond the minimum school term for students in need of extended services and requires the Kentucky Board of Education to establish the criteria for waivers by which extended school programs may be scheduled on a limited basis during the regular school day.
(d) The benefits expected from this administrative regulation are to enhance the present level of performance of students who are struggling in one or more major content areas; to provide extended programming for students who have been retained or who are at risk of being retained in a class or grade or of failing to graduate on time without additional assistance; and to close the achievement gap of low-performing students so that the students will perform as successfully in the instructional program appropriate to their age ranges.
(e) The administrative regulation will be implemented as follows: The application for the use of extended services funds shall be submitted as part of the comprehensive district improvement plan. Districts may also submit a request to the Commissioner of Education for a waiver to operate a program during the school day or to use an alternative delivery format.

August 12, 2002
(1) 704 KAR 7:140, World War II veterans' diplomas.
(2) The Kentucky Board of Education intends to promulgate an administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, 10 a.m. in the State Board Room, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.
(4)(a) The public hearing will be held if it is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and a minimum of 5 persons, or the administrative body or association, agree, in writing, to be present at the public hearing.
(b) If 5 persons, or an administrative body or association, request this public hearing, and agree in writing to be present at this public hearing, it will be as scheduled.
(c) If a request for a public hearing is not received from the required number of people at least 10 days prior to September 23, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to: Mr. Kevin Noland, Deputy Commissioner and General Counsel, Bureau of Operations and Support Services, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(5)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request from the Department of Education at the address listed above.
(7) Information relating to the proposed administrative regulation.
(a) The statutory authority is KRS 156.140.
(b) The administrative regulation that the Kentucky Board of Education intends to promulgate is 704 KAR 7:140.
(c) The necessity, function, and conformity of the proposed administrative regulation is KRS 158.140 requires the Kentucky Board of Education to establish the guidelines for use by local boards of education when awarding a high school diploma to an honorably discharged veteran who was enrolled in, but did not complete, high school prior to being inducted into the United States Armed Forces during World War II as defined in KRS 40.010.
(d) To ensure that guidelines provide the opportunity for appropriate verification of WW II service and honorary discharge, as well as high school enrollment at the time of induction.
(e) The administrative regulation will be implemented as follows: The veteran or a family member shall provide a discharge certificate showing the period of service and type of discharge and the name of the school and district of enrollment to the Kentucky Department of Veterans' Affairs. The Department of Veterans' Affairs shall forward the verified documentation to the local board of education. Upon receipt of documentation, the local board of education shall verify the veteran was enrolled in, but did not complete, high school prior to induction and shall award the diploma.
August 15, 2002

(1) 781 KAR 1:020. General provisions for operation of the Department of Vocational Rehabilitation.

(2) The Cabinet for Workforce Development, Department of Vocational Rehabilitation intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 26, 2002 at 9 a.m. Eastern Time, in Training Room B, First Floor, Department of Vocational Rehabilitation, 209 Saint Clair, 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 September 26, 2002, the public hearing will be cancelled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mindy Yates, Director, Division of Program Planning and Development, Department of Vocational Rehabilitation, 209 Saint Clair Street, Frankfort, Kentucky 40601. Phone (502) 564-4440, Fax (502) 564-6745.

(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 Vocational Rehabilitation 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 general provision of vocational rehabilitation services to applicants and eligible consumers is KRS 151B.1852 and 151B.195(1).
(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will prescribe the general criteria for the provision of vocational rehabilitation services by the Department of Vocational Rehabilitation to eligible consumers of vocational rehabilitation services.
(c) The necessity and function of the proposed administrative regulation is as follows: Federal law requires the Department of Vocational Rehabilitation to promulgate administrative regulations governing the provision of vocational rehabilitation services in order to distribute finite funds more equitably over the entire population of otherwise eligible individuals.
(d) The benefits expected from administrative regulation are: To enable the Department of Vocational Rehabilitation to establish the requisite criteria for the provision of vocational rehabilitation services to consumers of vocational rehabilitation services in Kentucky.
(e) The administrative regulation will be implemented as follows: The Department of Vocational Rehabilitation will apply the criteria for the provision of vocational rehabilitation services uniformly to applicants for and consumers of vocational rehabilitation services in Kentucky.

August 15, 2002

(1) 781 KAR 1:030. Order of selection and economic need test for vocational rehabilitation services.

(2) The Cabinet for Workforce Development, Department of Vocational Rehabilitation intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 26, 2002 at 10 a.m. Eastern Time, in Training Room B, First Floor, Department of Vocational Rehabilitation, 209 Saint Clair, 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 September 26, 2002, the public hearing will be cancelled.

(5)(a)Persons wishing to request a public hearing should mail their written request to the following address: Mindy Yates, Director, Division of Program Planning and Development, Department of Vocational Rehabilitation, 209 Saint Clair Street, Frankfort, Kentucky 40601. Phone (502) 564-4440, Fax (502) 564-6745.

(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 Vocational Rehabilitation 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 Order of Selection and Economic Need Test is KRS 151B.1852, 151B.195(1), 29 USC 709(d) and USC 721(a)(5).
(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will establish when an order of selection and an economic need test shall be applied to the provision of vocational rehabilitation services to eligible consumers.
(c) The necessity and function of the proposed administrative regulation is as follows: Federal law requires the Department of Vocational Rehabilitation to determine whether to establish and to implement an order of selection for state vocational rehabilitation services within the federal guidelines for imposition. This amendment conforms language to the current federal Rehabilitation Act Amendments of 1998.
(d) The benefits expected from administrative regulation are: To enable the Department of Vocational Rehabilitation to distribute limited funds more equitably over the entire population of otherwise eligible consumers of vocational rehabilitation services in Kentucky.
(e) The administrative regulation will be implemented as follows: The Department of Vocational Rehabilitation will implement the order of selection for vocational rehabilitation services within the established federal guidelines for its imposition and apply the economic need test to
specified vocational rehabilitation services and omit application of the economic need test to identified vocational rehabilitation services.

August 15, 2002
(1) 781 KAR 1:040, Rehabilitation technology services.
(2) The Cabinet for Workforce Development, Department of Vocational Rehabilitation intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 26, 2002 at 11 a.m. Eastern Time, in Training Room B, First Floor, Department of Vocational Rehabilitation, 209 Saint Clair, Frankfort, Kentucky 40601.
(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 September 26, 2002, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mindy Yates, Director, Division of Program Planning and Development, Department of Vocational Rehabilitation, 209 Saint Clair Street, Frankfort, Kentucky 40601.
(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Department of Vocational Rehabilitation 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 Rehabilitation technology is KRS 151B.185(2), 151B.195(1), 29 USC 709(c); 705(30), and 723(a)(1) and (14).
(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will prescribe the prerequisites for the provision and replacement of rehabilitation technology to eligible consumers of vocational rehabilitation services.
(c) The necessity and function of the proposed administrative regulation is as follows: Federal law requires the Department of Vocational Rehabilitation to promulgate administrative regulations governing the requirements for the provision of rehabilitation technology services in order to distribute finite funds more equitably over the entire population of otherwise eligible individuals.
(d) The benefits expected from administrative regulation are: To enable the Department of Vocational Rehabilitation to establish the requisite criteria for the provision of rehabilitation technology services and specific vehicle modifications to consumers of vocational rehabilitation services in Kentucky.
(e) The administrative regulation will be implemented as follows: The Department of Vocational Rehabilitation will apply the criteria for the provision of rehabilitation technology services uniformly to applicants for and consumers of vocational rehabilitation services in Kentucky.

August 15, 2002
(1) 781 KAR 1:050, Carl D. Perkins Comprehensive Rehabilitation Center.
(2) The Cabinet for Workforce Development, Department of Vocational Rehabilitation intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 26, 2002 at 1 p.m. Eastern Time, in Training Room B, First Floor, Department of Vocational Rehabilitation, 209 Saint Clair, Frankfort, Kentucky 40601.
(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 September 26, 2002, the public hearing will be cancelled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Mindy Yates, Director, Division of Program Planning and Development, Department of Vocational Rehabilitation, 209 Saint Clair Street, Frankfort, Kentucky 40601.
(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 Vocational Rehabilitation 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 Carl D. Perkins Comprehensive Rehabilitation Center is KRS 151B.185(2) and 151B.195(1).
(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will delineate the procedures for admission and discharge to training programs at the Carl D. Perkins Comprehensive Rehabilitation Center for eligible consumers of vocational rehabilitation services.
(c) The necessity and function of the proposed administrative regulation is as follows: Federal law requires the Department of Vocational Rehabilitation to promulgate administrative regulations governing the requirements for the provision of vocational rehabilitation services in order to distribute finite funds more equitably over the entire population of otherwise eligible individuals.
(d) The benefits expected from administrative regulation are: To enable the Department of Vocational Rehabilitation to establish reasonable procedures to maximize the delivery of assessments, evaluations, and appropriate training programs to eligible consumers of vocational rehabilitation services at the Carl D. Perkins Comprehensive Rehabilitation Center.
(e) The administrative regulation will be implemented as follows: The Department of Vocational Rehabilitation will apply the residency
August 15, 2002

(1) 781 KAR 1:070, Fees for service.
(2) The Cabinet for Workforce Development, Department of Vocational Rehabilitation intends to promulgate an amendment to the administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 26, 2002 at 2 p.m. Eastern Time, in Training Room B, First Floor, Department of Vocational Rehabilitation, 209 Saint Clair, Frankfort, Kentucky 40601.

(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 September 26, 2002, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Mindy Yates, Director, Division of Program Planning and Development, Department of Vocational Rehabilitation, 209 Saint Clair Street, Frankfort, Kentucky 40601. Phone (502) 564-4440, Fax (502) 564-6745.
(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."
(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(d) Persons who wish to file this request may obtain a request form from the Department of Vocational Rehabilitation 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 rates for services is KRS 151B.195(2).
(b) The administrative regulation that the department intends to promulgate will amend an existing administrative regulation. It will specify the rates for services related to vocational rehabilitation, assessment, evaluation, and rehabilitation technology provided to individuals and public or private entities.
(c) The necessity and function of the proposed administrative regulation is as follows: Federal law requires the Department of Vocational Rehabilitation to promulgate administrative regulations governing the provision of vocational rehabilitation services in order to distribute finite funds more equitably over the entire population of otherwise eligible individuals.
(d) The benefits expected from administrative regulation are: To enable the Department of Vocational Rehabilitation to establish reasonable fees for services in order to maximize the delivery of assessments, evaluations, and an array of vocational adjustment, training, and therapeutic programs at the Carl D. Perkins Comprehensive Rehabilitation Center or provided by the Department of Vocational Rehabilitation.
(e) The administrative regulation will be implemented as follows: The Department of Vocational Rehabilitation will apply these fees uniformly to the specified vocational rehabilitation services.

Department for the Blind

August 15, 2002

(1) 782 KAR 1:070, Biopptic Driver Training Program.
(2) The Cabinet for Workforce Development, Department for the Blind 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 Wednesday, September 25, 2002 at 10 a.m., in the first floor conference room at the Charles W. McDowell Center, 8412 Westport Road, Louisville, Kentucky 40242.

(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 September 25, 2002, the public hearing will be cancelled.

(a) Persons wishing to request a public hearing should mail their written request to the following address: Sue G. Simon, Legal Counsel, Department for the Blind, PO Box 757, Frankfort, Kentucky 40602-0757; phone 1-800-321-6858, fax 1-502-564-2951.
(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."
(c) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(d) Persons who wish to file this request may obtain a request form from the Department for the Blind 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 Biopptic Driver Training Program is KRS 186.578(7).
(b) The administrative regulation that the department intends to promulgate will not amend an existing administrative regulation. It will establish standards for a certified Biopptic Driver Training Program.
(c) The necessity and function of the proposed administrative regulation is as follows: The Department for the Blind is charged with promulgating administrative regulations to set standards for a certified Biopptic Driver Training Program.
(d) The benefits expected from administrative regulation are: To enable eligible applicants to participate in a certified Biopptic Driver Training Program which may qualify them for comprehensive operator's license examination administered by the Kentucky State Police in order to obtain a restricted operator's license.
(e) The administrative regulation will be implemented as follows: The certified Biopptic Driver Training Programs will be operated pursuant to the specified standards to be enumerated in this administrative regulation. These programs will be available for eligible applicants to participate in training to become qualified for the comprehensive operator's license examination administered by the Kentucky State Police in order to obtain a restricted operator's license.
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002
PUBLIC PROTECTION AND REGULATION CABINET
Alcoholic Beverage Control Board

August 8, 2002
(1) 804 KAR 4:370. Entertainment destination center license. This regulation is being promulgated to create a new license and establish a corresponding fee. The entertainment destination center license will authorize the holder to sell alcoholic beverages within 2,000 feet of a major entertainment center or tourist attraction.
(2) The Department of Alcoholic Beverage Control intends to create a new administrative regulation governing the subject matter listed above.
(3) A public hearing to receive oral and written comments on the proposed new administrative regulation has been scheduled for Thursday, September 26, 2002, at 10 a.m., in the Hearing Room of the Department of Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, 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 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 by Monday, September 16, 2002, which is 10 calendar days prior to the date of public hearing, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Contact person Ms. Angela Donahue, Secretary to the Board, Kentucky Department of Alcoholic Beverage Control, 1003 Twilight Trail, Suite A-2, Frankfort, Kentucky 40601, phone (502) 564-4850, fax (502) 564-7479.
(b) In the request for a public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Kentucky Department of Alcoholic Beverage Control at the address listed above.
(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of the administrative regulation relating to the subject matter of the administrative regulation is KRS 241.060(1), 243.030(42), and 243.040(15).
(b) The administrative regulation that the Department of Alcoholic Beverage Control intends to promulgate will facilitate convention and tourism business in the Commonwealth by permitting the sale of alcoholic beverages by the drink at "entertainment destination centers".
(c) The necessity, function and conformity of the proposed administrative regulation is as follows: KRS 243.030(42) and 243.040(15) authorize the Alcoholic Beverage Control Board to issue such other special licenses as the board finds necessary for the proper regulation and control of traffic in alcoholic beverages. This administrative regulation creates a special license to facilitate convention and tourism business in the Commonwealth by permitting the retail sale of alcoholic beverages by the drink at entertainment destination centers.
(d) The benefits expected from the administrative regulation are: This administrative regulation will permit entertainment destination center licensees to sell alcoholic beverages at certain permanent and nonpermanent locations and permit retail licensees who lease space from the entertainment destination center licensee to also sell alcohol at certain designated nonpermanent locations. The regulation is expected to facilitate tourism and stimulate economic development.
(e) The administrative regulation will be implemented as follows: The regulation will be implemented by issuing licenses to qualified applicants.

Department of Insurance

July 15, 2002
(1) 806 KAR 4:010. Fees of the Department of Insurance.
(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suetta W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6075, fax (502) 564-1453.
(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."
(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 81.674(4), 304.2-110, and 304.4-010.
(b) The administrative regulation that the department intends to promulgate will make permanent the changes set out in 806 KAR 4:010.
It will establish the fees for services for which the Department of Insurance will charge. Specifically, it will amend the administrative regulation by rewording the sections impacted by 2002 Ky. Acts ch. 273 to ensure separation of the appointment from the agent license does not in-
crease license renewal fees for agents and does not reduce appointment renewal fees paid by insurers to the department, Also, the administrative regulation will amend the administrative regulation by including viatical settlement broker and viatical settlement provider license fees now contained in other administrative regulations.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 61.874(4) requires an agency to charge fees based on costs for public records used for commercial purposes. KRS 304.2-110 allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.4-010 requires the commissioner to prescribe those services for which fees shall be charged and the amounts of the fees.

(d) It is expected that this administrative regulation will provide benefits by setting out the fees for services to be charged by the Department of Insurance.

(e) The administrative regulation will be implemented by applying the fees to the services.

July 15, 2002

(1) 806 KAR 9:030, Adjusters; examinations, licenses, restrictions.

(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suetta W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 664-5075, fax (502) 664-1453.

(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".

(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 304.2-110.

(b) The administrative regulation that the department intends to promulgate will make permanent the changes set out in 806 KAR 9:030.

(c) It will establish the guidelines for public and independent adjusters, the bond amount for proof of financial responsibility, and limitations on adjuster and apprentice adjuster licenses. Specifically, it will amend the existing administrative regulation by removing the sections on applications and examinations since these provisions are now included in the statutes addressing all licensees’ applications and examinations and by clarifying that the limitation to hold only one apprentice adjuster license applies until the applicant has been licensed as an adjuster.

(d) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code.

(e) It is expected that this administrative regulation will provide benefits by setting out the procedures and standards for the licenses and restrictions on adjusters and apprentice adjusters.

The administrative regulation will be implemented by applying the procedures and standards to the licenses and restrictions.

July 15, 2002

(1) 806 KAR 9:070, Examinations.

(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suetta W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 664-6075, fax (502) 664-1453.

(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".

(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 304.2-110(1), 304.9-150(1), 304.9-230(2), 304.9-430, and 304.15-700(1).

(b) The administrative regulation that the department intends to promulgate will make permanent changes set out in 806 KAR 9:070. It will establish the guidelines for appropriate examinations required for agents, including limited line agents, adjusters, consultants, and viatical
brokers. Specifically, it will amend the existing administrative regulation by removing the examinations for the discontinued limited lines of motor vehicle physical damage and mechanical breakdown, by correcting the name of the examination for the travel limited line that has been renamed, by adding the examination for the newly established surety limited line, and by adding a section related to the viatical broker examination.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.9-160(1) provides that examinations required by Subtitle 9 shall be conducted in accordance with administrative regulations promulgated by the commissioner. 2002 HB 165 amends KRS 304.9-230(2), which provides that the commissioner shall promulgate administrative regulations regarding the examinations for limited lines of authority. 2002 HB 165 amends KRS 304.9-430, which provides that the commissioner shall prescribe the examination for adjusters. KRS 304.15-700(1) provides that the commissioner promulgate administrative regulations regarding the examinations of viatical brokers.

(d) It is expected that this administrative regulation will provide benefits by setting out the procedures and standards for examinations and clarify which lines of authority of agents are subject to specific requirements.

(k) The administrative regulation will be implemented by applying the procedures and standards to the examinations.

July 15, 2002

(1) 806 KAR 9:190, Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suetta W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6075, fax (502) 564-1453.

(b) 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".

(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.

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

July 15, 2002

(1) 806 KAR 9:210, Financial responsibility forms; time limit for replacement of evidence of licensee financial responsibility.

(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suetta W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6075, fax (502) 564-1453.

(b) 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".

(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 304.2-110(1), 304.2-110(2), 304.2-110(3), 304.2-110(4), 304.2-110(5), 304.2-110(6), 304.2-110(7), 304.2-110(8), 304.2-110(9), and 304.2-110(10).
(b) The administrative regulation that the department intends to promulgate will make permanent the changes set out in 806 KAR 9:210E. It will incorporate all of the financial responsibility forms that insurers and financial institutions must use to demonstrate and to cancel financial responsibility of a licensee. It also will establish the time limit for licensees to replace evidence of financial responsibility that is being cancelled.
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110(1) allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.2-110(7) requires the Commissioner of Insurance to prescribe all forms required under KRS Chapter 304 Subtitle 9 licenses. KRS 304.2-110(5)(b) requires the Commissioner of Insurance to establish a time limit for licensees to replace evidence of financial responsibility that is being cancelled.
(d) It is expected that this administrative regulation will provide benefits by setting out the time limit for filing proof of financial responsibility replacement and by specifying which forms are to be used by insurers and financial institutions to demonstrate the licensees' financial responsibility.
(e) The administrative regulation will be implemented by making the forms available and requiring insurers and financial institutions to use the forms. Further, the administrative regulation will be implemented by applying the time limit to filing proof of replacement of financial responsibility.

July 15, 2002
(1) 806 KAR 9:310, Viatical settlement broker license.
(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their request to the following address: Suett W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6075, fax (502) 564-1453.
(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".
(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.
(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 304.2-110, 304.2-15-700, and 304.2-15-720.
(b) The administrative regulation that the department intends to promulgate will make permanent the changes set out in 806 KAR 9:310E. It will establish the information to be included in the application for, and the appropriate requirements for the issuance and continuation of, a viatical settlement broker license. Specifically, it will amend the existing administrative regulation by referring to the provisions of KRS 304.9-282 for qualification of licensees, by referring to the provisions of 2002 Ky. Acts ch. 273, sec. 24 for designation of licensees to exercise the business entity license, by deleting the automatic termination of license if at any time there is no licensed individual designated to act for the business entity license (to parallel 2002 Ky. Acts ch. 273, sec. 24), by deleting the requirement to notify the department of disciplinary action (because now required in 2002 Ky. Acts ch. 273, sec. 37), by deleting the automatic termination of license if proof of financial responsibility is impaired (because now required in KRS 304.9-280), and by deleting licensing and renewal fees (to move to 806 KAR 9:410).
(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.2-15-700 provides that the commissioner promulgate administrative regulations regarding the examinations of viatical brokers. KRS 304.2-15-720 authorizes the commissioner to promulgate administrative regulations to implement KRS 304.15-700 to 304.15-720 and to establish appropriate requirements and fees for a viatical settlement broker license.
(d) It is expected that this administrative regulation will provide benefits by setting out the procedures and standards for viatical settlement broker licenses.
(e) The administrative regulation will be implemented by applying the procedures and standards to the viatical settlement broker licenses.

July 15, 2002
(1) 806 KAR 9:320, Viatical settlement provider license.
(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 regulation has been scheduled for September 24, 2002, at 2 p.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 by an administrative body, or by an association having at least 5 members; and
2. A minimum of 5 persons, or one person representing the administrative body or the 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 persons at least 10 calendar days prior to September 24, 2002, the public hearing will be canceled.
(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Suett W. Dickinson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6075, fax (502) 564-1453.
(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".

(c) Persons wishing to make written comments should mail their written comments to the Department of Insurance at the address listed above or send it by facsimile to the above number to arrive at the Department of Insurance by the close of business on the day of the scheduled public hearing.

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 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 KRS 304.2-110, 304.15-700, and 304.15-720.

(b) The administrative regulation that the department intends to promulgate will make permanent the changes set out in 806 KAR 9:320E. It will establish the information to be included in the application for, and the appropriate requirements for the issuance and continuation of, a viatical settlement provider license. Specifically, it will amend the existing administrative regulation by referring to the provisions of KRS 304.9-260 for continuation of viatical settlement provider license, by referring to the provisions of 2002 Ky. Acts ch. 273, sec. 24 for designation of licensees to exercise the business entity license, by deleting the automatic termination of license if at any time there is no licensed individual designated to act for the business entity license (to parallel 2002 Ky. Acts ch. 273, sec. 37), by deleting the automatic termination of license if proof of financial responsibility is impaired (because now required in KRS 304.9-260), and by deleting licensing and renewal fees (to move to 806 KAR 4:010).

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 allows the commissioner to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.15-700 provides that the commissioner promulgate administrative regulations regarding the licensing of viatical providers. KRS 304.15-720 authorizes the commissioner to promulgate administrative regulations to implement KRS 304.15-700 to 304.15-720.

(d) It is expected that this administrative regulation will provide benefits by setting out the procedures and standards for viatical settlement provider licenses.

(e) The administrative regulation will be implemented by applying the procedures and standards to the viatical settlement provider licenses.

August 14, 2002

(1) 807 KAR 5:066. Water.

(2) The Kentucky Public Service Commission intends to amend the administrative regulation governing the subject matter cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, at 1:30 p.m., Eastern Daylight Time, in Hearing Room 1, 211 Sower Boulevard, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 days prior to September 23, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: William Nold or Melea Kelch, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602, phone (502) 564-6032, fax (502) 564-1458.

(b) On a request for a public hearing, a person shall state:
1. "I agree to attend the public hearing"; or
2. "I will not attend the public hearing".

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

(b) Persons who wish to file this request may obtain a request form from the Department of 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 this subject matter of this administrative regulation is KRS 304.17A-720.

(b) The administrative regulation that the department intends to promulgate will not amend an existing regulation.

(c) The necessity and function of the proposed administrative regulation is as follows: KRS 304.2-110 permits the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Insurance Code. KRS 304.17A-720 requires the commissioner to prescribe, through administrative regulations, standardized health claim attachments to be used by all insurers requiring additional medical information to process health care claims.

(d) The benefits expected from the administrative regulation are as follows: Improvement of the efficiency and effectiveness of the health care system through administrative simplification of billing requirements.

(e) The administrative regulation will be implemented as follows: The Kentucky Department of Insurance is promulgating this administrative regulation to establish the standardized health claim attachments to be used by all insurers requiring additional medical information to process health care claims.

Public Service Commission

August 14, 2002

(1) 807 KAR 5:066. Water.

(2) The Kentucky Public Service Commission intends to amend the administrative regulation governing the subject matter cited above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 23, 2002, at 1:30 p.m., Eastern Daylight Time, in Hearing Room 1, 211 Sower Boulevard, Frankfort, Kentucky.

(4)(a) The public hearing will be held if:
1. It is requested, in writing, by at least 5 persons, or an administrative body, or an association having at least 5 members; and
2. A minimum of 5 persons, or the administrative body or association, agrees, in writing, to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at
least 10 calendar days prior to September 23, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written requests to the following address: Gerald Wuetcher, Assistant General Counsel, Kentucky Public Service Commission, 211 Sower Boulevard, PO Box 615, Frankfort, Kentucky 40620, phone (502) 564-3940, fax (502) 564-7279.

(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)(e) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an 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 Public Service 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 this subject is as follows: KRS 278.040(3) provides that the commission may promulgate, pursuant to KRS Chapter 13A, reasonable regulations to implement the provisions of KRS Chapter 278. KRS 278.040(2) grants the commission exclusive jurisdiction over utility rates and services. KRS 278.012 states that water associations are subject to the commission's jurisdiction. KRS 278.015 expressly subjects water districts to commission jurisdiction. KRS 278.030 requires every utility to furnish adequate, efficient and reasonable service. KRS 278.280(2) authorizes the commission to prescribe rules for the performance of any service or the furnishing of any commodity of the character furnished or supplied by the utility. KRS 278.280(3) authorizes the commission, upon petition of any person or group of persons, to compel a utility to make any reasonable extension of service.
(b) The proposed amendment will modify the provisions of the existing administrative regulation that deals with extensions of water service and will generally amend the existing administrative regulation to conform with the existing provisions of KRS Chapter 13A.
(c) The necessity and function of the proposed administrative regulation is as follows: The proposed amendment is necessary to avoid discouraging applicants for water service from self-financing water main extensions and to establish uniform rules for same. In establishing uniform rules for a utility's acquisition of customer-constructed facilities, the proposed amendment will reduce transaction costs and construction delays. Eliminating the requirement that a water utility refund the cost of extensions to a developer will ensure that those responsible for the cost of construction will be those who will actually pay for it.
(d) The proposed amendment will establish uniform rules for the acquisition and acceptance of customer-constructed facilities and for the allocation of costs for the upsizing of water mains and construction of related facilities. It also will eliminate the requirement that a water utility refund the cost of water main extensions within a real estate subdivision development, thereby encouraging more economical land use development and enabling a water utility to better control and manage its finances and plan for future development.
(e) The administrative regulation will be implemented and enforced as soon as it becomes effective.

CABINET FOR HEALTH SERVICES
Office of Certificate of Need

August 15, 2002

(1) 900 KAR 6:020. Certificate of Need application fee schedule.
(2) The Cabinet for Health Services, Office of Certificate of Need, intends to promulgate an administrative regulation governing the subject matter cited above.
(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 30, 2002 at 9 a.m. in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, 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 public hearing and agreement to attend the public hearing are not received from the required number of people at least 10 days prior to September 30, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4 West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing."); or
2. "I will not attend the public hearing."

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

(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Public Health, Commissioner's Office, 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 the Cabinet for Health Services regulations may call toll free 1-800-372-2973 (V/TTD).

(7) Information relating to the proposed administrative regulations.
(a) The statutory authority for the promulgation of this administrative regulation relating to the subject matter listed above is found at KRS 216B 040(3)(c).
(b) The administrative regulation that the Cabinet for Health Services intends to promulgate will amend 900 KAR 6:020 by increasing the application fees;
(c) The necessity, function and conformity of the proposed administrative regulation are as follows: The application fees have not been adjusted since December 18, 1996. This regulation will adjust for cost of living increases.
(d) The benefits expected from the administrative regulation are: Fees will be used to offset the costs of operating the Office of Certificate of Need.
(e) The administrative regulation will be implemented as follows: The Office of Certificate of Need will post the new fee schedule in the CON newsletter on its web site and will include it in the CON application information that is provided to applicants.
August 5, 2002

(1) 902 KAR 17:041. State Health Plan for facilities and services.
(2) Cabinet for Health Services, Department for Public Health intends to promulgate an administrative regulation governing the subject matter listed above.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 30, 2002, 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 September 30, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).
(b) On a request for public hearing, a person shall state:
1. "I agree to attend the public hearing;" or
2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
(b) Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Public Health, Health Services Building, 275 East Main Street, Frankfort, Kentucky 40621.
(c) Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services’ regulations may call toll free 1-800-372-2973 (V/TDD).

(7) Information relating to the proposed administrative regulation:
(a) The statutory authority for the promulgation of an administrative regulation relating to 902 KAR 17:041 are KRS 216B.010, 216B.015(18), 194A.030, 194A.050(1), 216B.040(2)(a)(2).
(b) The administrative regulation that the Department for Public Health intends to promulgate will amend 902 KAR 17:041.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: "This administrative regulation sets forth the development and annual updating of the State Health Plan as required in KRS 216B.015(18). The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B.
(d) The benefits expected from administrative regulation are the orderly and effective determination of health policy goals for health facilities and services in the Commonwealth. It will ensure appropriate distribution of health services to all Kentuckians.
(e) The administrative regulation will be implemented as follows: By the Division of Epidemiology and Planning, Department for Public Health, Cabinet for Health Services.

Office of Inspector General

August 15, 2002

(1) 906 KAR 1:140. Validation and complaint investigation procedures for deemed hospitals.
(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 September 30, 2002, 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 September 30, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the General Counsel, 275 East Main Street, 5W-B, Frankfort, Kentucky 40621, phone (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, 5E-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 the process of verifying that accredited hospitals deemed in compliance licensure requirements are actually meeting those licensure requirements is KRS 216B.185.
(b) The cabinet intends to promulgate 906 KAR 1:140 to establish the procedures for inspecting accredited hospitals deemed in compliance with licensure requirements for the purpose of ensuring that the licensure requirements are actually met and to establish the process for conducting complaint investigations at those deemed hospitals.
(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: KRS 216B.185 requires the cabinet to promulgate the necessary administrative regulations to implement the licensing validation process for hospitals deemed in compliance with licensure requirements.

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(d) The benefit expected from this proposed administrative regulation is that this office will comply with the requirements established in KRS 216B.185.

(e) The administrative regulation will be implemented as follows: By the Office of the Inspector General in the Cabinet for Health Services.

Department for Medicaid Services

August 15, 2002

1. 907 KAR 1:160, Home and community based waiver services.
2. Cabinet for Health Services, Department for Medicaid Services intends to promulgate an administrative regulation governing the subject matter listed above.
3. A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 30, 2002 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.
4. 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.
5. If a 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 September 30, 2002, the public hearing will be canceled.
6. Persons wishing to request a public hearing should mail their written request to the following address: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).
7. 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;"
8. KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
9. Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Financial Management, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.
10. Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).
11. Information relating to the proposed administrative regulation:
   a. The statutory authority for the promulgation of an administrative regulation relating to 907 KAR 1:160 are KRS 194A.030(3), 194A.050(1), 205.520(3) and SB 142 of the 2002 Session of the General Assembly.
   b. The administrative regulation that the Department for Medicaid Services intends to promulgate will amend 907 KAR 1:160, Home and community based waiver services, to ensure compliance with SB 142 of the 2002 Session of the General Assembly which amended KRS 205.510 to 205.645 by requiring adult day health care programs to provide skilled nursing services to Medicaid recipients only during the posted hours of operation.
   c. The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes home and community based waiver services provisions. The amendment to this administrative regulation ensures compliance with SB 142 of the 2002 Session of the General Assembly which amended KRS 205.510 to 205.645 by requiring adult day health care programs to provide skilled nursing services to Medicaid recipients only during the posted hours of operation.
   d. The benefits expected from this administrative regulation are: The expected benefit from this administrative regulation is departmental compliance with SB 142 of the 2002 Session of the General Assembly.
   e. The administrative regulation will be implemented as follows: By the Division of Long Term Care and Disability Services, Department for Medicaid Services, Cabinet for Health Services.

August 15, 2002

1. 907 KAR 1:604, Recipient cost-sharing.
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 September 30, 2002 at 9 a.m., in the Cabinet for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.
4. 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.
5. If a 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 September 30, 2002, the public hearing will be canceled.
6. Persons wishing to request a public hearing should mail their written request to the following address: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).
7. 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;"
8. KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.
9. Persons who wish to file this request may obtain a request form from the Administrative Regulation Coordinator, Department for Medicaid Services, Division of Financial Management, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.
10. Note: Requests for Notification and the Notice of Intent to Promulgate shall be made available in another format, upon request, in accordance with the Americans With Disabilities Act. Persons requesting assistance regarding Cabinet for Health Services' regulations may call toll free 1-800-372-2973 (VTDD).
11. Information relating to the proposed administrative regulation:
   a. The statutory authority for the promulgation of an administrative regulation relating to recipient cost-sharing are KRS 194A.030(3),
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(b) The administrative regulation that the Department for Medicaid Services intends to promulgate will establish the provisions for imposing and collecting copayments from Medicaid recipients for pharmacy services.

(c) The necessity, function and conformity of the proposed administrative regulation is as follows: This administrative regulation establishes provisions relating to imposing and collecting copayments from Medicaid recipients.

(d) The benefits expected from this administrative regulation are: a reduction in expenditures for pharmacy services.

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

Department for Mental Health and Mental Retardation Services

August 15, 2002


(2) The Department for Mental Health/Mental Retardation Services intends to promulgate an administrative regulation to establish data submission requirements for providers of court-ordered domestic violence offender treatment.

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 30, 2002 at 9 a.m. in the Department for Public Health Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(b) 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 prior to September 30, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Jill Lewis, Cabinet Regulation Coordinator, Cabinet for Health Services, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564 7573 (fax).

(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 administrative regulations governing a specific subject 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 Administrative Regulation Coordinator, Department for Mental Health and Mental Retardation Services, Division of Administration and Financial Management, 100 Fair Oaks Drive (4th Floor), 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 American With Disabilities Act. Persons requesting assistance with 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 authority for the promulgation of an administrative regulation governing court-ordered domestic violence offender treatment is KRS 403.7505. That statute authorizes The Cabinet for Health Services to promulgate regulations establishing certification standards for mental health professionals providing court-mandated treatment services for domestic violence offenders.

(b) The administrative regulation that the Department for Mental Health and Mental Retardation Services intends to promulgate will establish data submission requirements for providers of domestic violence offender treatment services.

(c) The necessity and function of the administrative regulation is as follows: KRS 4303.7505 requires the Cabinet for Health Services to promulgate administrative regulations establishing certification standards for mental health professionals providing court-ordered treatment services for domestic violence offenders.

(d) The benefits expected from this administrative regulation are: Enhanced tracking, monitoring, and evaluation of services provided to court-ordered domestic violence offenders.

(e) The administrative regulation will be implemented as follows: By the Department for Mental Health and Mental Retardation Service, Cabinet for Health Services.

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

August 13, 2002

(1) 921 KAR 4:116. Home Energy Assistance Program.

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

(3) A public hearing to receive oral and written comments on the proposed administrative regulation has been scheduled for September 30, 2002, at 9 a.m. in the Department for Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky.

(b) The public hearing will be held if:

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

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least 10 calendar days prior to September 30, 2002, the public hearing will be canceled.

(5)(a) Persons wishing to request a public hearing should mail their written request to the following address: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street, 4th West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (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."

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

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

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

(7) Information relating to the proposed administrative regulation.

(a) The statutory authority for the promulgation of an administrative regulation relating to 921 KAR 4:116 is 42 USC 8621, 45 CFR 96 Subpart H, and KRS 1948.050(1).

(b) The administrative regulation that the Department for Community Based Services intends to promulgate is a proposed amendment to administrative regulation, 921 KAR 4:116, Home Energy Assistance Program. The proposed administrative regulation is necessary to:

1. Clarify eligibility criteria for LIHEAP;
2. Clarify the fair hearing process;
3. Revise benefit levels;
4. Clarify application process;
5. Clarify and expand definitions;
6. Add provisions for summer cooling component;
7. Make changes as required by KRS Chapter 13A.

(c) The necessity, function, and conformity of the proposed administrative regulation is as follows: The Cabinet for Families and Children has responsibility under 42 USC 8621 to administer the Low Income Home Energy Assistance Program to help low income households meet the cost of home energy. This administrative regulation establishes the eligibility and benefits criteria for heating assistance and clarifies the fair hearing process.

(d) The benefits expected from this administrative regulation are: This administrative regulation will provide help to low income households to meet the cost of home energy.

(e) The administrative regulation will be implemented as follows: This administrative regulation will be administered by the Department for Community Based Services, Division of Policy Development.
STATEMENT OF EMERGENCY
503 KAR 4:040E

KRS 13A.190(1)(a)3 provides that an emergency administrative regulation is one (1) that must be placed into effect immediately in order to meet a deadline for the promulgation of an administrative regulation that is established by state law. During the 2002 Regular Session, the Kentucky General Assembly enacted 2002 Ky. Acts ch. 368, which amended sections of the KRS Chapter 237 relating to the training programs for carrying concealed deadly weapons. The new changes to KRS Chapter 237 will take effect on July 15, 2002. The Department of Criminal Justice Training is charged with the duty of establishing standards for the certification and decertification of firearms instructors and the content of firearms safety and training courses administered to applicants for a permit to carry a concealed deadly weapon. Since the enactment of 2002 Ky. Acts ch. 368, the department has been working to amend its training programs for applicants and instructors in order to comply with the new requirements. An ordinary administrative regulation will not suffice as the Department of Criminal Justice Training must have administrative regulations in place on July 15, 2002, to comply with the changes to the law and to administer training in the CCW Program as directed by the Kentucky General Assembly. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 15, 2002.

PAUL E. PATTON, Governor
JOHN W. BIZZACK, Commissioner

JUSTICE CABINET
Department of Criminal Justice Training
(Emergency Amendment)

503 KAR 4:040E. Required instructor training.

RELATES TO: KRS 237.110(2)(f)
STATUTORY AUTHORITY: KRS 237.110(2)(f)
EFFECTIVE: July 15, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.110(2)(f) [and 15:340] requires the department to promulgate administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth, [firearms safety and training courses or classes that are (a) approved by the department; or (b) conducted by the department or by a firearms instructor certified by the department.] This administrative regulation establishes the training required for certification as a firearms instructor or firearms instructor trainer.

Section 1. A firearms instructor and instructor training course shall include:
(1) Fourteen (14) [Sixteen (16)] hours of classroom instruction covering at least the following topics:
(a) By means of a videotape produced [or approved] by the department:
1. The requirements for obtaining a concealed deadly weapons license in Kentucky;
2. Sections of KRS Chapters 237 and 527 that relate to firearms; and
3. Sections of KRS Chapter 503 relating to the justifiable use of force;
(b) The conduct of applicant training courses;
(c) Recordkeeping requirements of this administrative regulation;
(d) The basic nomenclature of handguns;
(e) The basic principles of marksmanship; and
(f) The safe handling of handguns.

(2) A class demonstration, during which the instructor candidate shall receive instruction on and demonstrate competency in the ability to prepare and deliver a classroom presentation using materials from the applicant curriculum.
(3) Range instruction and firing of live ammunition, during which the instructor candidate shall receive instruction on and demonstrate competency in the ability to:
(a) Handle and fire a handgun safely and accurately;
(b) Conduct a function test and safety inspection of common types of handguns;
(c) Clean and care for common types of handguns; and
(d) Supervise and conduct live firing exercises in a safe and efficient manner.

Section 2. To qualify as a certified firearms instructor or an instructor trainer, instructor candidate shall achieve:
(1) A minimum score of seventy (70) percent on a written examination covering the material taught during the classroom portion of the course;
(2) A minimum score of eighty (80) percent on range firing of a handgun, unassisted, from a safe position while aiming at a B-21 PC silhouette target or an equivalent target approved by the department, with a minimum of:
(a) Ten (10) rounds from seven (7) yards; and
(b) Ten (10) rounds from fifteen (15) yards; and
(3) A score of "passing" from the course instructor for demonstrating competency in each of the following:
(a) Supervising and conducting live fire;
(b) Cleaning and inspecting handguns; and
(c) Preparing and delivering the classroom lecture. The lecture shall be graded by using the "CCW Instructo and Instructor Trainer Five (5) Minute Presentation" form. The form shall be submitted to the department as a part of the class record.

Section 3. (1) An instructor candidate who fails to meet the requirements of Section 2 of this administrative regulation may retake the examination, range work or classroom demonstration one (1) time without having to repeat the course.
(2) An instructor candidate shall retake examination, range work, or classroom demonstration within thirty (30) days of his failure to meet the requirements of Section 2 of this administrative regulation.

Section 4. (1) Firearm instructor and instructor trainer certificates shall be valid for three (3) years from date of issue.
(a) A certified firearms instructor or instructor trainer may renew his certification by successfully completing a refresher course offered or approved by the department.

Section 5. (1) The fee for instructor trainer or refresher courses shall be $100 per student.
(b)(a) The fee for an instructor course shall not exceed $100 per student.
(b) An instructor trainer shall remit fifty (50) dollars per student to the department.
(c) An instructor trainer shall remit an applicant's fee and application to the department within three (3) days following an applicant's:
1. Successful completion of the course or retaking; or
2. Failure of the course or retaking.
(c) Fees shall not be refunded to a student who does not pass or otherwise fails to complete a course.

Section 6. (1) A course participant shall provide a safe, functional handgun and factory-loaded ammunition.
(2) Prior to conducting range firing, the course instructor shall:
(a) Inspect each participant's firearm; and
(b) Not allow the firing of a handgun which is not in sound me-
chastical condition or otherwise may pose a safety hazard.

Section 5. Incorporation by Reference. (1) "CCDW Instructor and Instructor Trainer Five (5) Minute Presentation", (6/02 edition). Department of Criminal Justice Training, is incorporated by reference;

(2) It may be inspected, copied, or obtained, subject to applicable copyright law, from the Department of Criminal Justice Training, Funderburg Building, 521 Lancaster Avenue, Richmond, Kentucky, 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY: July 15, 2002
FILED WITH LRC: July 15, 2002 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Establishes the training required to be certified as a firearms instructor.

(b) Necessity of this administrative regulation: The regulation is necessary so that the Department of Criminal Justice Training can fulfill its responsibility, pursuant to KRS 237.110(2)(f), to promulgate administrative regulations necessary for the certification and decertification of firearms instructors in Kentucky.

(c) How this regulation conforms to the content of the authorizing statutes: KRS 237.110(2)(f) requires the department to promulgate administrative regulations necessary for the certification and decertification of firearms instructors in Kentucky. This administrative regulation is necessary to establish the requirements for firearms safety and training courses.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment incorporates by reference a new form which is to be used to grade the CCDW Instructor and Instructor Trainer Five (5) Minute Presentations. Additionally, it deletes material on the time period of certification and the fees for course, both of which are now addressed in the statutes.

(b) The necessity of the amendment to this administrative regulation: To incorporate by reference a new form and to comply with recent amendments to the CCDW statutes.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 237.110(2)(f) requires the Department of Criminal Justice to promulgate administrative regulations concerning the certification and decertification of instructors and students.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will remove provisions that repeat or conflict with the Kentucky Revised Statutes.

(3) Type and number of entities affected: There are approximately 750 instructors who are currently certified to teach a firearms safety and training course.

(4) How the aforementioned entities will be impacted by the implementation of this administrative regulation: It is anticipated that most instructors should experience minimal inconvenience from the amendment of this administrative regulation as the amended provisions are now addressed in the statutes. It is also anticipated that the "CCDW Instructor and Instructor Trainer Five (5) Minute Presentation" form will be of assistance to those who teach these courses. This amendment does not impose a fee or cost on firearms instructors. There should be no effect on the expenditures or revenues of local governments.

(5) Cost to implement this administrative regulation:

(a) Initial: None

(b) On a continuing basis: None

(c) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPF).

(d) Assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation: No

(6) Does this administrative regulation directly or indirectly increase any fees: No

(7) TIERING: Was 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. Tiering would be necessary to adopt "ource of funds" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY

503 KAR 4:050E

KRS 13A.190(1)(e)3 provides that an emergency administrative regulation is one (1) that must be placed into effect immediately in order to meet a deadline for the promulgation of an administrative regulation that is established by state law. During the 2002 Regular Session, the Kentucky General Assembly enacted 2002 Ky. Acts ch. 368, which amended sections of the KRS chapter relating to the training programs for carrying concealed deadly weapons. The new changes to KRS chapter 237 will take effect on July 15, 2002. The Department of Criminal Justice Training is charged with the duty of establishing standards for the certification and decertification of firearms instructors and the content of firearms safety and training courses administered to applicants for a permit to carry a concealed deadly weapon. Since the enactment of 2002 Ky. Acts ch. 368, the department has been working to amend the training programs for firearms instructors and students in order to comply with the new requirements. An ordinary administrative regulation will not suffice as the Department of Criminal Justice Training must have administrative regulations in place on July 15, 2002, to comply with the changes to the law and to administer training in the CCDW Program as directed by the Kentucky General Assembly. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 15, 2002.

PAUL E. PATTON, Governor
JOHN W. BIZZACK, Commissioner

JUSTICE CABINET
Department of Criminal Justice Training
(Emergency Amendment)

503 KAR 4:050E. Required content and conduct of applicant training course.

RELATES TO: KRS 237.124 [237.110(2)(f)]
STATUTORY AUTHORITY: KRS 237.124 [237.110(2)(f)]

EFFECTIVE: July 15, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.124 [237.110(2)(f)] and 14.340 requires the department to promulgate administrative regulations concerning the operation of a program for the training of applicants for a concealed deadly weapons license. (1) certification and decertification of firearms instructors practicing in Kentucky; (2) firearms safety and training courses; and (3) fees that are approved by the department or conducted by the department or a firearms instructor certified by the department. This administrative regulation establishes that program. (1) the procedures that shall be followed by qualified firearms instructors in teaching applicant training courses; (2) the minimum age and other requirements for students taking training courses; and (3) the fees for applicant training courses.

Section 1. (44) An applicant training course shall be:

(1) [64] The standardized training course furnished by the department; and

(2) [65] Taught by a certified firearms instructor.

Section 2. Applicant Training Course Content. (1) Classroom instruction. [66] An applicant training course shall include at least six
Section 10. In accordance with the requirements of KRS 237.110(19)(g), if the department believes that an instructor has not complied with the requirements for teaching a certified firearms instructor or applicant class, it shall send a "VF-1 Verification form" to each student who has been listed by the instructor as having successfully completed the class taught by that instructor. A certified firearms instructor shall:

(1) Allow monitoring of his class by the department or by an official of another agency approved by the department;
(2) Make all course records available upon demand to authorized personnel of the department; and
(3) Not divulge course records except as authorized by the department.

Section 11. (1) The "Applicant Request for Training for License to Carry Concealed Deadly Weapons" and course fee, required by KRS 237.122, shall be sent to the department at the same time as the class roster required by KRS 237.110(19)(d).

(2) Payment of the course fee shall be made to the department in the form of a check or money order payable to the "Kentucky State Treasurer"; [10.] (1) The fee for an applicant training course shall not exceed seventy-five (75) dollars per student.

(2) A certified firearms instructor shall collect the fee and remit twenty-five (25) dollars of the fee and the application to the department within three (3) days following an applicant:

(a) Successful completion of the course or retesting; or
(b) Failure of the course or retesting.

(3) The fee shall not be refunded to a student who fails or does not complete the course.

Section 12. [44] An applicant training course shall not have more than:

(1) Forty (40) students in the classroom portion; or
(2) Five (5) students per range officer engaged in range firing.

Section 13. In accordance with KRS 237.110(19)(c), an instructor or instructor trainer may request that he or she be permitted to teach a class with less than fourteen (14) days notice to the department. A request shall be in writing and sent to the department by mail, fax, e-mail, or by method by which a hard copy can be created. The department may respond to the request by telephone, but shall also send a hard copy to the instructor by mail, fax, or e-mail. The instructor shall not proceed with the class unless he or she has received approval from the department.

Section 14. [42] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form #126 "Applicant Request for Training for License to Carry Concealed Deadly Weapons", (6/02 edition), Department of Criminal Justice Training;
(b) Form VF-1 "Verification Form", (6/02 edition), Department of Criminal Justice Training ([Applicant Request for Training for License to Carry Concealed Deadly Weapon] (07/11/06), Form #126 is incorporated by reference.)

(2) This material [4] may be inspected, copied, or obtained, subject to applicable copyright law, at Department of Criminal Justice Training, Funderburk Building, KIt Carson Drive, Richmond, Kentucky 40475-3137, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY July 15, 2002
FILED WITH LRC: July 15, 2002 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

1(a) What this administrative regulation does: Establishes the procedures and requirements for firearms safety and training courses conducted by firearms instructors for applicants for a license to carry a concealed deadly weapon.
(b) Necessity of this administrative regulation: The regulation is necessary so that the Department of Criminal Justice Training can
fulfill its responsibility, pursuant to KRS 237.124, to promulgate administrative regulations necessary for the operation of programs for the training of applicants for concealed deadly weapons licenses.

(c) How this regulation conforms to the content of the authorizing statutes: KRS 237.124 requires the department to promulgate administrative regulations necessary for the operation of programs for the training of applicants for concealed deadly weapons licenses. This administrative regulation is necessary to establish the requirements for the content and conduct of the applicant training courses.

(d) How this regulation currently assists in the effective administration of the statutes: This regulation sets clear, reasonable, and consistent requirements for CDDW applicant training courses.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment changes the classroom training requirement of the CDDW applicant course from 8 hours to a minimum of 6 hours; requires live firing exercises to be performed without assistance from another person; incorporates by reference the new "Verification Form" required by KRS 237.110(19)(g); requires the "Applicant Request for Training" form and course fee to be sent to the department the same time as the class roster; and establishes the procedure for an instructor to request permission to teach a course with less than fourteen days notice to the department.

(b) The necessity of the amendment to this administrative regulation: To ensure that the required content is taught to students and to comply with KRS 237.110(19).

(c) How the amendment conforms to the content of the authorizing statutes: KRS 237.124 requires the Department of Criminal Justice to promulgate administrative regulations concerning the operation of programs for the training of applicants for concealed deadly weapons licenses.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will ensure that CDDW applicants are qualified after receiving training and that an applicant can lodge a complaint if they fail to receive the required training.

(3) Type and number of entities affected: There are approximately 750 Instructors who are currently certified to teach a firearms safety and training course. Approximately 11,500 individuals applied for CDDW training in 2001.

(e) How the aforementioned entities will be impacted by the implementation of this administrative regulation: It is anticipated that neither Instructors nor applicants should experience any inconvenience from decreasing the required classroom time from 8 to 6 hours. It is anticipated that the "Verification Form" will be a benefit to applicants by providing a method by which they can complain of insufficient training as required by statute. This amendment does not impose a fee or cost on instructors or applicants. There should be no effect on the expenditures or revenues of local governments.

(f) Cost to implement this administrative regulation:

(1) Initially: None

(2) On a continuing basis: None

(3) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPF).

(4) Assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation: No.

(5) Does this administrative regulation directly or indirectly increase any fees: No

(9) TIERING: Was 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.

STATEMENT OF EMERGENCY

503 KAR 4:060E

KRS 13A.190(1)(e)3 provides that an emergency administrative regulation is one (1) that must be placed into effect immediately in order to meet a deadline for the promulgation of an administrative regulation that is established by state law. During the 2002 Regular Session, the Kentucky General Assembly enacted 2002 Ky. Acts ch. 368, which amended sections of the KRS Chapter 237 relating to the training programs for carrying concealed deadly weapons. The new changes to KRS Chapter 237 will take effect on July 15, 2002. The Department of Criminal Justice Training is charged with the duty of establishing standards for the certification and decertification of firearms instructors and the content of firearms safety and training courses administered to applicants for a permit to carry a concealed deadly weapon. Since the enactment of 2002 Ky. Acts ch. 368, the department has been working to amend its training programs for applicants and instructors in order to comply with the new requirements. An ordinary administrative regulation will not suffice as the Department of Criminal Justice Training must have administrative regulations in place on July 15, 2002, to comply with the changes to the law and to administer training in the CDDW Program as directed by the Kentucky General Assembly. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler on July 15, 2002.

PAUL E. PATTON, Governor
JOHN W. BIZZACK, Commissioner

JUSTICE CABINET
Department of Criminal Justice Training
(Emergency Amendment)

503 KAR 4:060E. Reporting test scores and issuing certificates of completion.

RELATES TO: KRS 237.124 [237.110(2)(g)]
STATUTORY AUTHORITY: KRS 237.124 [237.110(2)(i)]
EFFECTIVE: July 15, 2002
NECESSITY, FUNCTION, AND CONFORMANCE: KRS 237.124 [237.110(2)(g)] requires the department to promulgate administrative regulations concerning the operation of a program for the training of applicants for a concealed deadly weapons license. Certification of applicants for licensure to carry a concealed deadly weapon after applicants have demonstrated competence with a firearm by completion of a firearms safety or training course or class specified by KRS 237.110(2)(g). This administrative regulation establishes the requirements for reporting test scores to the department and the

1. Procedures for the examination given to applicants for licensure to carry concealed deadly weapons after completion of the required course or class;
2. Required passing scores;
3. Notification of applicants of examination results; and
4. Issuance of a certificate of successful completion of the course.

Section 1. Within five (5) [three (3)] working days after the completion of the course, a certified firearms instructor shall:
1. Grade the examinations;
2. Mail or deliver to the department:
   a. The completed course application form, showing the student's score on the written examination and indicating whether the student passed or failed the range work; and
   b. The graded examinations.

Section 2. Within fifteen (15) days after receipt of the material specified in Section 1 of this administrative regulation, the department shall mail to an applicant:
1. A certificate of successful course completion; or
2. A notice that the applicant has failed the:
   a. Course and will not be certified; and
   b. Written examination, the range firing, or both, as appropriate.

Section 3. A student shall be issued a certificate of completion if he has:
1. Answered at least seventy (70) percent of the written examination questions correctly; and
2. Achieved a grade of "passing" on the range work.

Section 4. (1) A student who scored below seventy (70) percent
on the written examination may retake the examination one (1) time without having to retake the course.

(2) A student who has not passed the range work may repeat the range work one (1) time without having to retake the course.

JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY: July 15, 2002
FILED WITH LRC: July 15, 2002 at 4 p.m.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Establishes the requirements for grading CCDW applicant test scores, the requirement of submitting the course application forms and graded CCDW examinations to the department, test scores necessary to pass the applicant course, and the requirement of providing certificates of successful course completion.

(b) Necessity of this administrative regulation: The regulation is necessary so that the Department of Criminal Justice Training can fulfill its responsibility, pursuant to KRS 237.124, to promulgate administrative regulations necessary for the operation of programs for the training of applicants for concealed deadly weapons licenses.

(c) How this regulation conforms to the content of the authorizing statutes: KRS 237.124 requires the department to promulgate administrative regulations necessary for the operation of programs for the training of applicants for concealed deadly weapons licenses. This administrative regulation is necessary to establish passing scores for CCDW applicant courses and the requirements for submitting grading examinations and course application forms to the department.

(d) How this regulation currently assists in the effective administration of the statutes: This regulation sets clear, reasonable and consistent requirements for passing a CCDW applicant training course, submission of applications and graded examinations to the department, providing a certification of successful completion of a CCDW applicant training course.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment changes the requirement of submitting to the department the course application forms and graded examinations from 3 working days to 5 working days to correspond with the new requirements of KRS 237.110(19)(d).

(b) The necessity of the amendment to this administrative regulation: To permit CCDW instructors to submit all required materials at one time, rather than having 2 different time requirements.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 237.124 requires the Department of Criminal Justice to promulgate administrative regulations concerning the operation of programs for the training of applicants for concealed deadly weapons licenses.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will permit CCDW instructors to submit all necessary paperwork at the same time, as opposed to having 2 different time requirements for the submission of the class roster and course application forms and graded examinations.

(3) Type and number of entities affected: There are approximately 750 instructors who are currently certified to teach a firearms safety and training course.

(4) How the aforementioned entities will be impacted by the implementation of this administrative regulation: This regulation does not change or increase the CCDW paperwork that must be submitted to the department. It increases the time that course application forms and graded examinations must be submitted to the department from 3 working days to 5 working days to correspond with the new requirement of class rosters found in KRS 237.110(19)(d). It is anticipated that this will be of greater convenience to instructors by providing 2 additional days in which to submit paperwork and by having one single time requirement for submitting documentation, as opposed to having 2 different time requirements. This amendment does not impose a fee or cost on instructors or applicants. There should be no effect on the expenditures or revenues of local governments.

(5) Cost to implement this administrative regulation: (a) Initially: None
(b) On a continuing basis: None
(6) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEFFP).

(7) Assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation: No

(8) Does this administrative regulation directly or indirectly increase any fees: No

(9) TIERING: Was 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.

STATEMENT OF EMERGENCY

503 KAR 4:080E

KRS 13A.190(1)(a) provides that an emergency administrative regulation is one (1) that must be placed into effect immediately in order to meet a deadline for the promulgation of an administrative regulation that is established by state law. During the 2002 Regular Session, the Kentucky General Assembly enacted 2002 Ky. Acts ch. 368, which amended sections of the KRS Chapter 237 relating to the training programs for carrying concealed deadly weapons. The new changes to KRS Chapter 237 will take effect on July 15, 2002. The Department of Criminal Justice Training is charged with the duty of establishing standards for the certification and decertification of firearms instructors and the content of firearms safety and training courses administered to applicants for a permit to carry a concealed deadly weapon. Since the enactment of 2002 Ky. Acts ch. 368, the department has been working to amend its training programs for applicants and instructors in order to comply with the new requirements. An ordinary administrative regulation will not suffice as the Department of Criminal Justice Training must have administrative regulations in place on July 15, 2002, to comply with the changes to the law and to administer training in the CCDW Program as directed by the Kentucky General Assembly. This administrative regulation is being filed to repeal two (2) administrative regulations that conflict with the requirements of the new administrative regulations. KRS 13A.310(2)(b) provides that on the effective date of an administrative regulation that repeals an administrative regulation, the Regulation Compiler shall delete the repealed administrative regulation and the repealer administrative regulation from the Kentucky Administrative Regulations Service. Accordingly, this administrative regulation will not be replaced by an ordinary administrative regulation because it is not necessary to replace a deleted repealer administrative regulation.

PAUL E. PATTON, Governor
JOHN W. BIZZACK, Commissioner

JUSTICE CABINET
Department of Criminal Justice Training

(Emergency Repealer)


STATUTORY AUTHORITY: KRS 237.110(2)(f)
RELATES TO: KRS 237.110(2)(f)
EFFECTIVE: July 15, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.110(2)(f) requires the department to promulgate administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth. This administrative regulation repeals two (2) administrative regulations that are no longer necessary for the certification of firearms instructors.
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

Section 1. The following administrative regulations in 503 KAR Chapter 4, are hereby repealed:
(1) 503 KAR 4:030, Instructor qualifications; and
(2) 503 KAR 4:070, Revocation of instructor certification and appeal process.

JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY: July 15, 2002
FILED WITH LRC: July 15, 2002 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five workingdays prior to the hearing, of their intent to attend. 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 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 notice of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephanie C. Bingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137, phone (859) 622-5897, fax (859) 622-3162.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1)(a) What this administrative regulation does: Repeals 503 KAR 4:030 and 503 KAR 4:070.

(b) Necessity of this administrative regulation: HB 97, enacted by the General Assembly at the 2002 Regular Session, amended several provisions of the laws relating to licenses for carrying concealed deadly weapons. As a result of the amendments, these 2 administrative regulations are no longer necessary or conflict with provisions now contained in the Kentucky Revised Statutes.

(c) How this regulation conforms to the content of the authorizing statutes: KRS 237.110(2)(f) requires the department to promulgate administrative regulations necessary for the certification and decertification of firearms instructors in Kentucky. This administrative regulation repealing 503 KAR 4:030 and 503 KAR 4:070 conforms to the requirements of KRS 237.110(2)(f), by eliminating conflicting and unnecessary provisions in 503 KAR Chapter 4.

(d) How this regulation currently assists in the effective administration of the statutes: This administrative regulation repealing 503 KAR 4:030 and 503 KAR 4:070 conforms to the requirements of KRS 237.110(2)(f), by eliminating conflicting and unnecessary provisions in 503 KAR Chapter 4.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not applicable, this is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable, this is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable, this is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable, this is a new administrative regulation.

(3) Type and number of entities affected: There are approximately 750 instructors who are currently certified to teach a firearms safety and training course.

(4) How the aforementioned entities will be impacted by the implementation of this administrative regulation: It is anticipated that most instructors should experience little or no impact from the promulgation of this administrative regulation. Most of the provisions contained in the repealed administrative regulations are contained within the Kentucky Revised Statutes.

(5) Cost to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(6) Source of funding to be used for implementation and enforcement of administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPF).

(7) Assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation: No

(8) Does this administrative regulation directly or indirectly increase any fees: No

(9) TIERING: Was 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.

STATEMENT OF EMERGENCY

806 KAR 4:010E

This emergency administrative regulation amends 806 KAR 4:010, which prescribes the services for which the department will charge fees, the amount of those fees, and the payment schedule for renewals. 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill separates the agent license from the appointments thus compelling amendments to the administrative regulation to assure the renewal of licenses is revenue neutral (neither increasing the fees of agents nor decreasing the income of the department); to clarify the fees for license, license renewal, appointment, and appointment renewal; and to adjust the payment schedule to fit the new statutory deadliness. Existing provisions in the administrative regulation create conflicts and gaps that will cause confusion and disruption in the marketplace, as well as in the lives of insurance professionals. In addition, existing provisions will cause inadvertent adverse financial impact on the agents by increasing their license renewal fees and on the department by decreasing its appointment renewal fees paid by insurers. Therefore, the department must immediately revise the existing fee administrative regulation to assure 2002 Ky. Acts ch. 273 is revenue neutral. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor

JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

(Emergency Amendment)

806 KAR 4:010E. Fees of the Department of Insurance.

RELATES TO: KRS 61.874(4)(a), 304.2-150, 304.4-010, 304.9-105, 304.9-130, 304.9-140, 304.9-150, 304.9-160, 304.9-260, 304.9-270, 304.9-295, 304.9-300, 304.9-430, 304.9-485, 304.9-505, 304.10-110, 304.11-020, 304.15-700, 304.38-040, 304.38-080

STATUTORY AUTHORITY: KRS 61.874(4)(a), 304.2-110(1), 304.4-010(1).

EFFECTIVE: July 17, 2002.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes [provides that] the Commissioner of Insurance to [promulgate] promulgate reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.4-010(1) requires the Commissioner of Insurance to prescribe those services for which fees shall be charged and the amounts of the fees. KRS 61.874(4) authorizes [requires] an agency to charge fees based on costs for public records used for commercial purposes. This administrative regulation prescribes these services for which the Department of Insurance will charge fees and the amounts of those fees.

Section 1. The commissioner shall collect in advance fees as
follows:
(1) Annual statement. 
(a) Filing each year, $100.
(b) Filing additional or supplemental statement in the same year, $100.
(2) Filing charter documents.
(a) Original charter document, bylaws, and records of organization, or certified copies thereof required to be filed, $100.
(b) Amended charter documents, bylaws, and records of organization, or certified copies thereof required to be filed, fifty (50) dollars.
(3) Certificate of authority.
(a) Issuance of original certificate, $500.
(b) Amending, to add a line, fifty (50) dollars.
(c) Renewal, each year, $100.
(d) Organization of domestic mutual insurers: filing application for solidification permit and issuance of such permit, $200.
(5) Self insurer.
(a) Application to become self insurer under KRS Chapter 304 Subtitle 39, $200.
(b) Notification of self-insurance program under KRS Chapter 304 Subtitle 32, fifty (50) dollars.
(6) Agent license, line of authority, license renewal, appointment, appointment renewal, and late renewal penalty. Each individual agent and each business entity agent.
(a) License and line of authority:
1. Resident individual license, forty (40) dollars and an additional forty (40) dollars for each line of authority.
2. Nonresident individual license, fifty (50) dollars and an additional fifty (50) dollars for each line of authority.
3. Resident business entity license, $100 and an additional $100 for each line of authority; and
4. Nonresident business entity license, $120 and an additional $120 for each line of authority.
(b) Temporary license as agent, twenty (20) dollars.
(c) License renewal, biennial:
1. Resident individual license renewal:
(a) If no active appointment, forty (40) dollars; and
(b) If one (1) or more active appointments, zero dollars.
2. Nonresident individual license renewal:
(a) If no active appointment, fifty (50) dollars; and
(b) If one (1) or more active appointments, zero dollars.
3. Resident business entity license renewal:
(a) If no active appointment, $100; and
(b) If one (1) or more active appointments, zero dollars; and
4. Nonresident business entity license renewal:
(a) If no active appointment, $120; and
(b) If one (1) or more active appointments, zero dollars.
(d) Appointment, per foreign or alien insurer represented.
1. Resident individual appointment, for each form filed:
(a) Property, casualty, and personal lines of authority of agent, forty (40) dollars;
(b) Life, health, and variable life and variable annuity lines of authority, forty (40) dollars; and
(c) All other lines of authority of agent, forty (40) dollars each;
2. Nonresident individual appointment, for each form filed:
(a) Property, casualty, and personal lines of authority of agent, fifty (50) dollars;
(b) Life, health, and variable life and variable annuity lines of authority, fifty (50) dollars; and
(c) All other lines of authority of agent, fifty (50) dollars each; and
3. Resident business entity appointment, for each form filed:
(a) Property, casualty, and personal lines of authority of agent, $100;
(b) Life, health, and variable life and variable annuity lines of authority, $100; and
(c) All other lines of authority of agent, $100 each; and
4. Nonresident business entity appointment, for each form filed:
(a) Property, casualty, and personal lines of authority of agent, $120;
(b) Life, health, and variable life and variable annuity lines of authority, $120; and
(c) All other lines of authority of agent, $120 each.
(e) Appointment renewal, biennial, per foreign or alien insurer;
1. Resident individual appointment renewal, forty (40) dollars;
2. Nonresident individual appointment renewal, fifty (50) dollars;
3. Resident business entity appointment renewal, $100; and
4. Nonresident business entity appointment renewal, $120.
(f) Appointment and biennial appointment renewal, per fraternal benefit society, KRS Chapter 304 Subtitle 32 corporation, health maintenance organization, or limited health service organization represented:
1. Resident individual, forty (40) dollars;
2. Nonresident individual, fifty (50) dollars;
3. Resident business entity, $100; and
4. Nonresident business entity, $120.
(g) Late penalty for license renewal and appointment renewal:
1. Resident individual, forty (40) dollars;
2. Nonresident individual, fifty (50) dollars;
3. Resident business entity, $100; and
4. Nonresident business entity, $120. [Agent licensees, foreign and alien insurers.]
(a) Resident individual agent license, per insurer represented.
1. For licensing by initial sponsoring insurer, forty (40) dollars per line of authority of agent;
2. For appointments by subsequent sponsoring insurers:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, forty (40) dollars; and
(b) Life and health lines of authority of agent, forty (40) dollars; and
(c) All other lines of authority of agent, forty (40) dollars each. 
3. For renewal, biennial:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, forty (40) dollars; 
(b) Life and health lines of authority of agent, forty (40) dollars; and
(c) All other lines of authority of agent, forty (40) dollars each.
4. For licensing by initial sponsoring insurer, fifty (50) dollars per line of authority of agent.
5. For appointments by subsequent sponsoring insurers:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, fifty (50) dollars; 
(b) Life and health lines of authority of agent, fifty (50) dollars; and
(c) All other lines of authority of agent, fifty (50) dollars each.
6. For renewal, biennial:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, fifty (50) dollars.
(b) Life and health lines of authority of agent, fifty (50) dollars; and
(c) All other lines of authority of agent, fifty (50) dollars each.
7. For licensing by initial sponsoring insurer, $100 per line of authority of agent; 
2. For appointments by subsequent sponsoring insurers:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, $100.
(b) Life and health lines of authority of agent, $100; and
(c) All other lines of authority of agent, $100 each.
8. For renewal, biennial:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, $100.
(b) Life and health lines of authority of agent, $100; and
(c) All other lines of authority of agent, $100 each.
(a) Nonresident business entity agent, per insurer represented.
1. For licensing by initial sponsoring insurer, $120 per line of authority of agent; 
2. For appointments by subsequent sponsoring insurers:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, $120.
(b) Life and health lines of authority of agent, $120; and
(c) All other lines of authority of agent, $120 each.
3. For renewal, biennial:
(a) Property, casualty, marine and transportation, and surety lines of authority of agent, $120.
(b) Life and health lines of authority of agent, $120; and
(c) All other lines of authority of agent, $120 each.
c. All other lines of authority of agent, $120 each.

(7) License fee for (a) Adjuster license, biennial license renewal, or late renewal penalty, fifty (50) dollars each.
(b) Temporary license as apprentice adjuster, twenty-five (25) dollars.
(c) Administrator's license, biennial license renewal, or late renewal penalty, fifty (50) dollars each.
(d) Individual viatical settlement broker license, biennial license renewal, or late renewal penalty, twenty-five (25) dollars.
(e) Business entity viatical settlement broker license, biennial license renewal, or late renewal penalty, one hundred ($100) each.
(f) Individual viatical settlement provider license, biennial license renewal, or late renewal penalty, fifty (50) dollars each.
(g) Business entity viatical settlement provider license, biennial license renewal, or late renewal penalty, one hundred ($100) each.
(h) Consultant license, biennial, $100.

(11) Agent licenses for risk retention agents, fraternal benefit societies, and health maintenance organizations, representing an individual.
(a) Residents, forty ($40) dollars.
(b) Nonresidents, fifty ($50) dollars.

(12) [Fee for] Approval of prelicensing training course, fifty (50) dollars.

(13) [Fee for] Approval of instructors, five (5) dollars per instructor, biennial renewal, five (5) dollars per instructor.

(14) Filing agent continuing education course for:
(a) Approval, five (5) dollars per hour of continuing education credit in addition to initial fee of ten (10) dollars remitted with filing; and
(b) Biennial renewal, five (5) dollars per hour of continuing education credit, minimum of ten (10) dollars.

(15) Annual renewal of agent license pursuant to KRS 304.0260, 304.02-190, 304.02-200, 304.02-310, 304.02-320, 304.02-330, 304.02-340, and 304.02-350, per insurer, biennial, ($200) dollars.

(a) Late fee for individuals:
1. Residents:
   a. Property, casualty, marine, and transportation, and surety lines of authority of agent, forty ($40) dollars each.
   b. Life and health lines of authority of agent, forty ($40) dollars each.
   c. All other lines of authority of agent, forty ($40) dollars each.

2. Nonresidents:
   a. Property, casualty, marine, and transportation, and surety lines of authority of agent, fifty ($50) dollars each.
   b. Life and health lines of authority of agent, fifty ($50) dollars each.
   c. All other lines of authority of agent, fifty ($50) dollars each.

(b) Late fee for business entities:
1. Residents:
   a. Property, casualty, marine, and transportation, and surety lines of authority of agent, $100.
   b. Life and health lines of authority of agent, $100.
   c. All other lines of authority of agent, $100 each.

2. Nonresidents:
   a. Property, casualty, marine, and transportation, and surety lines of authority of agent, $150.
   b. Life and health lines of authority of agent, $150.
   c. All other lines of authority of agent, $150 each.

(46) Examination for (or in connection with licensing of) agents, viatical brokers, adjusters, and consultants, fifty ($50) dollars for each examination.

(19) [Fee for] Annual registration fee of unauthorized insurer under KRS 304.11-002, $500.

(17) [Fee for] Rental vehicle insurance license, biennial license renewal, and late license renewal penalty:
1. [a] Rental vehicle agent, business entity, or individual, per insurer represented, biennial, $100 each.
2. [b] Registration per location, biennial, fifty ($50) dollars.
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1. Business entity directory, ninety (90) dollars; [4]
2. Business entities by line of authority [liability], ninety (90) dollars; [4]
3. Appointments (activity) of a specific business entity, ten (10) dollars;
   (e) Other special requests, printouts, or electronic or digital media not specified in this section, if the request is approved by the commissioner, the commissioner shall establish the cost for the request.
   (25) [66] Provider agreement filing, twenty-five (25) dollars.
   (26) [225] Subcontract agreement filing, twenty-five (25) dollars.
   (27) [68] Risk-sharing arrangement filing, fifty (50) dollars.
   (28) [300] Miscellaneous services.
   (a) Filing other documents, each, five (5) dollars.
   (b) Commissioner’s certificate under seal, other than certificates, licenses, and other documents provided for in this section, each, five (5) dollars.
   (c) For copies of any document on file with the commissioner, per page, thirty (30) cents.
   (d) Copy of annual statements, per page, one (1) dollar.

Section 2. The biennial appointment renewal fees for agents, including managing general agent, rental vehicle agent, rental vehicle
   compromising employee, specialty credit producer, and specialty credit manager’s employee, shall be specified in Section 10, (8), (9), (10), (11), (12), and (14) of this administrative regulation and are payable as follows:
   (1) Life insurers and health insurers, including health maintenance organizations, limited health service organizations, and KRS
     Chapter 304 Subtitle 32 corporations, [liability for life or health insurance] shall renew their appointments [licenses] on or before
     March 31 in odd numbered years and biennially thereafter, fraternal benefit societies shall renew their appointments on or before
     March 31, 2005, and biennially thereafter.
   (2) [66] All other insurers [liability for casualty, marine and transportation property, surety, mortgage guaranty, multiple line insurers,
   property, casualty, marine, reinsurance, and reinsurance intermediaries] shall renew their appointments [licenses] on or before
     March 31 in even numbered years and biennially thereafter.
   (3) Original license and appointment fees shall be the amount stated and not pro rata.
   (4) Fee for duplicate request of appointment or renewal of appointment may be deemed earned when the appointment or renewal
     is confirmed.

Section 3. If [When] a statute or administrative regulation requires payment of a fee as provided in KRS 304.4.010, it refers to a fee as specified in this administrative regulation.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Shelia W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Shelia W. Dickinson
   (1) Provide a brief summary of:
      (a) What this administrative regulation does: This administrative regulation establishes the fees for services for which the Department
          will charge.
     (b) The necessity of this administrative regulation: 2002 Ky. Acts ch. 273 separates the agent license from the appointments and
          establishes new renewal deadlines. The existing administrative regulation does not differentiate between license renewal and
          appointment renewal; and it contains deadlines in conflict with those expressed in 2002 Ky. Acts ch. 273. These differences between
          the new law and the old administrative regulation will have an adverse financial impact on the agents by inadvertently increasing their
          license renewal fees and on the department by inadvertently de-
          creasing its appointment renewal fees paid by insurers. These unacceptable results compel amendment of the existing administrative
          regulation.
      (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.4.010 requires the commissioner to
          prescribe the services for which fees are charged and the amounts of the fees. In addition, 2002 Ky. Acts ch. 273, sec. 15 intends to
          be revenue neutral as it separates the agent license from the appointments. 2002 Ky. Acts ch. 273, sec. 25 establishes the license
          renewal date based on the individual’s birth date and the business entity’s license issue date. This administrative regulation
          adjusts the language to conform to the content of the authorizing statutes.
      (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative
          regulation will make the application of the fees revenue neutral. Further, this administrative regulation will remove the deadlines that
      (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
         (a) How the amendment will change this existing administrative regulation: First, the amendment will ensure separation of the
              appointment from the agent license will not increase the agent’s license renewal fee by charge $0 if the agent has one or more active
              appointments at the time of renewal. Second, the amendment will clarify the license, license renewal, appointment, and appointment
              renewal fees to ensure the department’s income collected from insurers for appointment renewal fees does not decrease. Third, the
              amendment will remove the conflicting deadline for license renewals and move the appointment renewal cycle of fraternal benefit
              societies to coincide with other life and health insurers. Fourth, the amendment will incorporate the fees for vitiating settlement
              broker and vitiating settlement provider licenses from other administrative regulations for easier reference. Fifth, the amendment will
              clarify that the department may deem earned fees received for duplicate requests of appointment or renewal of appointment.
              Finally, the amendment makes housekeeping changes by altering the order of fee listings, by revising the format of fee listings, and by
              consolidating certain subsections to make the administrative regulation more readable.
      (b) The necessity of the amendment to this administrative regulation: The amendment is needed to avoid inadvertent adverse financial
          impact on agents and the department. Also, the amendment is needed to remove the conflicts with new statutory deadlines and to
          clarify fee provisions.
     (c) How the amendment conforms to the content of the authorizing statute: The amendment sets out the fees to be charged by the
          department in a manner that ensures the changes enacted through 2002 Ky. Acts ch. 273 are revenue neutral and are carried out
          according to the new statutory deadlines.
     (d) How the amendment will assist in the effective administration of the statutes: The amendment will inform all current licensees and
          prospective applicants of the fees to be paid to the department.
     (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative
          regulation: This administrative regulation affects virtually all individuals and business entities regulated by the Department of
          Insurance. The changes affect agents, licensees receiving appointments, and insurers making appointments, which total approximately
          75,000 individuals and business entities.
     (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative
          regulation, if new, or by the change, if it is an amendment: All licensees and applicants will be able to read the fee schedule more easily
          and will better understand what services require which fees. Vitiating settlement brokers and vitiating settlement providers will be able
to reference their fees more easily. Fraternal benefit societies will pay their appointment renewals in odd numbered years beginning
in 2005. (Fraternal benefit societies renewed their appointments March 31, 2002, and do not have to renew again in 2003.) Insurers making
duplicate requests for appointments and appointment renewals may have to pay the department for processing the former.
     (5) Provide an estimate of how much it will cost to implement
this administrative regulation:
(a) Initially: There will be no cost impact to implement this administrative regulation.
(b) On a continuing basis: There will be no cost impact to implement this administrative regulation.
(9) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation. However, the department will need to continue receiving the license fee ($40 individual resident; $50 individual nonresident; $100 business entity resident; $120 business entity resident for processing the license application.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: New agents will have a one-time increase in license fee ($40 individual resident; $50 individual nonresident; $100 business entity resident; $120 business entity resident) at the time of the license application. This fee used to cover both the license application processing and the sponsoring insuror appointment. (In the past, an agent license required an appointment by a sponsoring insuror; but, 2002 Ky. Acts ch. 273 does away with sponsoring insurors since the law no longer requires an appointment to obtain a license. Further, most licensing matters were handled by the sponsoring insuror; but, 2002 Ky. Acts ch. 273 requires the applicant to deal directly with the department to obtain and maintain a license. Hence, the department needs to continue receiving the applicant's licensing fee to process the application. If and when the agent is appointed by an insuror, the insuror will pay the usual appointment fee.)
(9) TIERING: Is tiering applied? No. Fees apply to all licensees within each category equally. Therefore tiering does not apply to licensing. Also, tiering does not apply to requests for information as fees are assessed in accordance with the amount of time, supplies, and equipment that is used to comply with the request for information, not the status of the individual or entity about which the information is requested.

STATEMENT OF EMERGENCY 806 KAR 9:030E

This emergency administrative regulation amends 806 KAR 9:030, which currently specifies how adjusters and apprentice adjusters are to avoid conflict of interest and sets out the procedures for application for license and examination, 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill makes the process of application for license and examination uniform among licenses issued by the department under KRS 304 Subtitle 9, including the adjuster and apprentice adjuster licenses. Hence, existing provisions in the administrative regulation create conflicts or ambiguities that may cause disruption in the marketplace, as well as in the lives of insurance professionals. Therefore, the department must immediately implement measures that provide for uniform processes and must immediately repeal provisions for adjuster and apprentice adjuster licenses that conflict with those newly enacted uniform measures. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:030E. Adjusters, apprentice adjusters: [examinations,] licenses, restrictions.
RELATES TO: KRS 304.9-070, 304.9-430, 304.9-432
STATUTORY AUTHORITY: KRS 304.2-110(1)

EFFECTIVE: July 17, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) provides that the Commissioner of Insurance may promulgate [make reasonable rules and regulations] administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation restricts the persons whom an adjuster may represent thus preventing any conflicts of interest and clarifies the circumstances under which the restriction for holding only one (1) apprentice adjuster license applies.

Section 1. An adjuster's license issued to an applicant pursuant to the provisions of the Insurance Code shall not at any time authorize, and the licensee is expressly prohibited from, representing the interest of both insurer and the insured or claimant. The applicant, upon application for the license, shall elect whether he intends to act solely on behalf of insurers or solely on behalf of persons claiming benefits under insurance or annuity contracts. In either event, a licensee shall be deemed to act in a fiduciary capacity to his principal, and shall, prior to the issuance of such license, post with the commissioner a bond guaranteeing the performance of this trust, executed by an authorized surety company, in the sum of $1,000.

Section 2. In order to distinguish the capacity to act under an adjuster's license as elected under Section 1 of this administrative regulation, a licensee who acts solely on behalf of insurers shall be known as an "independent adjuster." A licensee who acts solely on behalf of persons claiming benefits under insurance or annuity contracts shall be known as a "public adjuster." The license, if issued, shall be clearly labeled to indicate this distinction.

Section 3. An individual may hold only one (1) apprentice adjuster license until the individual is issued an add-on adjuster license in accordance with KRS 304.9-430. Once an individual has held an adjuster license in accordance with KRS 304.9-430, the individual may again be eligible to hold one (1) apprentice adjuster license. In order to obtain information sufficient for a proper determination of the applicant's qualifications as specified in KRS 304.9-430, the commissioner shall require the applicant to complete and file an application, to be signed and sworn to by the applicant before any person authorized by law to administer oaths, upon a form supplied by the commissioner. The form of application shall be prescribed by the commissioner.

Section 4. After completing and filing an application, an applicant shall further satisfy the commissioner of his fitness to fulfill the responsibilities of an adjuster by taking and successfully completing a written examination prescribed by the commissioner.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (503) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson
(1) Provide a brief summary of:
(a) What this administrative regulation does: Adjusters may represent the interest of either the insurer or the interest of those claiming benefits under the insurance contract, but not both, in order to prevent conflict of interest. This regulation requires the applicant, upon application for the adjuster license, to elect which party will be represented under the license. Furthermore, individuals are limited to holding one apprentice adjuster license to prevent these individuals from holding a series of apprentice adjuster licenses to avoid examination. (An apprentice adjuster meets the requirements of an adjuster but lacks the training or experience to pass an exam. Thus, the 1-year training period under the direction of an adjuster gives time for adequate training. But the license is not issued to evade the examination requirement indefinitely.) However, if the individual has
held an adjuster license after the individual held an apprenticeship
adjuster license. Circumstances may indicate the individual and the
public are best served by allowing that individual to again hold an
apprentice adjuster license. For example, an individual may have
adjusted one kind of claim for a long period of time under an ad-
juster license, given up the adjuster license while pursuing another
career, then decided to get an adjuster license to adjust a different
kind of claim. This individual may need on-the-job training to pass
the adjuster examination for a new adjuster license. In that the in-
dividual has held an intervening adjuster license and was in good
standing at the time the adjuster license terminated, the purpose of
the restriction on apprentice adjuster licenses is not violated. Finally,
this amendment removes the section addressing the application and
adjuster examination since both are now included in the examination
statutes.

(b) The necessity of this administrative regulation: This adminis-
trative regulation is necessary to remove conflicting and redundant
procedures concerning the application and adjuster examination and
to clarify how the restriction to hold only one apprentice adjuster
license will be applied.

(c) How this administrative regulation conforms to the contents
of the authorizing statutes: This administrative regulation furthers
the consumer protection provisions of the Kentucky Insurance Code by
allowing temporary licensees to obtain valuable on-the-job training
under close supervision before getting a permanent adjuster li-
cense. In addition, this administrative regulation implements the
general purpose of 2002 Ky. Acts ch. 273 to provide uniformity
among licenses.

(d) How this administrative regulation currently assists or will
assist in the effective administration of the statutes: This adminis-
trative regulation will inform all prospective applicants for apprentice
adjuster licenses of the availability of an apprentice adjuster license
after holding an adjuster license. Also, this administrative regulation
furthers the efforts to establish uniformity among licenses making
the process more understandable to applicants and more efficient
for the department.

(2) If this amendment to an existing administrative regulation,
provide a brief summary of:
(a) How the amendment will change this existing administrative
regulation: This administrative regulation will delete conflicting pro-
cedures for certifying information on applications for licenses, delete
redundant or conflicting requirements and procedures for applying
for a license and passing the adjuster examination, and clarify the
restriction that applicants may hold only one apprentice adjuster
license.

(b) The necessity of the amendment to this administrative regu-
lation: These amendments are needed to remove conflicting proce-
dures, delete redundant requirements, and clarify restriction.
(c) How the amendment conforms to the content of the author-
izing statute: The related statutes provide consumer protections.
This regulation removes conflicting and confusing application and
adjuster examination requirements as well as clarifies the restriction
on apprentice adjuster licenses.

(d) How the amendment will assist in the effective administration
of the statute: This administrative regulation will inform all prospect-
ive applicants for these licenses of the circumstances applying
the restriction on apprentice adjuster license. Also, this adminis-
trative regulation will remove any potential confusion caused by con-
flicting requirements and procedures for the application and adjuster
examination.

(3) List the type and number of individuals, businesses, organi-
zations, or state and local governments affected by this administra-
tive regulation: This administrative regulation will affect all applicants
for adjuster licenses and apprentice adjuster licenses.

(4) Provide an assessment of how the above group or groups
will be impacted by either the implementation of this administrative
regulation, if new, or by the change, if it is an amendment: Applica-
tants for adjuster and apprentice adjuster licenses will be impacted
by no longer having to certify their applications by signing and
swearing before a notary but will use the procedures set out for all
licensees in amended KRS 304.9-150. Applicants for apprentice
adjuster licenses who have held adjuster licenses may now be eli-
nible for a new apprentice adjuster license.

(5) Provide an estimate of how much it will cost to implement
this administrative regulation:
(a) Initially: There will be no cost impact to implement this ad-
ministrative regulation.
(b) On a continuing basis: There will be no cost impact to im-
plement this administrative regulation.

(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: The
funding source will be the budget of the Kentucky Department of
Insurance.

(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement this administrative regula-
tion, if new, or by the change, if it is an amendment: The department
does not anticipate an increase in fees or funding to implement this
administrative regulation.

(8) State whether or not this administrative regulation estab-
lishes any fees or directly or indirectly increases any fees: No. This
administrative regulation does not establish any fees; and it does not
directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. All applicants for adjuster
licenses are required to pass an adjuster examination (either in
Kentucky or in a reciprocal state). All applicants for apprentice ad-
juster licenses are restricted to one apprentice adjuster license until
the applicant holds an adjuster license.

STATEMENT OF EMERGENCY
806 KAR 9:070E

This emergency administrative regulation amends 806 KAR
9:070, which currently sets out the procedures for examinations and
specifies the examinations required for certain licenses. 2002 Ky.
Acts ch. 273, sec. becomes effective on July 15, 2002. This bill dis-
continues the issuance of certain lines of authority, renames another
line of authority, and creates new lines of authority requiring exami-
nation. These changes create gaps and conflicts in the existing
administrative regulation, which may cause disruption in the market-
place, as well as in the lives of insurance professionals. Hence, the
department must immediately implement measures that provide for
these changes by removing the conflicts and specifying the examina-
tions for the newly created lines of authority. This emergency
administrative regulation will be replaced by an ordinary administra-
tive regulation.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Amendment)

806 KAR 9:070E. Examinations.

RELATES TO: KRS 304.9-105, 304.9-160, 304.9-190, 304.9-
230, 304.9-320, 304.9-430, 304.15-700(1), 304.32-180

STATUTORY AUTHORITY: KRS 304.2-110(1), 304.9-160(1),
304.9-230(2), 304.15-700(1), 304.32-180

EFFECTIVE: July 17, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-
110(1) provides that the Commissioner of Insurance may promul-
gate administrative regulations necessary for or as an aid to the effec-
tuation of any provision of the Kentucky Insurance Code. KRS
304.9-160(1) provides that examinations required by Subtitle 9 shall
be developed and conducted in accordance with administrative
regulations promulgated by the commissioner. KRS 304.9-230(2)
provides that the commissioner shall promulgate administrative
regulations regarding the examinations for limited lines of authority.
KRS 304.15-700(3) provides that the commissioner may promulgate
administrative regulations regarding the examinations of vialcal
brokers. KRS 304.32-250 provides that the commissioner may promul-
gate reasonable administrative regulations that he deems
necessary for the proper administration of KRS Chapter 304 Subtitle
32. This administrative regulation reasonably restricts the number of
times an applicant for an agent's, a vialcal broker's, a consultant's,
or an adjuster's license may take the appropriate examination required by the Kentucky Insurance Code or administrative regulations promulgated thereunder, sets a minimum score for successful completion of a written licensing examination, and sets a period for which examination scores are valid.

Section 1. As used in this administrative regulation:
(1) "Examination" means written examinations required in license applicants in accordance with KRS Chapter 304 for adjuster, agent, consultant, and viatical settlement broker licenses.
(2) "License" means a document issued by the commissioner indicating that an applicant for adjuster, agent, consultant, or viatical settlement broker license has complied with applicable requirements of KRS Chapter 304.

Section 2. A completed written application for the examination and all other documents specified by the commissioner shall be filed with the commissioner by, or on behalf of, the applicant, prior to the date scheduled for the examination, and shall be accompanied by all fees specified in KRS 304.4.010 or administrative regulations promulgated thereunder.

Section 3. Every applicant for a license who is required to take a written examination shall answer correctly seventy (70) percent of the questions to successfully pass the examination.

Section 4. Applicants who take the examinations required by KRS Chapter 304 shall be permitted to take or retake an examination a combined total of three (3) times within 120 days of the receipt of an application by the commissioner. All applicable fees, as set out in KRS 304.4.010 and administrative regulations promulgated thereunder, shall be submitted with the request to retake the examination. The request shall be made on an "Examination Retake Form".

Section 5. (1) The provisions of this administrative regulation shall apply to all individual resident applicants for limited lines of authority as identified in KRS 304.9-230.
(2) An individual applying [Applicants] for limited lines of authority as identified in KRS 304.9-230 shall successfully complete examinations as follows:
(a) For surety limited line of authority, a surety examination [motor vehicle physical damage limited line of authority, a vehicle physical damage examination];
(b) For travel [common carrier] limited line of authority, a travel [common carrier] examination;
(c) (c) For mechanical breakdown limited line of authority, a mechanical breakdown examination;
(d) For crop hail limited line of authority, a crop hail examination; and
(e) [6] For limited lines credit limited line of authority, no examination is required.

Section 6. An individual applying for a viatical settlement broker license shall successfully complete a viatical settlement examination.

Section 7. If an applicant who takes the examinations required by KRS Chapter 304 does not take an examination or fails to pass an examination within 120 days of the filing of his application, the application shall become invalid, unless the commissioner grants an extension for good cause shown. The applicant may file a new application at any time following the expiration of the 120 day period, and an examination may be taken when scheduled by the department in the regular course of business.

Section 8. [2] Examination results are valid for one (1) year from the date the examination is taken. Application for additional lines of authority or licenses issued as a result of the same examination shall be received by the commissioner within the same one (1) year period. After this period, the applicant shall be retested.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (503) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the procedures and standards for the examinations of all licenses requiring an examination for issuance, including the viatical settlement broker examination. It establishes the passing score, numbers of retakes, time periods for passing exam and using successful exam for separate line of authority, limited lines of authority requiring exam, identification of specific exam for certain lines of authority, and form used for retake application.
(b) The necessity of this administrative regulation: This administrative regulation must be amended to accommodate the lines of authority that are new, have been renamed, and have been discontinued. Otherwise, it will not be clear to applicants what is required for the examinations regarding certain lines of authority. This administrative regulation must be amended to consolidate all of the examination requirements for viatical settlement broker licenses with the other examinations required by 2002 Ky. Acts ch. 273 as part of the effort to establish uniformity among licenses.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation sets out how the examinations required for licensing will be developed and conducted and identifies the examination to be given for limited lines of authority and viatical settlement broker licenses.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in fulfilling all prospective applications for licenses that require an examination of the procedures and requirements of those examinations. Also this administrative regulation furthers the efforts to establish uniformity among licenses making the process more understandable to applicants and more efficient for the department.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendments will change this existing administrative regulation: The amendment will accommodate the lines of authority that are new, have been renamed, and have been discontinued. The amendment will also complete the consolidation of examination requirements for viatical settlement broker licenses with all of the other examinations required for licenses.
(b) The necessity of the amendment to this administrative regulation: The administrative regulation will be incomplete and out-of-date if these amendments are not adopted. Thus, the applicants will not have accurate information and the department may not be able to carry out its examination duties in an effective and uniform manner.
(c) How the amendment conforms to the content of the authorizing statute: This amendment establishes the procedures and standards for the examinations of all licenses requiring an examination. It also specifies the examinations for surety and travel limited lines of authority and for viatical settlement broker licenses. Further, this amendment removes the requirements for the discontinued limited lines of authority: mechanical breakdown, and vehicle physical damage.
(d) How the amendment will assist in the effective administration of the statute: This administrative regulation will inform all prospective applicants for licenses requiring an examination of the passing score, numbers of retakes, time periods for passing exam and using successful exam for separate line of authority, limited lines of authority requiring exam, and form used for retake application.

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(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. This administrative regulation will affect all applicants of licenses that require an examination for issuance.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: Applicants for licenses that require an examination for issuance will have procedures and standards applied uniformly. Applicants will clearly understand which exam they must take for a specific settlement broker license and for certain limited lines of authority. Also, applicants will have new statutory created lines of authority to select.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no cost impact to implement this administrative regulation.

(b) On a continuing basis: There will be no cost impact to implement this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.

(9) TIERSING: Is tiering applied? No. The law has already applied any necessary tiering by separating out those licenses that do not warrant examinations to test the knowledge and skills of the applicants. For the remaining licenses that do require examinations, no tiering is appropriate. This administrative regulation treats all applicants the same in the interest of fairness and uniformity.

STATEMENT OF EMERGENCY
806 KAR 9:190E

This emergency administrative regulation amends 806 KAR 9:190, which currently sets out the information and forms financial institutions must provide to their insurance consumers. 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill changes the information that financial institutions must disclose to comply with the requirements of the federal law known as the Gramm-Leach-Bliley Act. Thus, the existing provisions in 806 KAR 9:190 conflict with the newly enacted Kentucky statute. Requiring the use of forms that do not comply with state and federal law may cause confusion and disruption in the marketplace, as well as in the business or in the lives of insurance professionals. Hence, the department must immediately implement measures that provide relief from these problems. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Amendment)

806 KAR 9:190E. Disclosure requirements for financial institutions authorized to engage in insurance agency activities.

RELATES TO: KRS 287.030(4), 304.9-135
STATUTORY AUTHORITY: KRS 304.9-135(2)(g) [44]
EFFECTIVE: July 17, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.9-135(2)(g) [44] requires the commissioner to specify the disclosure forms required by KRS 304.9-135(2)(b), (c), and (d) [44]. This administrative regulation specifies the disclosure forms for use by financial institutions authorized to engage in insurance agency activities.

Section 1. Definitions. (1) "Financial institutions" is defined by KRS 304.9-135(1)(a).
(2) "Insurance agency activities" is defined by KRS 304.9-135(1)(b).

Section 2. Application. This administrative regulation shall apply to a financial institution authorized by law to engage in insurance agency activities in the state of Kentucky.

Section 3. Disclosures. ([44]) A financial institution authorized to engage in insurance agency activities shall provide to an insurance consumer the following disclosure forms in accordance with KRS 304.9-135(2)(b), (c), and (d) [44] which are incorporated by reference into this administrative regulation:
(1) ([44]) FI-01, Consumer Acknowledgement Form; and
(2) FI-03, Notice of Free Choice of Agent and Insurer; and
(3) FI-05, Financial Institution Disclosures.
(4) Each disclosure form required by subsection (1) of this section shall be:
(a) Signed or initialed by the insurance consumer; and
(b) Dated as of the date that the insurance consumer signed or initialed the disclosure form.

Section 4. Incorporation (Material Incorporated) by Reference. ([44]) The following material is incorporated by reference:
(1) ([44]) FI-01, "Consumer Acknowledgement Form (09/1999 edition); Department of Insurance;
(2) FI-02, "Notice of Free Choice of Agent and Insurer (7/2002 edition); Department of Insurance; and
(3) "Financial Institution Disclosures (09/1999 edition)." Department of Insurance.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (503) 584-6075.

REGULATORY IMPACT ANALYSIS AND TIERSING STATEMENT

Contact Person: Suetta W. Dickinson

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation provides disclosure forms for use by financial institutions as required by KRS 304.9-135.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to comply with KRS 304.9-135, as amended by 2002 Ky. Acts ch. 273, sec. 17, and to provide notice to consumers of financial institutions regarding their right to choose an agent and disclosure regarding the insurance offered through a financial institution.
(c) How does this administrative regulation conform to the content of the authorizing statutes: KRS 304.2-110(1) provides that the Commissioner of Insurance may make reasonable administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This administrative regulation provides the disclosure forms required by KRS 304.9-135.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will identify the forms mandated by the KRS 304.9-135.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative
SECTION 1. Definitions. As used in this administrative regulation:
(1) "Evidence of financial responsibility" means the documents described in KRS 304.9-105(6), 304.9-270(3)(a), 304.9-330, 304.9-270(3)(d), 304.10-140, 304.15-700(4), and 806 KAR 9:210, Section 1.
(2) "Licensee" means an agent, a consultant, a surplus lines broker, a reinsurance intermediary, an agency, an adjusting company, or a reinsurance company required by the Kentucky Insurance Code or administrative regulations of the commissioner to maintain evidence of financial responsibility on file with the Department of Insurance.

SECTION 2. Forms for Proof of Financial Responsibility. The insurer or financial institution providing financial responsibility for a licensee shall file one or more of the following completed forms with the Department of Insurance:
(1) Form 99-1, "Evidence of Legal Liability Insurance Form";
(2) Form 99-2, "Irrevocable Letter of Credit Form";
(3) Form 99-3, "Financial Responsibility Surety Bond Form";
(4) Form 99-4, "Assumption of All Appointed Agents' Legal Liability Form";
(5) Form 99-6, "Assumption of Named Agents' Legal Liability Form".

SECTION 3. Time Limit for Replacement of Evidence of Licensee Financial Responsibility. A licensee shall replace evidence of financial responsibility on or before thirty (30) days from the date notice is mailed by the commissioner to the licensee’s address of record filed with the commissioner.

SECTION 4. [a] Responsibility of Insurers and Financial Institutions Providing Financial Responsibility to Licensees. (1) The thirty (30) days prior written notice of cancellation of financial responsibility required by KRS 304.9-105(6), 304.9-270(3)(b), 304.9-330, 304.10-140(1), and 304.15-700(4) shall be measured from the date the department receives the written notice.
(2) The insurer or financial institution shall give written notice to the commissioner on Form 99-5 electronically or by mail.

(a) The commissioner shall be notified by the insurer or financial institution by filing the completed Form 99-5 with the department.
(b) The licensee shall be notified by the insurer or financial institution by mailing a copy of the completed Form 99-5 to the licensee’s last known address. For legal liability policies, this notice shall be in addition to any notice required by KRS 304.20-320.
Section 5. [4.] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 99-1, "Evidence of Legal Liability Insurance Form (7/2002 edition);"
(b) Form 99-2, "Irrevocable Letter of Credit Form (7/2002 edition);"
(c) Form 99-3, "Financial Responsibility Surety Bond Form (7/2002 edition);"
(d) Form 99-4, "Assumption of All Appointed Agents' Legal Liability Form (7/2002 edition);"
(e) Form 99-5, "Financial Responsibility Cancellation Form (7/2002 edition);" and

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance at 215 West Main Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 12, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Sueta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Sueta W. Dickinson

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation incorporates a form for insurers and financial institutions to use for notice of cancellation of financial responsibility and establishes a time limit for licensees to replace evidence of financial responsibility that is being terminated.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to inform insurers and financial institutions of which forms they must file with the department to demonstrate and to cancel financial responsibility for certain licensees. This administrative regulation is also necessary to inform licensees that they have 30 days to replace any financial responsibility being terminated.
(c) How this administrative regulation conforms to the content of the authorizing statute: KRS 304.9-080(7) requires the Commissioner of Insurance to prescribe all forms required for licenses, and this administrative regulation prescribes all of the forms to be used to demonstrate and to cancel financial responsibility. In addition, KRS 304.9-105(6)(b) requires the Commissioner of Insurance to establish a time limit for licensees to replace evidence of financial responsibility, which is being terminated; and this administrative regulation establishes a 30 day period for licensees to give the department proof of replacement.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will indicate which forms insurers and financial institutions must use for demonstration of and notice of cancellation of financial responsibility for licensees. Also, this administrative regulation sets a 30-day time limit for licensees to give the department proof of replacement of financial responsibility being terminated.
(e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment will specify which forms insurers and financial institutions must use to provide proof of financial responsibility and will incorporate those forms into the administrative regulation. In addition, the amendment will incorporate a revised form for insurers and financial institutions to give notice of cancellation of financial responsibility.
(b) The necessity of the amendment to this administrative regulation: 2002 Ky. Acts ch. 273 doubles the minimum amount of financial responsibility which individual resident agents and consultants must carry in order to be issued licenses or to continue their licenses. The old forms currently used by insurers and financial institutions indicate the prior statutory minimum amounts. If insurers and financial institutions continue to use the old forms, they may mistakenly provide the prior minimum amounts rather than the increased amounts of financial responsibility. These mistakes could result in the automatic denial or revocation of agents' and consultants' licenses. Thus, the amended forms with the correct financial responsibility amounts must be incorporated to avoid inadvertent denial or revocation of licenses.
(c) How the amendment conforms to the content of the authorizing statute: The amendment prescribes all of the financial responsibility forms necessary for issuance or continuance of licenses.
(d) How the amendment will assist in the effective administration of the statute: Insurers and financial institutions will know exactly which forms must be used and what the minimum amounts of financial responsibility specific licenses require. Licenses will know exactly how long they have to file proof of replacement of any financial responsibility being cancelled.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individuals licensed or making application for license as adjustor, resident agent, resident consultant, resident surplus lines broker, viatical settlement broker, and viatical settlement provider will be affected by this administrative regulation. Also, all insurers and financial institutions providing financial responsibility to licensees will be affected.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or the change, if it is an amendment: All of the above groups will be favorably impacted by having the insurers and financial institutions avoid the mistake of filing an insufficient amount of financial responsibility, which could result in the automatic denial or cancellation of licenses.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no cost impact to implement this administrative regulation.
(b) On a continuing basis: There will be no cost impact to implement this administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.
(9) TIERING: Is tiering applied? No, this administrative regulation does not apply tiering because there is no justification for treating entities providing financial responsibility differently, and there is no justification for treating individual licensees required to have financial responsibility differently. All entities providing a specific kind of financial responsibility are obligated to file the same form. Likewise, all licensees required to maintain proof of financial responsibility have the same period of time to file proof of replacement of financial responsibility being canceled.

STATEMENT OF EMERGENCY
806 KAR 9:310E

This emergency administrative regulation amends 806 KAR 9:310, which currently sets out the requirements and procedures for viatical settlement broker license and sets out the provisions for renewal of license, designation of individuals to act under the business entity license, penalties for late payment of renewal fees, continuing education credit, and effect of lapse of financial responsibility. 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill makes the procedures for renewal, designation, penalties, continuing education, and lapses of financial responsibility uniform.
among licenses issued by the department under KRS 304 Subtitle 9, including viatical settlement broker licenses. Hence, existing provi-
sions in the administrative regulation create conflicts and problems
that may cause disqualification in the marketplace, as well as in the
lives of insurance professionals. Therefore, the department must immedi-
ately implement measures that provide for uniform processes and
must immediately repeal provisions for viatical settlement broker
licenses that conflict with those newly enacted uniform measures.
This emergency administrative regulation will be replaced by an
ordinary administrative regulation.

PAULE P. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Emergency Amendment)

806 KAR 9:310E. Viatical settlement broker license.

RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.15-700(3),
304.15-720

EFFECTIVE: July 17, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate
administrative regulations necessary for or as an aid to the effectua-
tion of any provision of the Kentucky Insurance Code. KRS 304.15-
700(3) requires the commissioner to promulgate administrative
regulations to provide for the licensing of viatical settlement brokers
and the termination or revocation of the license. KRS 304.15-720
authorizes the commissioner to promulgate administrative regula-
tions to implement KRS 304.15-700 to 304.15-720 and to establish
appropriate requirements and fees for a viatical settlement broker
license. This administrative regulation establishes the information
to be included in the application for, the requirements for the issuance
and continuation of, and the fees for a viatical settlement broker
license.

Section 1. Definition. "Viatical settlement broker" is defined in
KRS 304.15-020(4).

Section 2. Individual Applicant. (1) An individual may be issued
a viatical settlement broker license if the commissioner deter-
mines that the applicant:
(a) is at least twenty-one (21) years of age;
(b) has successfully attained a general educational level
equivalent to that required for graduation from an accredited high
school in Kentucky;
(c) has completed a forty (40) hour viatical prelicensing class-
room course of study, which has been approved by the commis-
sioner in accordance with 806 KAR 9:001; and
(d) has passed a viatical examination in accordance with 806
KAR 9:070.
(2) An individual who holds or has held an agent license with
a life line of authority within twelve (12) months of an application for a
viatical settlement broker license shall be exempt from the life insur-
ance portion of the course of study required by subsection (1)(c) of
this section.
(3) An individual who holds or has held an agent license with
a life line of authority within twelve (12) months of an application for a
viatical settlement broker license shall be exempt from the life insur-
ance portion of the examination required by subsection (1)(d) of
this section.
(4) [42] An individual applying for a viatical settlement broker
license shall:
(a) Submit completed Form 8301-VS;
(b) Remit the nonrefundable fee of $250;
(c) Provide proof of financial responsibility in the amounts estab-
lished in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or
99-3; and
(d) Submit confirmation from the Life Division of the Kentucky
Department of Insurance that the applicant has met the filing and
approval of contracts and forms requirements of KRS 304.15-
700(2).

Section 3. Business Entity Applicant. (1) A business entity may
be issued a viatical settlement broker license if the commissioner
determines the applicant has designated only individuals acting for,
or authorized to act for, the business entity in accordance with 2002
Ky. Acts ch. 273, sec. 24, under the business entity's viatical set-
llement broker license which are:
(a) Designated in the business entity's application; and
(b) Licensed as individual viatical settlement brokers in accor-
dance with Section 2 of this administrative regulation.
(2) A business entity applying for a viatical settlement broker
license shall:
(a) Submit completed Form 8301-BE-VS;
(b) Remit the nonrefundable fee of $750;
(c) Provide proof of financial responsibility in the amounts estab-
lished in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or
99-3;
(d) Provide the following documentation, as applicable:
1. Articles of incorporation;
2. Articles of organization;
3. Partnership agreement;
4. Certificate of authority from the Kentucky Secretary of State;
(e) Provide a list of all officers or partners, as applicable,
including their names, titles, addresses, Social Security numbers,
and Kentucky Department of Insurance identification numbers; and
(f) Submit confirmation from the Life Division of the Kentucky
Department of Insurance that the applicant has met the filing and
approval of contracts and forms requirements of KRS 304.15-
700(2).
(3)(c)(a) A business entity shall immediately notify the depart-
ment of any changes in who is designated to act under its license.
(b) A business entity shall have at least one (1) licensed indi-
vidual viatical settlement broker designated with the department.
(c) If the business entity fails to have at least one (1) licensed indi-
vidual viatical settlement broker designated with the department, the business
entity's viatical settlement broker license shall be deemed revoked and
shall be promptly surrendered to the commissioner without dem-
and.

Section 4. Renewal and Continuation of License. (1) Each viati-

cal settlement broker license shall continue in force and renew in
accordance with KRS 304.9-260.
(a) Payment is made to the commissioner on or before March 31
in odd-numbered years of the applicable renewal fee for a viatical
settlement broker license that is not terminated on or prior to December 31
of the preceding calendar year; and
(b) The payment is accompanied by a written request for re-
newal signed by the licensee.
(2) The renewal fee shall be nonrefundable and in the amount
as follows:
(a) $250 for an individual license;
(b) $750 for a business entity license.
(c)(3) Except as provided by paragraph (b) of this subsection, if
the request for renewal or the fee is not received by the commis-
sioner on or before March 31 of odd-numbered years, the viatical
settlement broker license shall expire at midnight on March 31.
(4) A request and fee received by the commissioner between
March 31 and June 30 may be accepted and effectuated by the
commissioner, in the commissioner's discretion, if they are accom-
panied by a penalty equal to and in addition to the renewal fee
specified in subsection (2) of this section.
(5) [44] Except for the changes requiring prior notification under
KRS 304.15-700(2), the licensed viatical settlement broker shall
notify the Department of Insurance in writing within thirty (30) days
of any change to the information in the application or in the docu-
ments required to be submitted in accordance with Section 2 or 3 of
this administrative regulation.
(6) The licensed viatical settlement broker shall notify the de-
partment in writing within thirty (30) days of the initiation of any dis-
ciplinary action taken by any insurance regulatory body or other govern-
ment agency, whether in this state or another jurisdiction,
against any viatical settlement license or professional license held
Section 5. Continuing Education. (1) An individual licensed as a viatical settlement broker shall complete twenty-four (24) hours of department-approved continuing education during each continuing education biennium.

(2) The required continuing education hours shall include a minimum of:
(a) Ten (10) hours in life insurance;
(b) Six (6) hours in viaticals; and
(c) Two (2) hours in ethics.

(3) The same hours may be credited towards the individual's continuing education requirements for the viatical settlement broker license and the applicable agent license, if any.

(4) Each continuing education biennium shall begin on July 1 of an even-numbered year and end on June 30 of the following year.

(5) The license of an individual who fails to comply with this continuing education requirement and who has not been granted an extension of time to comply in accordance with KRS 304.9.092(7) shall terminate and shall be promptly surrendered to the commissioner without demand.

Section 6. Lapse of Financial Responsibility. The viatical settlement broker license shall be deemed revoked and shall be promptly surrendered to the commissioner without demand if notice is given to the commissioner that:

(1) The policy or bond demonstrating proof of financial responsibility in accordance with KRS 304.15.700(4) is terminated and has not been replaced by another policy or bond or by a deposit within the time established by 800 KAR 9:310; or

(2) The deposit in accordance with KRS 304.15.700(4) is reduced through levy of execution or withdrawn and not replaced by the necessary additional deposit or by a policy or a bond within the time established by 800 KAR 9:310.

Section 6. [4] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form 8301-VS, "Viatical Settlement Broker/Provider Individual License Application (7/2002 edition)" [12/2001 edition];
(b) Form 8301-BE-VS, "Viatical Settlement Broker/Provider Business Entity License Application (7/2002 edition)" [12/2001 edition];
(d) Form 99-2, "Irrevocable Letter of Credit (7/2002 edition)" [12/2000 edition]; and

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets out the requirements and procedures for the licensing of viatical settlement brokers. The administrative regulation replaces contains provisions for designation of individuals to act under the business entity license, renewal of license, penalties for late payment of renewal fees, disclosure of criminal and administrative actions, failure to comply with continuing education credit and deadlines, and impact of lapse of financial responsibility that conflict with or duplicate recently provisions in 2002 Ky. Acts ch. 273 regarding these same matters.

(b) The necessity of this administrative regulation: This administrative regulation removes the conflicts and duplications that would otherwise manifest themselves when 2002 KY Acts Ch. 273 becomes effective on July 15, 2002.
(c) How this administrative regulation conforms to the content of the authorizing statutes: Both KRS 304.15-700(3) and 304.15-720 authorize the commissioner to establish appropriate requirements and fees for a viatical settlement broker license through administrative regulations. This administrative regulation conforms to the content of those authorizing statutes.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will inform all applicants for viatical settlement broker licenses of the qualifications they must meet for licensing and forms they must use. This administrative regulation will also inform all individual applicants of the exceptions provided under licenses, of the prelicensing training and examination as well as hours credit and course content required for continuing education.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment: will change this existing administrative regulation: The amendment removes the conflicting provisions for designation of individuals, renewal of license, penalty for late payment of renewal, responsibility to disclose criminal and administrative actions, period for continuing education biennium, effect of failure to comply with continuing education requirements, and effect of lapse of financial responsibility. The amendment furthers the intent of 2002 Ky. Acts ch. 273 to have uniformity among licenses.
(b) The necessity of the amendment to this administrative regulation: The provisions which conflict with statutory provisions relating to the same matters need to be removed to eliminate confusion and ambiguity.
(c) How the amendment conforms to the content of the authorizing statute: The amendment sets out the qualifications for licensing, establishes the general requirements for such elements as renewal, designation, and continuing education than defers to the appropriate statutes so that the conflicting provisions will be removed and the specific procedures will be uniform among licenses.
(d) How the amendment will assist in the effective administration of the statute: The amendment removes the conflicts with statutory requirements and makes the specific procedures uniform among licenses. Uniformity will improve the viatical settlement brokers' ability to understand the procedures they must follow and will allow the department to function more efficiently.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
This administrative regulation affects all viatical settlement brokers as well as future applicants. There are less than 2 dozen licensees at the present time.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment. The currently licensed viatical settlement brokers will have a clearer understanding of how their licenses will be renewed. They will also have their viatical settlement licenses renewed at the same time and through the same process as their other Kentucky insurance licenses, if any. New applicants will not have to sit through unnecessary training and examination on life insurance if they have an agent license with a life line of authority.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no cost impact to implement this administrative regulation.
(b) On a continuing basis: There will be no cost impact to implement this administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees; No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? There is very limited tiering for precursing training and examinations. The individual applicant who has an agent license with a life line of authority is exempted from the life sections of the precursing training and examinations. Because the individual has already been trained for life insurance. Otherwise, there is no tiering. All individuals applying for a viatical settlement license are subject to the other provisions.

STATEMENT OF EMERGENCY
806 KAR 9:320E

This emergency administrative regulation amends 806 KAR 9:320, which currently sets out the requirements and procedures for viatical settlement provider license and sets out the provisions for renewal license, designation of individuals to act under the business entity license, penalties for late payment of renewal fees, and effect of lapse of financial responsibility, 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill makes the procedures for renewal designation, penalties, and lapse of financial responsibility uniform among licenses issued by the department under KRS 302 Subtitle 9, including viatical settlement provider licenses. Hence, existing provisions in the administrative regulation create conflicts and problems that may cause disruption in the marketplace, as well as in the lives of insurance professionals. Therefore, the department must immediately implement measures that provide for uniform processes and must immediately repeal provisions for viatical settlement provider licenses that conflict with those newly enacted uniform measures. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Amendment)

806 KAR 9:320E. Viatical settlement provider license.

RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.15-700(3)
304.15-720

EFFECTIVE: July 17, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the commissioner of insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.15-700(3) requires the commissioner to promulgate administrative regulations to provide for the licensing of viatical settlement providers and the termination or revocation of the license. KRS 304.15-720 authorizes the commissioner to promulgate administrative regulations to implement KRS 304.15-700 to 304.15-720 and to establish appropriate requirements and fees for a viatical settlement provider license. This administrative regulation establishes the information to be included in the application for, the requirements for the issuance and continuation of, and the fees for a viatical settlement provider license.

Section 1. Definition. "Viatical settlement provider" is defined in KRS 304.15-020(6).

Section 2. Individual Applicant. (1) An individual may be issued a viatical settlement provider license if the commissioner determines that the applicant:
(a) Is at least twenty-one (21) years of age; and
(b) Has successfully attained a general educational level equivalent to that required for graduation from an accredited high school in Kentucky.

(2) An individual applying for a viatical settlement provider license shall:
(a) Submit completed Form 8301-VS;
(b) Remit the nonrefundable fee of $500;
(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or 99-3; and

(3) Submit confirmation from the Life Division of the Kentucky Department of Insurance that the applicant has met the filing and approval of contracts and forms requirements of KRS 304.15-700(2).

Section 3. Business Entity Applicant. (1) A business entity may be issued a viatical settlement provider license if the commissioner determines the applicant has designated only individuals acting for, or authorized to act for, the business entity in accordance with 2002 Ky. Acts ch. 273, sec. 24 [unless the business entity's viatical settlement provider license who are:
(a) Designated in the business entity's application; and
(b) Licensed as individual viatical settlement providers in accordance with Section 2 of this administrative regulation.

(2) A business entity applying for a viatical settlement provider license shall:
(a) Submit completed Form 8301-BE-VS;
(b) Remit the nonrefundable fee of $1,500;
(c) Provide proof of financial responsibility in the amounts established in KRS 304.15-700(4) and on completed Form 99-1, 99-2, or 99-3;

(d) Provide the following documentation, as applicable:
1. Articles of incorporation;
2. Articles of organization;
3. Partnership agreement;
4. Certificate of authority from the Kentucky Secretary of State;
5. Provide a list of all officers or general partners, as applicable, including their names, titles, addresses, Social Security numbers, and Kentucky Department of Insurance identification numbers; and
6. Submit confirmation from the Life Division of the Kentucky Department of Insurance that the applicant has met the filing and approval of contracts and forms requirements of KRS 304.15-700(2).

(3) A business entity shall immediately notify the department of any changes in who is designated to act under its license.

(b) A business entity shall have at least one (1) licensed individual viatical settlement provider designated with the department. The business entity fails to have at least one (1) licensed viatical settlement provider designated with the department, the business entity viatical settlement provider license shall be deemed revoked and shall be promptly surrendered to the commissioner without demand.

Section 4. Renewal and Continuation of License. (1) Each viatical settlement provider license shall continue in force and renew in accordance with KRS 304.9-260, until expired, suspended, revoked, or otherwise terminated if:
(a) Payment is made to the commissioner on or before March 31 in odd numbered years of the applicable renewal fee for a viatical settlement provider license not terminated on or prior to December 31 of the preceding calendar year; and
(b) The payment is accompanied by a written request for renewal signed by the licensee.

(2) The renewal fee shall be nonrefundable and in the amount as follows:
(a) $500 for an individual licensee; or
(b) $1,500 for a business entity licensee.

(3)(a) Except as provided by paragraph (b) of this subsection, if the renewal fee for renewal of the license is not received by the commissioner on or before March 31 of odd numbered years, the viatical settlement provider license shall expire at midnight on March 31.
(b) A request and fee received by the commissioner between March 31 and June 30 may be accepted and acknowledged by the commissioner, in the commissioner's discretion, if they are accompanied by a penalty equal to the amount of the renewal fee specified in subsection (2) of this section.

(4) Except for the changes requiring prior notification under
KRS 304.15-700(2), the licensed viatical settlement provider shall notify the Department of Insurance in writing within thirty (30) days of change to the information in the application or in the documents required to be submitted in accordance with Section 2 or 3 of this administrative regulation.

(46) The licensed viatical settlement provider shall notify the department in writing within thirty (30) days of the initiation of disciplinary action taken by an insurance regulatory body or other governmental agency, either in this state or in another jurisdiction, against any viatical settlement license or professional license held by the licensee.

Section 5. Lapse of Financial Responsibility. The viatical settlement provider's license shall be deemed revoked and shall be promptly surrendered to the commissioner without demand if notice is given to the commissioner that:

(1) The policy or bond demonstrating proof of financial responsibility in accordance with KRS 304.15-700(4) is to be terminated and has not been replaced by another policy or bond or by a deposit within the time established by 806 KAR 2:210; or

(2) The deposit in accordance with KRS 304.15-700(4) is reduced through the execution of a judgment and not replaced by a new additional deposit or by a policy or bond within the time established by 806 KAR 2:210.

Section 5. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) Form 8301-VS, "Viatical Settlement Broker/Provider Individual License Application (7/2002 edition)" [KRS 304.15-700(4)];

(b) Form 8301-BE-VS, "Viatical Settlement Broker/Provider Business Entity License Application (7/2002 edition)" [KRS 304.15-700(4)];

(c) Form 99-1, "Evidence of Legal Liability Insurance (Errors & Omissions Policy) (7/2002 edition)" [KRS 304.15-700(4)];

(d) Form 99-2, "Irrevocable Letter of Credit (7/2002 edition)" [KRS 304.15-700(4)];


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 a.m.
CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets out the requirements and procedures for the licensing of viatical settlement providers. The administrative regulation replaces the regulations of KRS 304.15-700(2) and 304.15-720 that authorize the commissioner to establish appropriate requirements and fees for a viatical settlement provider license through administrative regulations.

(b) The necessity of this administrative regulation: This administrative regulation removes the conflicts and duplications that would otherwise manifest themselves when 2002 KAR 2:210 becomes effective on July 15, 2002.

(c) How this administrative regulation conforms to the content of the authorizing statutes: Both KRS 304.15-700(2) and 304.15-720 authorize the commissioner to establish appropriate requirements and fees for a viatical settlement provider license through administrative regulations. This administrative regulation conforms to the content of those authorizing statutes.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will inform all applicants for viatical settlement provider licenses of the qualifications they must meet for licensing and forms they must use.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment removes the conflicting provisions for designation of individuals, renewal of license, penalty for late payment of renewal, responsibility to disclose criminal and administrative actions, and effect of lapse of financial responsibility. The amendment furthers the intent of 2002 KAR 2:210.

(b) The necessity of the amendment to this administrative regulation: The provisions which conflict with statutory provisions relating to the same matters need to be removed to eliminate confusion and ambiguity.

(c) How the amendment conforms to the content of the authorizing statute: The amendment sets out the qualifications for licensing, establishes the general requirements for such elements as renewal, designation, and renewal rule. The amendment also conforms to the statute requirement of uniformity with all other Kentucky insurance licenses.

(d) How the amendment will assist in the effective administration of the statutes: The amendment removes the conflicts with statutory requirements and makes the specific procedures uniform among licenses. Uniformity will improve the viatical settlement providers' ability to understand the procedures they must follow and will allow the department to function more efficiently.

(e) How the amendment will assist in the effective administration of the regulation if new or by the change, if it is an amendment: The current licensed viatical settlement providers will have a clearer understanding of how their licenses will be renewed. They will also have their viatical settlement licenses renewed at the same time and through the same process as their other Kentucky insurance licenses, if any.

(f) Provide an estimate of how much it will cost to implement this administrative regulation:

(1) Initially: There will be no cost impact to implement this administrative regulation.

(2) On a continuing basis: There will be no cost impact to implement this administrative regulation.

(3) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.

(4) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.

(5) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.

(6) TIERING: Is tiering applied? No, there is no tiering because none is warranted. All applicants for a viatical settlement provider license are subject to the same provisions.

STATEMENT OF EMERGENCY
806 KAR 9:331E

This emergency administrative regulation repeals 806 KAR 9:330, which sets out the reasons for revocation, suspension, or termination of viatical settlement broker and viatical settlement provider licenses. 2002 KAR 2:210 becomes effective on July 15, 2002. This bill makes viatical settlement brokers and viatical settle-
ment providers subject to the same provisions for revocation, sus-
pension, or termination of license under KRS 304.9-440 that apply to
all other licenses issued in accordance with KRS 304 Subtitle 9.

Certain of the provisions in the existing administrative regulation are
in conflict with or may cause confusion and disruption in the market-
place, as well as in the lives of insurance professionals. Therefore,
the department must immediately repeal provisions for administra-
tive action against the viatical settlement broker and viatical settle-
ment provider licenses that conflict with KRS 304.9-440. This emergency
administrative regulation will not be replaced by an ordinary admin-
istrative regulation because the provisions for revocation, suspen-
sion, and termination of viatical settlement licenses are now con-
tained in KRS 304.9-440.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Repealer)


RELATES TO: KRS 304.15-020, 304.15-700 to 304.15-725
STATUTORY AUTHORITY: KRS 304.2-110(1), 304.15-700(3),
304.15-720

EFFECTIVE: July 17, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-
110(1) authorizes the Commissioner of Insurance to promulgate
administrative regulations necessary for or as an aid to the effectua-
tion of any provision of the Kentucky Insurance Code. KRS 304.15-
700(3) requires the commissioner to promulgate administrative
regulations to provide for the termination or revocation of viatical
settlement broker and viatical settlement provider licenses. KRS 304.15-
720 authorizes the commissioner to promulgate administrative
regulations to implement KRS 304.15-700 to 304.15-720 and to
establish licensing requirements for viatical settlement brokers and
viatical settlement providers. KRS 304.9-440, as amended by the
2002 General Assembly, establishes the causes for termination and
revocation of viatical settlement broker and viatical settlement pro-
vider licenses rendering 806 KAR 9:330 redundant.

Section 1. 806 KAR 9:330, Termination or revocation of viatical
settlement broker and viatical settlement provider licenses, is hereby
repealed.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative
regulation shall be held on September 24, 2002, at 2 p.m. at the
Kentucky Department of Insurance, 215 West Main Street, Frank-
town, Kentucky 40601. Individuals interested in being heard at this
hearing shall notify the Department of Insurance in writing by Sep-
tember 17, 2002, five workdays prior to the hearing, of their intent to
attend. If no notification of intent to attend the hearing is received by
that date, the hearing may be canceled. This hearing is open to the
public. Any person who wishes to be heard will be given an opportu-
nity to comment on the proposed administrative regulation. A tran-
script of the public hearing will not be made unless a written request
for a transcript is made. (The cost of the transcript shall be the re-
sponsibility of the requesting person.) Anyone who does not wish
to be heard at the public hearing may submit written comments on the
proposed administrative regulation to be received by the department
by the end of the workday on September 24, 2002. Send written
notication of intent to be heard at the public hearing or written
comments on this administrative regulation to the contact person.

CONTACT PERSON: Suetta W. Dickinson, Department of
Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-
6075, fax (502) 564-1453.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative
regulation repeals 806 KAR 9:330, Termination or revocation of
viatical settlement broker and viatical settlement provider licenses,
because all but 2 of the 19 provisions of the repealed administrative
regulation are now contained in a statute. The 2 remaining provi-
sions are addressed in other subtitles in KRS Chapter 304 and may
create ambiguities or conflicts to the extent they are not consistent
with those other existing laws.

(b) The necessity of this administrative regulation: KRS 304.9-
440 is amended by 2002 Ky. Acts ch. 273, sec. 36 to include viatical
settlement broker licenses and viatical settlement provider licenses
in the provisions for revocation. These provisions also apply to all
other licenses issued through the Division of Agent Licensing.
Hence, this administrative regulation removes the known duplica-
tions and any perceived conflicts (created by the 2 provisions not
contained in KRS 304.9-440).

(c) How this administrative regulation conforms to the content
of the authorizing statutes: The provisions for termination and revoca-
tion of viatical settlement broker and viatical settlement provider
license contained in amended statutes will become effective on
July 15, 2002, rendering the repealed administrative regulation re-
dundant.

(d) If this administrative regulation currently assists or will assist
in the effective administration of the statutes: This administrative
regulation removes conflicting and potentially confusing provi-
sions. In addition, the same provisions for revocation used for all
other licenses will be applied to viatical settlement broker licenses
and viatical settlement provider licenses furthering the efforts for
uniformity among licensees.

(2) If this is an amendment to an existing administrative regula-
tion, provide a brief summary of:

(a) How the amendment will change this existing administrative
regulation: N/A. The amendment does not amend an existing ad-
ministrative regulation. Rather, it repeals it to remove the conflicting
provisions for termination and revocation of viatical settlement bro-
ker and viatical settlement provider licenses.

(b) The necessity of the amendment to this administrative regu-
lation: N/A

(c) How the amendment conforms to the content of the author-
izing statute: N/A

(d) How the amendment will assist in the effective administration
of the statute: N/A

(3) List the type and number of individuals, businesses, organi-
izations, or state and local governments affected by this administra-
tive regulation: This administrative regulation affects all viatical set-
tlement brokers and all viatical settlement providers as well as future
applicants. There are less than 3 dozen licensees at the present
time.

(4) Provide an assessment of how the above group or groups
will be impacted by either the implementation of this administrative
regulation, if new, or by the change, if it is an amendment: This ad-
ministrative regulation repeals the current provisions for the termina-
tion and revocation of viatical settlement broker and viatical settle-
273, these provisions are now appropriately contained in statute
and, therefore, more easily referenced by viatical settlement licen-
see.

(5) Provide an estimate of how much it will cost to implement
this administrative regulation:

(a) Initially: There will be no cost impact as a result of the repeal
of the existing administrative regulation.

(b) On a continuing basis: There will be no cost impact as a
result of the repeal of the existing administrative regulation.

(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: The
funding source will be the budget of the Kentucky Department of
Insurance.

(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement this administrative regula-
tion, if new, or by the change, if it is an amendment: The department

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does not anticipate an increase in fees or funding to implement this administrative regulation.

(5) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.

(9) TIERING: is tiering applied? No, tiering is not applied. The repeal of this administrative regulation appropriately impacts all licensees the same.

STATEMENT OF EMERGENCY
806 KAR 38:021E

This emergency administrative regulation repeals 806 KAR 38:020, which sets out the requirements and procedure for the licensing of agents who place business with Health Maintenance Organizations. 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill amends KRS 304.38-110 to require agents who place business with health maintenance organizations to hold an agent license with a health line of authority issued under KRS 304 Subtitle 9, just like any other agent selling health products. Provisions in the existing administrative regulation may cause confusion and disruption in the marketplace, as well as in the lives of insurance professionals. Therefore, the department must immediately repeal 806 KAR 38:020. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because the provisions for the licensing of agents of health maintenance organizations are now located in KRS 304.38-110.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Repealer)

806 KAR 38:021E. Repeal of 806 KAR 38:020.

RELATES TO: KRS 304.38-110
STATUTORY AUTHORITY: KRS 304.2-110(1)
EFFECTIVE: July 17, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Code. KRS 304.38-110, as amended by the 2002 General Assembly, provides that the agent of a health maintenance organization shall be licensed as an agent with a health line of authority in accordance with the provisions of KRS 304 Subtitle 9 rendering 806 KAR 38:020 redundant.

Section 1. 806 KAR 38:020, Health maintenance organization agent license, is hereby repealed.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 2 p.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the Department of Insurance in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. (The cost of the transcript shall be the responsibility of the requesting person.) Anyone who does not wish to be heard at the public hearing may submit written comments on the proposed administrative regulation to be received by the department by the end of the workday on September 24, 2002. Send written notification of intent to be heard at the public hearing or written comments on this administrative regulation to the contact person.

CONTACT PERSON: Suelta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075, fax (502) 564-1453.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suelta W. Dickinson
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 38:020, Health maintenance organization agent license, because the provisions of the repealed administrative regulation are now contained in statute.
(b) The necessity of this administrative regulation: KRS 304.38-110 is amended by 2002 Ky. Acts ch. 273, sec. 50 to provide that the agent of a health maintenance organization must be licensed as an agent with a health line of authority and is subject to all relevant provisions of KRS 304 Subtitle 9. This administrative regulation is necessary to remove the redundant provisions of 806 KAR 38:020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory provisions for licensing of agents of health maintenance organizations will become effective on July 15, 2002, rendering 86 KAR 38:020 redundant.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation removes the redundant provisions. In addition, the same provisions for licensing all other agents marketing health products will be applied to agents of health maintenance organizations furthering the efforts for uniformity among licenses.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A. The amendment does not amend an existing administrative regulation. Rather, it repeals it to remove the redundant provisions for licensing agents of health maintenance organizations.
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statute: N/A
(d) How the amendment will assist in the effective administration of the statute: N/A
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all agents of health maintenance organizations.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: The agents of health maintenance organizations will not notice the impact of the repeal of the administrative regulation because the provisions of the repealed administrative regulation are the same as those now contained in KRS 304.38-110. However, the fact that the provisions are now appropriately contained in statute will make the provisions more accessible to agents and applicants.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no cost impact as a result of the repeal of the existing administrative regulation.
(b) On a continuing basis: There will be no cost impact as a result of the repeal of the existing administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.
STATEMENT OF EMERGENCY
806 KAR 43:011E

This emergency administrative regulation repeals 806 KAR 43:010, which sets out the requirements and procedure for the licensing of agents who place business with prepaid dental plan organizations. 2002 Ky. Acts ch. 273 becomes effective on July 15, 2002. This bill creates uniformity among licenses and provides provisions for discontinued lines of authority. In addition, KRS 304.43-140(1) was amended by the 2000 General Assembly to provide that no certificate of authority to act as a prepaid dental plan organization would be issued or renewed after July 15, 2000. As a result, prepaid dental plan organizations no longer exist and no longer use agents, rendering 806 KAR 43:010 meaningless. These meaningless provisions may cause confusion and disruption in the marketplace, as well as in the lives of insurance professionals. Therefore, the department must immediately repeal 806 KAR 43:010. This provision that administrative regulation will not be replaced by an ordinary administrative regulation because prepaid dental plan organizations no longer exist and no longer use agents.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Repealer)

806 KAR 43:011E. Repeal of 806 KAR 43:010.

RELATES TO: KRS 304.43-080, 304.43-140
STATUTORY AUTHORITY: KRS 304.2-110(1)
EFFECTIVE: July 17, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-
110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.43-
140(1), as amended by the 2000 General Assembly, provides that no certificate of authority to act as a prepaid dental plan organization shall be issued or renewed after July 15, 2000. In that prepaid dental plan organizations no longer exist and no longer use agents, 806 KAR 43:010 is now meaningless.

Section 1. 806 KAR 43:010, Prepaid dental plan organization agent license, is hereby repealed.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 2 p.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the Department of Insurance in writing by September 17, 2002, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. (The cost of the transcript shall be the responsibility of the requesting person.) Anyone who does not wish to be heard at the public hearing may submit written comments on the proposed administrative regulation to be received by the department by the end of the workday on September 24, 2002. Send written notification of intent to be heard at the public hearing or written comments on this administrative regulation to the contact person.

CONTACT PERSON: Suetta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075, fax (502) 564-1453.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suetta W. Dickinson
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 43:010, Prepaid dental plan organization agent license, because prepaid dental plan organizations no longer exist and no longer use agents.
(b) The necessity of this administrative regulation: KRS 304.43-
140(1), as amended by the 2000 General Assembly, provides that no certificate of authority to act as a prepaid dental plan organization could be issued or renewed after July 15, 2000. As a result, all prepaid dental plan organizations have now ceased to exist. Therefore, this administrative regulation is necessary to repeal 806 KAR 43:010, which has been rendered meaningless.
(c) How this administrative regulation conforms to the content of the authorizing statute: The statutory provisions for licensing of agents of prepaid dental plan organizations are meaningless.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation removes the meaningless provisions.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: N/A. The amendment does not amend an existing administrative regulation. Rather, it repeals it to remove the meaningless provisions for licensing agents of prepaid dental plan organizations.
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the authorizing statute: N/A
(d) How the amendment will assist in the effective administration of the statute: N/A
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will not affect anyone directly because there are no prepaid dental plan organizations and no agents of prepaid dental plan organizations. However, it will remove any confusion of the public that prepaid dental plan agents actually exist.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: N/A
(5) Provide an estimate of how much it will cost to implement this administrative regulation: Initially: There will be no cost impact as a result of the repeal of the existing administrative regulation.
(b) On a continuing basis: There will be no cost impact as a result of the repeal of the existing administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: There will be no increase in fees or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.
(9) TIERING: Is tiering applied? No, tiering is not applied and none is appropriate for the repeal of this administrative regulation.
STATEMENT OF EMERGENCY
806 KAR 46:021E

This emergency administrative regulation repeals 806 KAR 46:020, which sets out the requirements and procedure for the licensing of agents who place business with liability self-insurance groups. Effective March 1, 2002, KRS ch. 273 becomes effective on July 15, 2002, and will require agents who place business with liability self-insurance groups to hold an agent license with property and casualty lines of authority issued under KRS 304 Subtitle 9, just like any other agent selling property and casualty products. Provisions in the existing administrative regulation may cause confusion and disruption in the marketplace, as well as in the lives of insurance professionals. Therefore, the department must immediately repeal 806 KAR 46:020. This emergency administrative regulation will not be replaced by an ordinary administrative regulation because the provisions for the licensing of agents of liability self-insurance groups are now located in KRS 304.48-100.

PAUL E. PATTON, Governor
JANIE A. MILLER, Secretary and Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Agent Licensing
(Emergency Repealer)


RELATES TO: KRS 304.48-100
STATUTORY AUTHORITY: KRS 304.2-110(1)
EFFECTIVE: July 15, 2002
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.48-100, as amended by the 2002 General Assembly, provides that the agents of a liability self-insurance group shall be licensed as an agent with property and casualty lines of authority in accordance with the provisions of KRS 304 Subtitle 9 rendering 806 KAR 46:020 redundant.

Section 1. 806 KAR 46:020, Liability self-insurance group agent license, is hereby repealed.

JANIE A. MILLER, Secretary and Commissioner
APPROVED BY AGENCY: July 10, 2002
FILED WITH LRC: July 17, 2002 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 2 p.m. at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify the Department of Insurance in writing by September 17, 2002, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who 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. (The cost of the transcript shall be the responsibility of the requesting person.) Anyone who does not wish to be heard at the public hearing may submit written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Suesta W. Dickinson, Department of Insurance, PO Box 517, Frankfort, Kentucky 40602-0517, (502) 564-6075, fax (502) 564-1453.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Suesta W. Dickinson

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 46:020, Liability self-insurance group agent license, because the provisions of the repealed administrative regulation are now contained in statute.

(b) The necessity of this administrative regulation: KRS 304.48-100 is amended by 2002 Ky. Acts ch. 273, sec. 51 to provide that the agent of a liability self-insurance group must be licensed as an agent with property and casualty lines of authority and is no subject to all relevant provisions of KRS 304 Subtitle 9. This administrative regulation is necessary to remove the redundant provisions of 806 KAR 46:020.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutory provisions for licensing of agents of liability self-insurance groups will become effective on July 15, 2002, rendering 806 KAR 46:020 redundant.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation removes the redundant provisions. In addition, the same provisions for licensing all other agents marketing property and casualty products will be applied to agents of liability self-insurance groups furthering the efforts for uniformity among licenses.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: N/A. The amendment does not amend an existing administrative regulation. Rather, it repeals it to remove the redundant provisions for licensing agents of liability self-insurance groups.

(b) The necessity of the amendment to this administrative regulation: N/A

(c) How the amendment conforms to the content of the authorizing statute: N/A

(d) How the amendment will assist in the effective administration of the statute: N/A

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all agents of liability self-insurance groups.

(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment: The agents of liability self-insurance groups will not notice the impact of the repeal of the administrative regulation because the provisions of the repealed administrative regulation are the same as those now contained in KRS 304.48-100. However, the fact that the provisions are now appropriately contained in statute will make the provisions more accessible to agents and applicants.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no cost impact as a result of the repeal of the existing administrative regulation.

(b) On a continuing basis: There will be no cost impact as a result of the repeal of the existing administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding source will be the budget of the Kentucky Department of Insurance.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: The department does not anticipate an increase in fees or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this administrative regulation does not establish any fees; and it does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No, tiering is not applied. The repeal of this administrative regulation appropriately impacts all licensees the same.
STATEMENT OF EMERGENCY 902 KAR 17:041E

This emergency administrative regulation is being promulgated to implement the August 9, 2002 Update to the State Health Plan. This action must be taken on an emergency basis to comply with the orders of the Franklin Circuit Court and Kentucky Court of Appeals interpreting state law in West View Nursing Home, Inc. v. Commonwealth which ordered that the long term care bed need assessment contained in the State Health Plan be based on the most current data available and prohibits the utilization of a statewide cap on the approval of long term care bed certificate of need applications. In that more current population data is now available from the state demographer than was available when the current State Health Plan was promulgated, and in that the West View litigants have alleged that the need assessment in the current State Health Plan acts as a statewide cap on the approval of certificate of need applications for long term care beds, it is necessary to amend the State Health Plan on an emergency basis. Further, the failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of the citizens of Kentucky in that a medically-underserved area needs primary care services. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on March 19, 2002, as follows: (a) It includes a new long-term care methodology. (b) It establishes a primary care center in a medically-underserved area that shall provide primary care services, twenty-four (24) hour emergency services, diagnostic imaging including magnetic resonance imaging services, ambulatory surgical services, and such other outpatient services as necessary. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The Notice of Intent for the ordinary administrative regulation was filed with the Regulations Compiler concurrently with this emergency administrative regulation.

PAUL E. PATTON, Governor
MARCIA R. MORGAN, Secretary

CABINET FOR HEALTH SERVICES Department for Health Services (Emergency Amendment)

902 KAR 17:041E. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010 to 216B.130
STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1).
216B.010, 216B.015(19), 216B.040(2)(a)(2)a
EFFECTIVE: August 9, 2002

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.015(19) requires the Cabinet for Health Services to oversee development and annual updating of the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The August 9, 2002 [2000] Update to the 2001-2003 [1999-2000] State Health Plan shall be used to:

1. Review a certificate of need application pursuant to KRS 216B.040; and
2. Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(20)(a) and 216B.051(1)(d).

Section 2. Updating of Inventories and Need Analysis. (1) The cabinet shall update the inventory of licensed or certificate of need approved health services and health facilities and the need analysis established in the State Health Plan on a periodic basis to reflect any changes in inventory or need projections for health services and health facilities. The most current update shall be used in making certificate of need decisions.
(2) Notice of an update shall be published in the cabinet's certificate of need newsletter.

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

NICHOLAS Z. KAFOGUIS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 9, 2002 at 11 a.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Charles Kendall, (502) 564-9592

1. Provide a brief summary of:
(a) What this administrative regulation does: This regulation allows the cabinet to develop and annually update the State Health Plan, a critical element of the certificate of need process.
(b) The necessity of this administrative regulation: KRS 216B.015(18) requires the Cabinet for Health Services to oversee the development and annual updating of the State Health Plan.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 216B.015(18) requires the State Health Plan to be updated annually. This amendment is the prescribed update.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment keeps the State Health Plan in a current version without lapse thus preventing the CON Program from having no means by which to review health care projects. Health facilities would be allowed to add services without state review.

2. If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Provides for the current year updating of the state health plan.
(b) The necessity of the amendment to this administrative regulation: Without this amendment the plan is out of date and out of enforcement.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment carries out the intent and provisions of the authorizing statutes.
(d) How the amendment will assist in the effective administration of the statutes: Without the amendment the statutes cannot be enforced.

3. List the type and number of individual businesses, organizations, or state and local governmental entities affected by this administrative regulation: Health care providers governed by the certificate of need law, citizens who use health care in Kentucky, health planners in the Certificate of Need Program, local communities that plan for, use or develop community health care facilities.

4. Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: These groups will be impacted by the changes in need methodology for long term care and by the establishment of a primary care center in a medically-underserved area that shall provide primary care services, 24 hour emergency services, diagnostic imaging including magnetic resonance imaging services, ambulatory surgical services, and such other outpatient services as necessary.

5. Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None
(e) State whether or not this administrative regulation estab-
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lishes any fees or directly or indirectly increases any fees: None

(9) "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 adminis-
trative 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 implica-
ted as well as Sections 2 and 3 of the Kentucky Constitution.

STATEMENT OF EMERGENCY
907 KAR 1:160E

In accordance with SB 142 which was passed during the 2002
Session of the General Assembly and codified in KRS 205.510 to
205.645, the Department for Medicaid Services is promulgating this
administrative regulation to address skilled nursing services offered
to Medicaid recipients in an adult day health care (ADHC) program.
An ADHC is required to provide skilled nursing services to Medicaid
recipients only during the posted hours of operation. This action
must be taken on an emergency basis, in accordance with KRS
150.130(1)(a)(3), to comply with SB 142. This emergency adminis-
trative regulation shall be replaced by an ordinary administrative regu-
lation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
MARcia R. MORGAN, Secretary

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Long Term Care and Disability Services
(Emergency Amendment)

907 KAR 1:160E. Home and community based waiver serv-
ices.

RELATES TO: KRS 205.520(3)
STATUTORY AUTHORITY: KRS 194A.030(3), 194A.050(1) 42
CFR 440.180, 42 USC 1396a, b, d, n, SB 142 2002 GA
EFFECTIVE: August 1, 2002

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for
Health Services, Department for Medicaid Services has responsibili-
ty to administer the Medicaid Program. KRS 205.520(3) authorizes
the cabinet to comply with a requirement that may be imposed, or
opportunity presented, by federal law for the provision of medical
assistance to Kentucky's indigent citizens. This administrative regu-
lation establishes the services provisions (provision) for home and
community based waiver services.

Section 1. Definitions. (1) "ADHC" means adult day health care.
(2) "ADHC center" means an adult day health care center li-
censed in accordance with 902 KAR 20:089, Section 4.
(3) "ADHC services" means services provided on a regularly-
scheduled basis of a health nature that ensure optimal functioning of
an ADHC recipient but do not require an ADHC recipient to remain at
a facility twenty-four (24) hours per day.
(4) "Advanced registered nurse practitioner" or "ARNP" means a
person acting within his scope of practice who is licensed in accor-
dance with KRS 314.042.
(5) "Care planning" means a process whereby a plan of care is
developed which specifies the amount, frequency, and duration of
services to meet an ADHC recipient's needs and contains provisions
for reassessment for ADHC waiver services.
(6) "Communicable disease" means a disease that is transmite-
d through direct contact with an infected individual or indirectly
through an organism that carries disease-causing microorganisms
from one (1) host to another or a bacteriophages, a plasmid, or an-
other agent that transfers genetic material from one (1) location to
another.
(7) "DCBS" means the Department for Community Based Ser-
vices.
(8) "Department" means the Department for Medicaid Services
or its designee.
(9) "HCB recipient" means an individual who:
(a) Meets the criteria for a recipient as defined in KRS 205.8451;
(b) Meets the NF level of care criteria as defined in 907 KAR
1:022; and
(c) Meets the eligibility criteria for HCB waiver services estab-
lished in Section 4 of this administrative regulation.
(10) "Home and community based waiver" or "HCB waiver"
means home and community based waiver services for the elderly
and disabled.
(11) "Home health agency" means a Medicare and Medicaid
certified agency licensed in accordance with 902 KAR 20:089.
(12) "Licensed practical nurse" or "LPN" means a person who
meets the licensed practical nurse requirements established in 902
KAR 20:086 and works under the supervision of a registered nurse.
(13) "Medically necessary" or "medical necessity" means that a
covered benefit is determined to be needed in accordance with 907
KAR 3:130.
(14) "NF" means nursing facility.
(15) "NF level of care" means a determination made by the de-
partment in accordance with 907 KAR 1:022.
(16) "Occupational therapist" means a person who meets the
occupational therapist requirements established in 902 KAR 20:086.
(17) "Physical therapist" means a person who meets the physi-
thelial therapist requirements established in 902 KAR 20:086.
(18) "Physician assistant" or "PA" is defined in KRS
311.550(17).
(19) "Plan of treatment" means a care plan used by an ADHC
center.
(20) "Registered nurse" or "RN" means a person who meets the
registered nurse requirements established in 902 KAR 20:089 and
who has one (1) year or more experience as a professional nurse.
(21) "Social worker" means a person with a bachelor's degree in
social work, sociology, or a related field.
(22) "Speech pathologist" means a person who meets the
speech pathologist requirements established in 902 KAR 20:086.

Section 2. Provider Participation. (1) In order to provide HCB
waiver services, a provider shall be a home health agency or ADHC
center that provides services:
(a) Directly; or
(b) Indirectly through a subcontractor.
(2) In order to provide HCB waiver services, an out-of-state
provider shall meet the same requirements as an in-state provider.
(3) A provider shall:
(a) Comply with 902 KAR 20:081, 907 KAR 1:571, 907 KAR
1:672 and 907 KAR 1:673;
(b) Not enroll an HCB recipient to whom they cannot provide
HCB waiver services;
(c) Have the freedom to accept or not accept an HCB recipient;
(d) Implement a procedure which ensures the reporting of all
incidents which may include:
1. Abuse, neglect, or exploitation of an HCB recipient in accor-
dance with KRS Chapters 209 and 620;
2. A slip or fail, a transportation incident, improper administration
of medication, or a medical complication; and
3. Incidents caused by the recipient such as verbal or physical
abuse of staff or other recipients, destruction or damage of property
and of recipient self-abuse;
(e) Ensure a copy of an incident report shall be:
1. Maintained in an HCB recipient's case record or clinical file;
2. Maintained in a central file by the provider;
3. Provided to the HCB recipient, his family member or his re-
 sponsible party; and
4. Provided to the attending physician, PA, or ARNP who shall
review it;
(f) Implement a procedure which ensures the reporting of a
complaint against an agency or its personnel by a recipient or any
interested party;
(g) Inform a recipient or any interested party of:
1. Hours of operation; and
2. Policies and procedures of the agency;
(h) Not permit a staff member who has contracted a communi-
cable disease to provide a service to an HCB recipient until the con-
dition is determined not to be contagious; and

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(i) Ensure that a staff member who provides direct services:
1. Demonstrates the ability to read, write, understand and carry out instructions, record messages, keep simple records, and interact with an HCB recipient when providing an HCB waiver service;
2. Be trained by an HCB waiver provider; and
3. Be supervised by an RN at least every other month.

Section 3. Maintenance of Records. (1) An HCB waiver provider shall maintain:
(a) A clinical record for each HCB recipient which shall contain the following:
   1. Pertinent medical, nursing, and social history;
   2. A comprehensive assessment entered on form MAP-351A and signed by the recipient or his legal representative;
   3. A plan of care entered on form MAP-351A;
   4. A copy of the MAP-350 signed by a recipient or his legal representative at the time of application or reapplication and each recertification thereafter;
   5. The name of the case manager;
   6. Documentation of each contact with, or on behalf of, an HCB recipient;
   [and]
7. Documentation that an HCB recipient receiving ADHC services was provided a copy of the ADHC center's posted hours of operation; and
(b) Documentation of each service provided that shall include:
   a. The date the service was provided;
   b. The duration of the service;
   c. The arrival and departure time of the provider, excluding travel time, if the service was provided at the HC recipient's home;
   d. An itemized documentation of personal care or homemaker services;
   e. The arrival and departure time of the HC recipient, excluding travel time, if the service was provided at the ADHC center; and
   f. The signature of the service provider; and
(b) Fiscal reports, service records, and incident reports regarding services provided for a period of at least five (5) years from the date that a covered service is provided, except in the case of a minor, whose records shall be retained for three (3) years after the recipient reaches the age of majority under state law, whichever is longer.
(2) Upon request, an HCB provider shall make information regarding service and financial records available to:
(a) The department;
(b) The Commonwealth of Kentucky, Cabinet for Health Services, Office of Inspector General, or its designee;
(c) The United States Department for Health and Human Services, or its designee;
(d) The United States General Accounting Office, or its designee;
(e) The Commonwealth of Kentucky, Office of the Auditor of Public Accounts, or its designee; and
(f) The Commonwealth of Kentucky, Office of the Attorney General, or its designee.

Section 4. HCB Recipient Eligibility Determinations and Redeterminations. (1) An HCB waiver service shall be provided to a Medicaid eligible HCB recipient who is determined by the department to meet NF level of care requirements and who would, without waiver services, be admitted by a physician's order to an NF.
(2) An NF level of care determination regarding an HCB recipient shall be performed by the department at least once every twelve (12) months, or more often if necessary.
(3) An HCB waiver service shall not be provided to an individual:
(a) Who does not require a service other than:
   1. A minor home adaptation;
   2. Case management;
   3. A minor home adaptation and case management;
   (b) Who is an inmate of:
   1. A hospital;
   2. A NF; or
   3. An intermediate care facility for individuals with mental retardation or developmental disabilities (ICF/MR/DD);
(c) Who is a resident of a licensed personal care home; or
(d) Who is receiving a service in another Medicaid home and community based services waiver program.
(4) An HCB waiver provider shall:
(a) Inform the HCB recipient or his legal representative of the choice to receive:
   1. HCB waiver services; or
   2. Institutional services; and
(b) Require the HCB recipient to sign a MAP-350 form at the time of application or reapplication and each recertification thereafter to document he was informed of his choices.
(5) An eligible HCB recipient or his legal representative shall select a participating HCB waiver provider from whom he wishes to receive HCB waiver services.
(6) The department may exclude an individual for whom the aggregate cost of HCB waiver services would reasonably be expected to exceed the cost of NF services.
(7) An HCB waiver provider shall notify the local DCBS office and the department on a MAP-24 form if an HCB recipient is:
(a) Terminated from the HCB waiver program; or
(b) Admitted to an [a] NF for less than sixty (60) consecutive days.
(8) Returning to the HCB waiver program from an [a] NF within sixty (60) consecutive days.

Section 5. Covered Services. (1) An HCB waiver service shall:
(a) Be prior authorized by the department to ensure the service or modification of the service is adequate for the needs of the HCB recipient;
(b) Be provided pursuant to a plan of care; and
(c) Not be provided by a member of the HCB recipient's family.
(2) The following services provided to an HCB recipient by an HCB waiver provider who meets the requirements in Section 2 of this administrative regulation shall be covered by the department:
(a) An assessment service which shall include:
   a. Identify the HCB recipient's needs and the services that an HCB recipient or his family cannot manage or arrange for on his behalf;
   b. Evaluate the HCB recipient's physical health, mental health, social supports, and environment;
   c. Be requested by an individual requesting HCB waiver services, a family or legal representative of the individual, the individual's physician, a PA, or an ARNP;
   d. Be conducted, within seven (7) calendar days of receipt of the request for assessment, by an assessment team comprised of an RN and a social worker or two (2) RN's; and
   e. Include at least one (1) face-to-face contact with the HCB recipient and, if appropriate, his family by the RN or social worker in the HCB recipient's home;
   f. Care planning resulting in the development of a plan of care that shall:
      a. Specify services needed;
      b. Determine the amount, frequency, and duration of services;
      c. Contain provisions for reassessment at least every twelve (12) months;
      d. Be developed by the assessment team, case manager, HCB recipient and his family;
      e. Be signed by the attending physician, PA, or ARNP; and
      f. Be submitted to the department within fourteen (14) calendar days of receiving the department's verbal approval of NF level of care;
   (b) A reassessment service which shall:
      1. Determine the continuing need for HCB waiver services;
      2. Be performed at least every twelve (12) months;
      3. Be conducted using the same procedures as for an assessment service;
   4. Be initiated by an HCB waiver provider who shall:
      a. Notify the department no more than three (3) weeks prior to the expiration of the current level of care certification to ensure that certification is consecutive; and
      b. Not be reimbursed for a service provided during a period that an HCB recipient is not covered by a valid level of care certification; and
      5. Not be retroactive;
(c) A case management service which shall:
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1. Include the following basic services and necessities provided to Medicaid waiver recipients during the posted hours of operation:
   a. Skilled nursing services provided by an RN or LPN which may include ostomy care, urinary catheter care, decubitus care, tube feeding, venipuncture, insulin injections, tracheotomy care, and medical monitoring;
   b. Meal service corresponding with hours of operation with a minimum of one (1) meal per day and therapeutic diets as required;
   c. Snacks;
   d. Supervision by an RN or other qualified staff;
   e. Age and diagnosis appropriate daily activities; and
   f. Routine services that meet the daily personal and health care needs of an HCB recipient and shall include monitoring of vital signs, assistance with activities of daily living, monitoring and supervision of self-administered medications, therapeutic programs, and incidental supplies and equipment needed for use by an HCB recipient;

2. Include ancillary services in accordance with 907 KAR 1:023 if ordered by a physician, PA, or ARNP in an HCB recipient's ADHC plan of treatment which:
   a. Consist of evaluations or reevaluations for the purpose of developing a plan which shall be carried out by the HCB recipient or ADHC center staff;
   b. Are necessary for the HCB recipient's condition;
   c. Are rehabilitative in nature;
   d. Include physical therapy provided by a physical therapist, occupational therapy provided by an occupational therapist, and speech therapy provided by a speech pathologist; and
   e. Comply with the physical therapy, occupational therapy, and speech therapy requirements established in "Technological Criteria for Reviewing Ancillary Services for Adults, February 2000 Edition" and "Technological Criteria for Reviewing Ancillary Services for Pediatrics, April 2000 Edition";

3. Include respite services pursuant to paragraph (g) of this subsection; and

4. Be provided to an HCB recipient by the health team in an ADHC center which may include:
   a. A physician;
   b. A PA;
   c. An ARNP;
   d. A RN;
   e. A LPN;
   f. An activities director;
   g. A physical therapist;
   h. An occupational therapist;
   i. A speech pathologist;
   j. A social worker;
   k. A nutritionist; or
   l. A health aide; and

5. Be provided pursuant to a plan of treatment developed and signed by the physician, PA, or ARNP in consultation with appropriate ADHC center staff which:
   a. Includes pertinent diagnoses, mental status, services required, frequency of visits to the ADHC center, prognosis, rehabilitation potential, functional limitation, activities permitted, nutritional requirements, medication, treatment, safety measures to protect against injury, instructions for timely discharge, and other pertinent information; and
   b. Shall be reviewed and revised, if needed, and a copy sent to the department every ninety (90) days; and

(3) Modification of an ancillary therapy service or an ADHC unit of service shall require prior authorization as follows:
   a. Prior authorization shall be requested by an RN or designated ADHC center staff and shall require submission of pages 8-10 of a MAP-351A form which have been completed and signed by a physician, PA or ARNP to the department;
   b. The RN or designated ADHC center staff shall forward a copy of the documents required in paragraph (a) of this subsection to the HCB case manager for inclusion in the HCB recipient's case records within ten (10) working days of the prior authorization request; and
   c. Upon approval or denial of the prior authorization request,
the department shall notify, in writing, the HCB agency, the ADHC center and the HCB recipient.

Section 6. Appeal Rights. (1) 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.

(2) An appeal of a negative action taken by the department regarding NF level of care services to a HCS recipient shall be in accordance with 404 KAR 3:050.

(3) An appeal of a negative action taken by the department regarding a Medicaid provider shall be in accordance with 907 KAR 1:564.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "The MAP-95 Request for Equipment Form" Commonwealth of Kentucky, Cabinet for Health and Family Services, April 1997 Edition;

(b) "The MAP-95 Request for Equipment Form" Commonwealth of Kentucky, Cabinet for Health and Family Services, April 1997 Edition;

(c) "The MAP-95 Request for Equipment Form" Commonwealth of Kentucky, Cabinet for Health and Family Services, April 1997 Edition;

(d) "The MAP-95 Request for Equipment Form" Commonwealth of Kentucky, Cabinet for Health and Family Services, April 1997 Edition;

(e) "Technical Criteria for Reviewing Ancillary Services for Adults", February 2000 Edition; and


(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.

MIKE ROBINSON, Commissioner
MARCIA R. MORGAN, Secretary

APPROVED BY AGENCY: July 30, 2002
FILED WITH LRC: August 1, 2002 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Teresa Goodrich or Stuart Owen

(1) Provide a brief summary of:

(a) Why this administrative regulation does: This administrative regulation establishes the services provided by the home and community based waiver program.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to establish the services provided by the home and community based waiver program.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the services provided by the home and community based waiver program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently assists in the effective administration of the statutes by establishing the services provided by the home and community based waiver program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation ensures that the Department for Medicaid Services is in compliance with SB 142 of the 2002 Session of the General Assembly, by requiring that adult day health care programs provide skilled nursing services to Medicaid recipients only during the posted hours of operation.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary in order to ensure that the Department for Medicaid Services is in compliance with SB 142 of the 2002 Session of the General Assembly by requiring that adult day health care programs provide skilled nursing services to Medicaid recipients only during the posted hours of operation.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to the content of the authorizing statutes by requiring, per SB 142 of the 2002 Session of the General Assembly, that adult day health care programs provide skilled nursing services to Medicaid recipients only during the agency's posted hours of operation.

(d) How the amendment will assist in the effective administration of the statutes: The amendment to this administrative regulation will assist in the effective administration of the statutes by requiring, per SB 142 of the 2002 Session of the General Assembly, that adult day health care programs provide skilled nursing services to Medicaid recipients only during the agency's posted hours of operation.

(e) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Approximately 121 providers are enrolled in the home and community based waiver program offering adult day health care services.

(f) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Home and community based waiver providers offering adult day health care services will be required to provide skilled nursing services to Medicaid recipients only during the posted hours of operation.

(g) Provide an estimate of how much it will cost to implement this administrative regulation:

(h) On a continuing basis: There is no fiscal impact on the Department for Medicaid Services resulting from the amendment to this administrative regulation.

(i) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is necessary to implement the amendment to this administrative regulation.

(j) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The amendment to this administrative regulation does not increase any fee nor does it require any funding.

(k) State whether or not this administrative regulation established any fees or directly or indirectly increases any fees: The amendment to this administrative regulation does not establish or directly or indirectly increase any fees.

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

STATEMENT OF EMERGENCY
907 KAR 1:604E

This emergency administrative regulation is being promulgated to establish the provisions relating to imposing and collecting copayments from Medicaid recipients in compliance with state law. This action must be taken on an emergency basis to reduce current Medicaid expenditures as they relate to pharmacy costs. Failure to enact this administrative regulation on an emergency basis would pose an imminent threat to the public health, safety or welfare of Medicaid recipients because current spending in this area may necessitate reducing or eliminating medically-necessary programs.

This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler.

PAUL E. PATTON, Governor
MARCIA R. MORGAN, Secretary
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Financial Management
(New Emergency Administrative Regulation)

907 KAR 1:604E. Recipient cost-sharing.

RELATES TO: KRS 205.560, 42 CFR 430.10, 42 U.S.C. 1396a, b, c, d, r, t-8, 2 USC 1396o


EFFECTIVE: August 1, 2002

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health Services, Department for Medicaid Services has responsibility to administer the Medicaid Program. KRS 205.520(3) 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. KRS 205.6312 authorizes the cabinet to promulgate administrative regulations that implement a copayment for prescription drugs for Medicaid recipients. This administrative regulation establishes the provisions relating to imposing and collecting copayments from certain recipients.

Section 1. Definitions. (1) "Copayment" means that part of the costs of a Medicaid service that a recipient is required to pay.
(2) "Department" means the Department for Medicaid Services or its designee.
(3) "Drug" means a covered drug provided in accordance with 907 KAR 1:019 for which the Department for Medicaid Services provides reimbursement.
(4) "Emergency service" means an inpatient or outpatient service furnished by a provider that is needed to evaluate or stabilize an emergency medical condition found to exist using the prudent layperson standard, and emergency ambulance transport.
(5) "Postpartum period" means a period that begins on the last day of pregnancy and extends through the end of the month in which the sixty (60) day period following termination of pregnancy ends.
(6) "Recipient" means an individual who has been determined eligible to receive benefits under the state’s Title XIX or Title XXI program in accordance with 907 KAR Chapters 1 through 4.

Section 2. Copayment Amounts and Exclusions. (1) Except as excluded in subsection (3) of this section, the department shall require a recipient to make a copayment for each drug dispensed from a dispensing pharmacy in the amount of one (1) dollar.
(2) The department shall reduce its reimbursement for a dispensing fee to a provider for a service provided under subsection (1) of this section by the amount of one (1) dollar.
(3) The department shall not require a copayment and a provider shall not collect a copayment from a recipient for the following:
(a) A service provided to a recipient under the age of eighteen (18);
(b) A pregnancy-related service, including a service provided during a postpartum period;
(c) A service related to a medical condition which may complicate a pregnancy;
(d) An emergency service;
(e) Service provided to an individual who is a resident of a nursing facility or an intermediate care facility for the mentally retarded;
(f) A service provided to a recipient who is receiving a hospice service;
(g) A service provided to a recipient in a licensed personal care home;
(h) A service provided to a recipient over the age of eighteen (18) and under the age of nineteen (19) who is:
   1. In the custody of the state; and
   2. In a foster home or residential placement; or
(i) A service excluded in accordance with 42 CFR 447.53.
(4) The department shall not increase its reimbursement to a provider to offset an uncollected copayment from a recipient.

(5) Cumulative cost sharing for children who receive benefits under Title XXI shall be limited to five (5) percent of annual family income.

Section 3. Provisions for Collection of Copayments. (1) A provider shall collect a copayment from a recipient in an amount and for a service described in Section 2(1) of this administrative regulation.
(2) A provider may collect the copayment at the time a service is provided or at a later date.
(3) A provider shall not refuse to provide a service if a recipient is unable to pay a required copayment. This provision shall not:
(a) Relieve a recipient of an obligation to pay a copayment; or
(b) Prevent a provider from attempting to collect a copayment.
(4) If it is the routine business practice of a provider to refuse service to an individual with uncollected debt, the provider may include uncollected copayments under this practice.
(5) A provider shall give advance notice to a recipient with uncollected debt before services can be denied.
(6) A provider shall not waive a copayment obligation as imposed by the department for a recipient.
(7) A pharmacy provider or supplier, including a pharmaceutical manufacturer as defined in 42 USC 1396r-8(k)(5), or a representative, employee, independent contractor or agent of a pharmaceutical manufacturer, shall not make a copayment for a recipient.
(8) A parent or guardian shall be responsible for a copayment imposed on a dependent child under the age of twenty-one (21).

Section 4. Provisions for Recipients in Medicaid Managed Care. If a copayment is imposed on a recipient receiving services through a managed care entity operating in accordance with 907 KAR 1:705, it shall be in accordance with the limitations and provisions established in this administrative regulation.

Section 5. Effective Date. The provisions of this administrative regulation shall be effective on and after August 1, 2002.

MIKE ROBINSON, Commissioner
MARCIA R. MORGAN, Secretary
APPROVED BY AGENCY: July 30, 2002
FILED WITH LRC: August 1, 2002 at 4 p.m.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Teresa Goodrich or Stuart Owen
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the provisions relating to imposing and collecting copayments from Medicaid recipients.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to reduce current reimbursement rates as they relate to pharmacy costs in accordance with state law.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes directing the formulation of policies that develop and maintain the health of citizens within the Commonwealth.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides guidelines and criteria for imposing and collecting copayments from Medicaid recipients.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Current Medicaid enrolled pharmacies and recipients will be affected by this regulation.

- 698 -
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Pharmacies currently enrolled with the Medicaid Program will see a reduction in the dispensing fees for medications filled for certain Medicaid recipients. Certain Medicaid recipients will be responsible for a $1 copayment for each Medicaid covered prescription.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: The current fiscal year budget will not need to be adjusted to provide funds for implementing this administrative regulation.

(a) Initially: A savings of $8 million ($5,592,000 federal funds and $2,408,000 state matching funds).

(b) On a continuing basis: Same, depending upon utilization.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used to implement and enforce this administrative regulation are federal funds authorized under Title XIX and Title XXI of the Social Security Act and state matching funds of general and agency appropriations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: A copayment of $1 for prescription medicine will be required for certain Medicaid recipients.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation establishes a $1 copayment for a prescription medicine for some Medicaid recipients.

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

STATEMENT OF EMERGENCY
921 KAR 4:116E

On August 2, 2002, the President made Low Income Home Energy Assistance Program (LHEAP) emergency funds available to states experiencing extreme heat. Kentucky received a share of these funds to provide immediate relief from the heat. This emergency administrative regulation is being promulgated pursuant to KRS 13A.190(1)(a) to meet an imminent threat to public health, safety, or welfare, to prevent the loss of federal funds, and to meet a deadline established by federal law. Therefore, in order to implement the program at the earliest possible date to prevent the potential loss of lives of the elderly, age sixty-five (65) or older, children under the age of six (5), and those with a medical condition or disability that could become life threatening due to hot weather, the cabinet requests that this emergency administrative regulation become effective immediately. An ordinary administrative regulation would not allow the agency sufficient time to administer the emergency funds for summer cooling. This emergency administrative regulation will be replaced by an ordinary administrative regulation.

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

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(Emergency Amendment)

921 KAR 4:116E. Low Income Home Energy Assistance Program or "LHEAP".

RELATES TO: KRS 194B.010, 194B.050(1), (2) 1949.060, 194B.070, [194B.090(1)(h)] 45 CFR 95 Subpart H, 42 USC 8621 through 8627[, 8620(c), EC 56-731]

STATUTORY AUTHORITY: [KRS 194B.050(1) 45 CFR 96 Subpart H, 42 USC 8621]

EFFECTIVE: August 13, 2002

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children has responsibility under 42 USC 8621 to administer the Low Income Home Energy Assistance Program to help low income households meet the cost of home energy. This administrative regulation establishes the eligibility and benefits criteria for heating and cooling assistance.

Section 1. Definitions. (1) "Agency" means Kentucky Association for Community Action or "KACA", or local community action agency contracted to provide LHEAP.

(2) "Annual low income home energy assistance program state plan" means an application prepared in accordance with 42 USC 8624(c) and 45 [42 CFR 96, Subpart H, sections 96.83 through 96.87 (96.83 through 96.87)]

(3) (c)(1) "Authorized representative" means the person who presents to the agency [cabinet of its representative] a written statement signed by the head of the household, or spouse of the head of the household, authorizing that person to apply on the household's behalf.

(4) (c) "Crisis component" means the component that provides assistance to households that [which] are experiencing a home heating crisis.

(5) [42] "Economic unit" means one (1) or more persons sharing common living arrangements.

(6) (b) (2) "Emergency" means the household is:

(a) Without heat at the time of application;

(b) [or will be] Disconnected from a utility service within forty-eight (48) hours;

(c) Without bulk fuel within four (4) days; or

(d) Without cooling at the time of application.

(c) "Energy" means electricity, gas, and any other fuel that is used to sustain reasonable living conditions.

(8) [42] "Gross household income" means all earned and unearned income, including lump sum payments received by the household during the calendar month preceding the month of the application.

(9) [42] "LHEAP" means low income energy assistance program and shall refer to the heating assistance portion of LHEAP.

(10) "Household" means an [any] individual or group of individuals who are living together in the principal residence as one (1) economic unit and who purchase energy in common.

(11) "Household demographics" means an applicant's:

(a) Address;

(b) Household composition that includes:

1. Size;

2. Age group;

3. Relationship to applicant;

4. Sources of income;

5. Liquid assets;

6. Type of housing; and

(c) Heat source.

(12) "Life threatening situation" means the household is or shall [will] be without heat or cooling within eighteen (18) [forty-eight (48)] hours and temperatures are at a dangerous level as determined by the National Weather Service.


(13) "Principal residence" means the place:

(a) Where a person is living voluntarily and not on a temporary basis;

(b) An individual [is] considers home;

(c) To which, when absent, an individual [is] intends to return; and

(d) Is identifiable from another residence, commercial establishment, or institution [other residence, commercial establishments, or institutions].

(14) "Subsidy component" means the heating component that provides an eligible household with:

(a) A one (1) time annual payment to the household's energy
Section 2. Application. (1) A household or authorized representative applying for LIHEAP shall provide to an agency the following:
(a) Proof of household income;
(b) Statement of liquid resources;
(c) The most recent:
1. Heating bill;
2. Cooling bill; or
3. Verification that heating or cooling [heat] is included in the rent;
(d) Statement of household demographics; and
(e) [69] A Social Security number for each household member, or permanent residency card.
(2) An application shall not be considered complete until the [all] required information, as specified in subsection (1)(a) through (e) of this section, is received by the agency.

Section 3. Eligibility Criteria. (1) Income. Gross household income shall be at or below 110% of the official poverty income guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services, under authority of 42 USC 9902(2).
(2) Liquid assets.
(a) The household shall have total liquid assets at the time of application of not more than:
1. $1,500; or
2. $4,000, if a member of the household has an illness which requires liquid resources to be accessed regularly for medical and living expenses.
(b) Excluded assets shall be:
1. Cars;
2. Household or personal belongings;
3. Principal residence;
4. Cash surrender value of insurance policies;
5. Prepaid burial policies;
6. Real property; and
7. Cash on hand or in a bank account if the cash is income considered under subsection (1) of this section.
(3) The household shall be responsible for paying:
(a) Home heating;
(b) Cooling costs; or
(c) [shall pay] Heating or cooling costs as an undesignated portion of the rent.
(4) Crisis component. In addition to meeting the criteria in subsections (1) through (3) of this section, an applicant shall:
(a) Be within four (4) days of running out of fuel, if propane, fuel oil, coal, wood, or kerosene is the primary heat source; or
(b) Have received a past-due or disconnect notice, if natural gas or electric is the primary heat source; or [and]
(c) Have received a notice [notice] of eviction for nonpayment of rent, if home heating cost is included as an undesignated portion of the rent.
(5) Summer cooling component. In addition to meeting the criteria in subsections (1) through (3) of this section, to be eligible to receive a window air conditioner unit, an applicant shall:
(a) Need access to a window unit air conditioner; and
(b) Have a household member who:
1. Has a health condition that requires cooling to prevent further deterioration, verified by a physician’s statement, prepared on letterhead;
2. Is sixty-five (65) years of age or older; or
3. Is under the age of six (6) years.

Section 4. Benefits [Benefit Levels]. (1) For the subsidy component (69) a payment to the household’s heating fuel provider shall be made for the full benefit amount as follows:
(a) (b)
(b) Benefits shall be determined;
1. From fuel usage data and from the average heating season energy cost for the six (6) primary heating fuels; and
2. [Prior to the implementation of the subsidy component.

(2) [69] A household shall receive benefits based on poverty level and the type of heating fuel.
(c) [69] A household with the lowest income and highest heating season fuel cost shall receive the highest benefits.
(d) Benefits shall be a percentage of the average annual heating season energy cost of the primary heating fuel.
(e) [69] A household living in federally assisted housing or [and] receiving a utility allowance shall be eligible for lower benefits than provided to other households.
(3) For the crisis component, benefit shall be the minimum amount necessary to alleviate a housing crisis. [A benefit to a household] including a household living in federally assisted housing as follows:
(a) [shall be the minimum amount necessary to alleviate the crisis.] A benefit may be:
1. Fuel or other energy source for heating;
2. [A space heater loaned on a temporary basis until]
3. Other resource is located which shall alleviate the crisis;
4. [Blankets or sleeping bags; or]
5. Emergency shelter. [Space heaters shall be a temporary service, loaned to a household until fuel is delivered or another resource is located which will alleviate the crisis.]
(b) (69) In determining the minimum amount of assistance, the [contracting] agency shall take into consideration a direct subsidy for payment of utility cost received by the household from another program.
(c) (69) A household may receive assistance more than once, but shall not receive more than the maximum allowable for the primary heating fuel, minus a required copayment. The maximum allowable benefit shall equal cost for delivery up to [of]:
1. Two (2) tons [One (1) ton] of coal;
2. Two (2) cords [One (1) cord] of wood;
3. 200 [400] gallons of propane;
4. 200 [400] gallons of fuel oil;
5. 200 [400] gallons of kerosene; or
6. $125 [400] for natural gas or electric.
(d) [69] A household threatened with eviction whose heat is an undesignated portion of the rent shall not receive more than the maximum allowable payment for the primary heating fuel.
(e) (69) An eligible household, including a household residing in:
1. Subsidized housing, with an income at or above seventy-five [seventy-eight - (58)] percent of the poverty level shall make a copayment equal to a percentage of the benefit amount needed to relieve the crisis.
2. [A household residing in] Subsidized housing and receiving a utility allowance shall pay a higher copayment amount.
(f) (69) The copayment amount shall be based on the housing type and the household's percentage of poverty and shall be as follows:

<table>
<thead>
<tr>
<th>Percent Of Poverty</th>
<th>Copayment Percentage of Benefit for Households Residing in Nonsubsidized Housing</th>
<th>Copayment Percentage of Benefit for Households Residing in Subsidized Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 74% [22%]</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>75 - 100%</td>
<td>10%</td>
<td>15%</td>
</tr>
<tr>
<td>[28 - 55%]</td>
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</tr>
<tr>
<td>101 - 110%</td>
<td>15%</td>
<td>20%</td>
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<tr>
<td>[56 - 83%]</td>
<td></td>
<td></td>
</tr>
<tr>
<td>111% and Over</td>
<td>20%</td>
<td>25%</td>
</tr>
</tbody>
</table>

(3) For the cooling component benefits, a household shall be eligible for:
(a) (1) Time annual payment to:
1. The household's electric utility provider;
2. The landlord if the cost of cooling is included as an undesignated portion of the rent; or
3. Purchase a window air conditioner unit, as described in Section 3(69) of this administrative regulation;
(b) Benefits shall be based on:
1. The household's level of poverty;
2. Subsidized housing with...
Section 5. Benefit Delivery Methods. (1)(a) Payment under the subsidy component shall be authorized by a one (1) party check made payable to the household's: 
1. Energy provider; or
2. Landlord, if the cost of heating is included as an undisputed portion of rent.
(b) At the recipient's discretion, the total benefit may be made in separate authorizations to more than one (1) provider if heating services were provided by more than one (1) provider. However, the total amount of the payments shall not exceed the maximum for the primary source of heating.
(2) For the crisis component, a direct cash payment shall not be made to the recipient. A payment shall be authorized to:
(a) The energy provider by a one (1) party check upon delivery of fuel or reinstallation, or continuation of service;
(b) [as] To a vendor who supplies heaters, blankets, or emergency lodging; or
(c) The landlord, if heating cost is included in the rent.
(3) For the cooling component, cash benefits shall be paid to the:
(a) Household's electric utility provider; or
(b) Landlord, if cooling cost is included in the rent.

Section 6. Right to a Fair Hearing. (1) An individual who has been denied assistance or whose application has not been acted upon in accordance with the time standards in Section 8 of this administrative regulation [reasonable promptness] shall be provided an administrative review by the agency.
(2) If the applicant is not satisfied with the decision, a hearing may be requested and held [have a right to request and receive a fair hearing] in accordance with 29 CFR 2055.

Section 7. Vendor Selection for Nonmetered Fuel Provider. (1) Subsidy component.
(a) The [contracting] agency shall solicit vendors for all nonmetered fuels and shall establish an approved vendor listing.
(b) The [contracting] agency shall place an advertisement for interested vendors in the local newspaper with the largest circulation and shall contact all vendors in good standing that participated in the program during the last contract period.
(c) A potential vendor shall provide the [contracting] agency with a fixed price in gals for kerosene, propane or fuel oil, cords for wood, or tons for coal, delivered or picked up by the client.
(d) A prospective vendor shall [sign Low Income Home Energy Assistance Program (LIHEAP) Vendor Agreement] to comply with the requirements in Section 11 of this administrative regulation and shall:
1. Allow [contracting] agency and authorized federal or state representatives to inspect records upon request;
2. Maintain records to financial transactions regarding LIHEAP [HEAP] for a period of three (3) years;
3. Inform the agency if information is received [he has knowledge] that a household has obtained a benefit by misinformation;
4. Provide fuel as specified and at the price quoted;
5. Comply with federal and state law pertaining to equal employment opportunity; and
6. Comply with billing procedures established by the agency.
(e) A household shall select a vendor from the agency's approved vendor list.
(2) Crisis component.
(a) Each agency shall perform a local price survey for each bulk fuel type and shall establish a reasonable price for quality of fuel, delivery and on-site pickup for each fuel type.
(b) Each agency shall maintain a list of [all] approved vendors and prices throughout the crisis component.
(c) A household may use its regular vendor if the price does not exceed the established price for that fuel type and mode of delivery.
(d) For a household with no regular vendor, the agency shall select from its vendor list the lowest priced vendor capable of providing fuel within:
1. Eighteen (18) hours for a life-threatening situation; or
2. Forty-eight (48) hours for an emergency situation.

Section 8. Time Standards. (1) Under the subsidy component, an eligibility determination shall be made by the agency within five (5) working days [promptly] after receipt of required information as specified in Section 2 of this administrative regulation [completed and signed application, submitted to LIHEAP, if necessary to complete the application].
(2) Under the crisis and cooling component, benefits [completed application] shall be authorized [processed] so that:
(a) [the] Crisis situation is resolved within forty-eight (48) hours; or
(b) [and in a] Life threatening situation is resolved within eighteen (18) hours.
(3) An applicant shall have five (5) working days from the date of application to provide required information to the agency [necessary to complete the application].

Section 9. Effective Dates. (1) Implementation and termination dates for LIHEAP depends [HEAP, depending] upon the availability of funds, shall be:
(a) An application for the subsidy component shall be accepted within the time period the department designates in the annual LIHEAP state plan submitted to the federal government.
(b) An application for the crisis component shall be accepted beginning on the date specified in the annual LIHEAP state plan and ending by March 31 or until all available funds have been expended. Applications shall be processed in the order received, until funds are expended.
(2) If additional federal funds are made available, LIHEAP [HEAP] may be reactivated after termination under the same terms and conditions as shown in this administrative regulation [if federal funds are available].

Section 10. Allocation of Federal Funds. (1) An amount of federal funds sufficient to provide benefits to [all] eligible households that apply during the subsidy application period shall be reserved for the subsidy component.
(2) The balance of benefit funds for LIHEAP [HEAP] shall be reserved for the crisis component as follows:
(a) [as] Benefit funds reserved for the crisis component shall be allocated based upon each local administering agency's percentage of the statewide population or below 100 percent of the poverty level.
(b) $400,000 of the crisis benefit funds shall be identified as contingency funds and allocated to agencies as needed.
(3) $25,000 or more shall be reserved for the Preventive Assistance Program to assist families with an energy payment not to exceed $300 for each family if the payment shall:
(a) Prevent the removal of a child from the family; or
(b) Assist in reunifying a child with the family.
(4) A household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and
(5) A landlord shall not increase the rent of a household due to receipt of this payment.
Section 12. 2002 Emergency Cooling Effective Date. (1) The emergency cooling component shall be effective August 19, 2002. 
(2) Applications for federal emergency funds shall be processed until funds are obligated. [Incorporation by Reference. (1) "Low Income Home Energy Assistance Program (LIHEAP) Vendor Agreement," August 19, 2002, is incorporated by reference. 
(2) This material may be inspected, copied, or obtained at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRC: August 13, 2002 at 1 p.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Shirley Eldridge, Coordinator
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes eligibility criteria and benefits for heating and cooling assistance to the Low Income Home Energy Assistance Program or "LIHEAP".
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish the eligibility and benefit criteria for "LIHEAP".
(c) How this administrative regulation conforms to the content of the authorizing statutes: The cabinet has responsibility under 42 USC 8621 to administer LIHEAP to assist households in meeting the cost of home energy. This administrative regulation establishes the eligibility and benefits criteria for heating assistance.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes eligibility and benefits criteria for subsidy and crisis components to assist low income households in meeting their energy needs and establishes a copayment requirement for some households that are in crisis situation based on the percentage of poverty.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment increases maximum benefit levels in a crisis situation, increases income levels for copayments for households in a crisis situation, and establishes benefit levels and eligibility requirements for the cooling component. This amendment also clarifies the fair hearing process.
(b) The necessity of the amendment to this administrative regulation: Refer to (2)(a).
(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this regulation complies with Kentucky's LIHEAP program for the provisions of heating, and if funds are available, cooling.
(d) How the amendment will assist in the effective administration of the statutes: This amendment sets out the guidelines regarding the provisions of assistance to purchase heating and cooling sources.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: At the end of June 2002, there were 165,000 needy individuals served for the LIHEAP Program. This amendment will affect investor owned utilities, municipal utilities owned by local governments, and bulk fuel vendors.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The provision of benefits will assist low or no income households in paying for energy costs to maintain heating and cooling services. This amendment reduces the amount of payments in arrears to investor owned and municipal utilities and increases payment for bulk fuel vendors.
(5) Provide an estimate of how much it will cost to implement this administrative regulation: 
(a) Initially: LIHEAP is a 100% federally funded capped program. Emergency federal cooling allocation of $3,196,722 released August 8, 2002.
(b) On a continuing basis: Refer to 5(a).
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: LIHEAP is 100% federally funded through the Department for Health and Human Services.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: If new, or by the change if it is an amendment: There are no fees and no increase in funding for this amended administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees in this administrative regulation.
(9) TIERING: Is tiering applied? Tiering is not applied. Federal statutes mandate that eligibility requirements be in a like manner on a statewide basis.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 8621 and 45 CFR 96, Subpart H.
2. State compliance standards. None
3. Minimum or uniform standards contained in the federal mandate. 42 USC 8621 and 45 CFR 96, Subpart H.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None

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. Municipal utilities.
3. State the aspect or service of local government to which this administrative regulation relates. This regulation relates to municipal utilities.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulations 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. The provision of energy assistance benefits helps low income households pay for heating and cooling. Municipal utilities, and thus the cities, will benefit through reductions in the amount of payments in arrears and through helping households to maintain service.

Other Explanation: Revenues (+ / -):
Expenditures (+ / -): Other Explanation:
KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(As Amended at ARRS, August 13, 2002)

11 KAR 15:080. High school reporting.

RELATES TO: KRS 164.7885(4)
STATUTORY AUTHORITY: KRS 164.748(4), 164.7885(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) requires the authority to promulgate administrative regulations for the administration of the Kentucky Educational Excellence Scholarship Program. This administrative regulation establishes the deadline for high schools to report changes in KEES data to the authority.

Section 1. The high school shall submit additions, changes, or corrections to a student's high school grade point average or ACT score to the authority not later than three (3) months after an eligible postsecondary student begins enrollment at a participating institution for the first time after graduation from high school (six (6) months after an eligible high school student graduates). The authority shall not accept any additions, changes, or corrections to a student's high school grade point average or ACT score submitted by the high school after that date and the student's eligibility shall be determined based on that information as of that date 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.

MARY JO YOUNG, Chairman
APPROVED BY AGENCY: April 30, 2002
FILED WITH LRC: June 13, 2002 at 10 a.m.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(As Amended at ARRS, August 13, 2002)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards by the American Correctional Association. This administrative regulation establishes the policies and procedures for the Blackburn Correctional Complex.

Section 1. Incorporation by Reference. (1) "Blackburn Correctional Complex Policies and Procedures", August 13 [June 13], 2002 [December 12, 2003], is incorporated by reference, Blackburn Correctional Complex Policies and Procedures:

BCC 01-07-01 Extraordinary Occurrence Reports (Amended 8/13/02 [6/12/02])
BCC 01-09-01 Legal Assistance for Staff
BCC 01-11-01 Roles of Consultants, Contract Employees, Volunteers, and Employees of Other Agencies Relationships with Public, Media, and Other Agencies (Amended 8/13/02 [6/12/02])
BCC 01-13-01 Public Information and News Media Access
BCC 01-15-01 Internal Affairs Office
BCC 01-16-01 Tours of Blackburn Correctional Complex
BCC 01-19-01 Inmate Access to BCC Staff
BCC 02-01-01 Inmate Census
BCC 02-02-01 Fiscal Responsibility (Amended 9/12/02)
BCC 02-02-02 Fiscal Management: Accounting Procedures
BCC 02-02-03 Fiscal Management: Checks (Amended 12/12/01)
BCC 02-02-04 Fiscal Management: Budget (Amended 8/13/02 [6/12/02])
BCC 02-02-05 Fiscal Management: Insurance
BCC 02-02-06 Fiscal Management: Audits
BCC 02-04-01 Billing Method for Specialized Health Services
BCC 02-05-01 Property Inventory
BCC 02-06-01 Purchasing
BCC 02-07-01 Inmate Personal Accounts (Amended 8/13/02 [6/12/02])
BCC 04-03-01 Educational Assistance Program
BCC 05-01-01 Inmate Participation in Authorized Research
BCC 06-02-01 Release of Records
BCC 06-02-02 Offender Records (Amended 12/12/01)
BCC 06-03-01 Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 06-04-01 Natural Disaster Plan (Tornado)
BCC 06-05-01 Emergency Preparedness Plan Manual (Amended 8/13/02 [6/12/02])
BCC 06-04-01 Fire Safety Plan, Drills and Related Duties (Amended 12/12/01)
BCC 06-05-01 Duties of Fire Safety and Sanitation Officer
BCC 06-06-01 Storage Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
BCC 09-01-01 Inmate Weather or Emergency Conditions Operation (Added 12/12/01)
BCC 09-02-03 Regulation of Inmate Movement (Added 12/12/01)
BCC 09-03-01 Inmate Identification
BCC 09-10-03 Development of Institutional Post Orders
BCC 09-14-01 Prohibiting Inmate Authority Over Other Inmates
BCC 09-16-01 Security Activity Log (Added 12/12/01)
BCC 09-18-01 Use of State Vehicles and Staff-owned Vehicles
BCC 09-19-01 Duties and Responsibilities of the Institutional Captain
BCC 10-01-02 Temporary Segregation Holding Area
BCC 11-01-01 Menu and Special Diets
BCC 11-02-01 Food Service: Inspection, Health Protection and Sanitation
BCC 11-03-01 Food Service: Meals
BCC 11-04-01 Dining Room Guidelines
BCC 11-05-01 Food Service Security: Knife & Other Sharp Instrument and Utensil Control
BCC 11-06-01 Purchasing, Storage and Farm Products
BCC 11-07-01 Food Service Operations Manual
BCC 12-02-01 Personal Hygiene Items (Amended 6/12/02)
BCC 12-02-02 Clothing, Linens, Bedding Issuance and Shower Facilities (Amended 8/13/02 [6/12/02])
BCC 12-05-01 Barber Shop Services
BCC 12-06-01 BCC Housekeeping Plan
BCC 13-01-01 Sick Call and Pill Call (Amended 8/13/02 [6/12/02])
BCC 13-02-01 Administration and Authority for Health Services Provisions of Health Care Delivery
BCC 13-03-01
EKCC 02-08-04 Warehouse Policy and Procedure
EKCC 02-11-01 Purchase and Supply Requisition
EKCC 02-12-01 Fiscal Management: Audits
EKCC 02-13-01 Fiscal Management: Accounting Procedures (Amended 6/12/02)
EKCC 02-14-01 Screening Disbursements from Inmate Personal Accounts (Amended 6/12/02)
EKCC 04-01-01 Staff Participation in Professional Organizations and Conferences; Provision for Leave and Reimbursement for Expenses
EKCC 04-02-01 Emergency Preparedness Training
EKCC 04-02-02 Advisory Training Committee
EKCC 05-01-01 Inmate Participation in Authorized Research
EKCC 05-02-01 Information System
EKCC 06-01-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel and Volunteers
EKCC 06-03-01 Case Record Management
EKCC 10-02-01 Special Management Unit: Operating Procedures and Living Conditions
EKCC 10-02-02 Special Management Inmates: Assignment, Classification, Reviews and Release
EKCC 10-02-03 Grooming Standards for Special Management
EKCC 11-02-01 Meal Planning for General Population
EKCC 11-02-02 Food Service: Purchasing, Storage and Farm Products
EKCC 11-03-01 Food Service: Menu, Nutrition and Special Diets
EKCC 11-04-01 Food Service: Inspections and Sanitation
EKCC 11-04-02 Medical Screening of Food Handlers
EKCC 11-05-01 Food Service: Security
EKCC 11-06-01 Food Service: Kitchen and Dining Room Inmate Worker Responsibilities
EKCC 11-07-01 Dining Room Guidelines
EKCC 11-08-01 OJT Food Service Training Placement
EKCC 12-01-01 Vermin and Insect Control
EKCC 12-02-01 Inmate Dress and Use of Access Areas
EKCC 13-01-01 Pharmacy Policy
EKCC 13-02-01 Emergency Medical Procedure
EKCC 13-02-03 Consultations
EKCC 13-02-04 Medical Services
EKCC 13-02-05 Health Evaluations
EKCC 13-02-06 Sick Call
EKCC 13-02-07 First Aid Kits
EKCC 13-05-01 Aids and Hepatitis B
EKCC 13-07-01 Serious Illness, Major Injuries, Death
EKCC 13-08-01 Psychiatric and Psychological Services
EKCC 13-08-02 Psychiatric and Psychological Services Team
EKCC 13-08-03 Suicide Prevention and Intervention Program
EKCC 13-08-04 Detoxification
EKCC 13-09-01 Dental Services for Special Management Units
EKCC 13-10-01 Optometric Services
EKCC 13-12-02 Resident Transfer/Medical Profiles
EKCC 13-13-01 Syringes, Needles and Sharps Control
EKCC 13-14-01 Fire and Emergency Evacuation Plan
EKCC 13-15-01 Medical Department - General Housekeeping, Sanitation and Protection Standards and Requirements
EKCC 13-16-01 Medical Records
EKCC 14-02-01 Personal Hygiene Items: Issuance and Replacement Schedule
EKCC 14-04-01 Inmate Legal Services
EKCC 14-05-01 Inmate Grievance Procedure
EKCC 14-07-01 Inmate Rights and Responsibilities
EKCC 15-01-01 Hair and Grooming Standards: Inmate Barber Shop
EKCC 15-02-01 Restricted Wing
EKCC 15-05-01 Restoration of Forfeited Good Time
EKCC 15-06-01 Due Process/Disciplinary Procedure
EKCC 16-01-01 Inmate Visiting
EKCC 16-02-01 Inmate Correspondence
EKCC 16-03-01 Inmate Telephone Procedures
EKCC 16-05-01 Inmate Access to and Communication with EKCC Staff
EKCC 16-05-02 Unit Bulletin Boards
EKCC 17-01-01 Authorized Inmate Personal Property
EKCC 17-01-02 Personal Property Control
EKCC 17-02-01 Assessment/Orientation
EKCC 17-04-01 Inmate Reception Process at the EKCC
EKCC 18-01-01 Inmate Classification
EKCC 18-10-01 Preparole Progress Report
EKCC 18-13-01 Mentiuous Housing
EKCC 18-13-02 Restricted Wing - Enhanced Supervision Unit
EKCC 18-13-03 Enhanced Supervision Unit
EKCC 18-13-04 Minimum Security Unit: Operating Procedures and Living Conditions (Amended 6/12/02 [6/12/02])
EKCC 19-04-01 Inmate Work Program
EKCC 20-01-01 Educatiosn Program
EKCC 21-01-01 Library Services
EKCC 22-02-01 Recreation and Inmate Activities
EKCC 23-01-01 Religious Services
EKCC 23-01-02 Muslim Services - Ramadan
EKCC 24-01-01 Social Services and Counseling Program
EKCC 24-02-01 Pathfinder's (Added 6/12/02)
EKCC 25-02-01 Inmate Discharge Procedure
EKCC 25-03-01 Prerelease Preparation
EKCC 25-04-01 Inmate Furloughs
EKCC 25-06-01 Community Center Program
EKCC 26-01-01 Citizens Involvement and Volunteers
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

VERTERN L. TAYLOR, Commissioner
APPROVED BY AGENCY: June 10, 2002
FILED WITH LRC: June 13, 2002 at 2 p.m.

JUSTICE CABINET
Kentucky Department of Corrections
(As Amended at ARRS, August 13, 2002)

501 KAR 6:999. Corrections secured policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or of its divisions [any division therein]. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) The following material is incorporated by reference: "Department of Corrections Secured Policies and Procedures, August 13 [May 15] [March 13], 2002."

BCC 08-04-02 Immediate Release of Inmates from Locked Areas [Added 1/15/02]
BCC 09-04-01 Construction Crew Entry, Exit and Regulations [Added 1/15/02]
BCC 09-04-02 Complex Entry and Exit [Amended 1/15/02]
BCC 09-05-01 Key Control [Amended 1/15/02]
BCC 09-06-02 Transportation to Courts [Amended 1/15/02]
BCC 09-07-01 Drug Abuse and Intoxicants Testing [Amended 1/15/02]
BCC 09-08-01 Weapons and Related Security Device Control [Amended 1/15/02]
BCC 09-08-02 Use of Restraints [Added 1/15/02]
BCC 09-15-01 Search Policy and Disposition of Contraband [Amended 1/15/02]
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BCC 09-17-01 Institutional Supervisor Inspections [Amended 4/15/02]
BCC 09-20-01 Inmate Death [Amended 1/15/02]
BCC 09-21-01 Tool Control [Amended 1/15/02]
BCC 09-22-01 Emergency Power and Communication System [Amended 1/15/02]
BCFC 08-01-01 Bell County Forestry Camp’s Institutional Emergency Plan
BCFC 08-09-02 OSHA Hazard Communication Program
BCFC 08-10-01 Bell County Forestry Camp Emergency Response Team
BCFC 09-07-01 Key Control
BCFC 09-11-01 Guidelines for Contractors
BCFC 09-15-01 Count Procedure and Regulation of Inmate Movement
BCFC 09-16-01 Inmate Death
BCFC 09-19-01 Tool Control
BCFC 09-20-01 Weapons, Chemical Agents, and Related Security Device Control
BCFC 09-21-01 Transportation of Inmates
CPP 8.3 Emergency Planning
CPP 8.4 Emergency Preparedness (Amended 8/13/02 [6/15/02])
CPP 8.5 Emergency Squads
CPP 9.1 Use of Force (Amended 8/13/02 [6/15/02])
CPP 9.3 Security Threat Groups
CPP 9.7 Storage, Issue, and Use of Weapons Including Chemical Agents
CPP 9.9 Transportation of Inmates
CPP 9.10 Security Inspections
CPP 9.11 Tool Control
FCDC 09-01-02 Institutional Entry and Exit Surveillance and Perimeter Security Procedures
FCDC 09-01-03 Firearms, Mechanical Restraints, and Emergency Equipment
FCDC 09-03-01 Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
FCDC 09-07-01 Guidelines for Contract and Construction Personnel
FCDC 09-09-01 Tool Control
FCDC 09-12-01 Key Control
FCDC 09-14-01 Count Procedures
FCDC 09-20-01 Collection, Preservation, and Identification of Physical Evidence
GRCC 08-03-01 Escape Plan
GRCC 08-05-01 Emergency Squad: Selection, Training and Evaluation
GRCC 08-07-01 Natural Disaster or Earthquake (Amended 8/13/02 [6/15/02])
[GRCC 09-03-04 Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (Deleted 8/15/02)]
GRCC 09-04-01 Inmate Death (Deleted 5/15/02)
GRCC 09-05-01 Construction Crew Entry and Exit Guidelines (Amended 5/15/02)
GRCC 09-06-01 Entry and Exit Procedures (Amended 8/13/02 [6/15/02])
GRCC 09-07-01 Institutional Inspections (Amended 8/13/02 [6/15/02])
GRCC 09-08-01 Issuance of Weapons, Ammunition and Chemical Agents (Amended 8/13/02 [6/15/02])
GRCC 09-09-01 Contraband Control; Collection, Preservation, Disposition of Contraband and Identification of Physical Evidence (Added 5/15/02)
GRCC 09-10-01 Emergency Release from Locked Areas (Amended 5/15/02)
GRCC 09-11-01 Tool and Equipment Control (Amended 8/13/02 [6/15/02])
GRCC 09-12-01 Key Control (Amended 5/15/02)
GRCC 09-15-01 Radio Assignment (Added 5/15/02)
KSP 08-02-05 Storage of Flammables and Dangerous Chemicals and Their Use (Added 1/15/02)
KSP 08-03-01 Emergency Plans and General Policy (Added 4/15/02)
KSP 08-03-02 General Procedures and Plans for Riots and Disturbances (Added 1/15/02)
KSP 08-03-03 Master Riot Control Plan (Added 1/15/02)
KSP 08-03-04 Hostage Plans (Added 1/15/02)
KSP 08-03-05 Work Slowdown, Work Stoppage, Work Strikes, by Correctional Employees (Added 1/15/02)
KSP 08-03-06 Escape Procedure (Added 1/15/02)
KSP 08-03-08 Bomb Plans (Added 1/15/02)
KSP 08-05-01 Emergency Squad (Added 1/15/02)
KSP 09-01-01 Use of Force (Added 1/15/02)
KSP 09-07-01 Weapons Control (Added 1/15/02)
KSP 09-07-01 Searches and Preservation of Evidence (Amended 1/15/02)
KSP 09-09-01 Transportation of Inmates (Added 1/15/02)
KSP 09-10-01 Institutional Security Inspections (Added 4/15/02)
KSP 09-10-02 Security Inspection Guidelines for Cellhouse Officers (Added 1/15/02)
KSP 09-11-01 Tool Control (Added 1/15/02)
KSP 09-12-01 Key Control (Added 1/15/02)
KSP 09-13-05 Outside Hospital Duty, Inpatient and Outpatient Care for Inmates (Added 1/15/02)
KSP 09-14-01 Count Procedures (Added 1/15/02)
KSP 09-15-01 Entry and Exit Procedures (Added 1/15/02)
KSP 09-15-04 Institutional Limited Access (Added 1/15/02)
KSP 09-24-01 Western Kentucky Correctional Complex (Added 1/15/02)
KSR 08-01-01 Control of Flammable, Hazardous, Toxic and Caustic Chemical and Materials
KSR 08-01-02 Corrections Emergency Response Team
KSR 08-01-03 Emergency Medical Transportation
KSR 08-01-04 Escape Response Procedure
KSR 09-09-04 Box 1 Entry and Exit Procedure
KSR 09-09-04 Contraband, Dangerous Contraband and Search Policy
KSR 09-09-07 Construction Crew Entry and Exit
KSR 09-09-07 Count Procedures
KSR 09-09-07 Gate 1 Entrance and Exit Procedure
KSR 09-09-07 Tunnel Gate Entrance and Exit Procedure
KSR 09-09-07 Outside Stockade Gate (Box 01)
KSR 09-09-07 Tool Control
KSR 09-09-07 Security Inspection Plan
KSR 09-09-07 Key Control
KSR 09-09-07 Issuance of Firearms and Chemical Weapons From Arms Vault
KSR 09-09-07 Officers Daily Housing Security and Safety Log, Security Index, Correctional Security Guide and Post Orders
KSR 09-09-07 Issuance of Institutional Portable Radios
KSR 09-09-07 Transportation of Inmates
KSR 09-09-07 Collection, Preservation and Identification of Physical Evidence
KSR 09-09-07 Forced Cell Move in Medium or Maximum Area
KSR 10-01-01 Special Management - Behavior Problem Control
LCC 08-03-01 Emergency Squad: Selection, Training and Evaluation (Added 5/15/02)
LCC 08-03-02 Priority Posts and Emergency Security Posts Assignments for Daily Operation (Amended 8/13/02 [6/15/02])
[LLCC 09-01-03 Security Post Coverage (Deleted 6/15/02)]
LLCC 09-06-01 Central Control Center Operating Procedure (Entry Into Institutional Compound) (Amended 8/13/02 [6/15/02])
[LLCC 09-06-02 Central Control Count Documentation (Deleted 6/15/02)]
LLCC 09-06-01 Central Control Count Documentation (Deleted 6/15/02)
LLCC 09-07-01 Count Procedure and Documentation (Amended 8/13/02 [6/15/02])
[LLCC 09-07-02 Count Documentation (Deleted 6/15/02)]
LLCC 09-08-01 Regulation of Inmate Movement (Amended 8/13/02 [6/15/02])
LLCC 09-08-02 Unit Security and Emergency Procedure (Amended 8/13/02 [6/15/02])
TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Vehicle Enforcement
(As Amended at AARRS, August 13, 2002)

601 KAR 1:005. Safety administrative regulation.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281.600 authorizes the Transportation Cabinet to promulgate administrative regulations relating to safety requirements. This administrative regulation establishes requirements for motor carriers operating in Kentucky.

Section 1. Definitions. (1) "City bus" is defined in KRS 281.013(1).
(2) "Daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.
(3) "Farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private motor carrier is using a vehicle:
(a) To transport agricultural products from his farm;
(b) To transport farm machinery or farm supplies to his farm; or
(c) Generally thought of as farm machinery; and
(d) Which is not transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 601 KAR 1:025.
(4) "Load limit" means the seating capacity established by the manufacturer for a passenger-carrying vehicle plus an additional twenty-five (25) percent.
(5) "Suburban bus" is defined in KRS 281.013(2).

VETRNER L. TAYLOR, Commissioner
APPROVED BY AGENCY: May 9, 2002
FILED WITH LRC: May 15, 2002 at 8 a.m.

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(6) "Utility" means an entity which provides water, electricity, natural gas, sewage disposal, telephone service, television cable, or community antenna service.

Section 2. Governing Federal Regulations. A commercial motor vehicle and its operator meeting the definitions set forth in 49 CFR 390.5 operating for-hire or in private carriage, interstate or intrastate, except as set forth in Section 3 of this administrative regulation shall be governed by the following Motor Carrier Safety Regulations adopted and issued by the United States Department of Transportation, and are hereby adopted without change:


(2) 49 CFR Part 382, as effective October 1, 2001 [2000], Controlled Substances and Alcohol Use and Testing;

(3) 49 CFR Part 383, as effective October 1, 2001 [2000], Commercial Driver's License Standards; Requirements and Penalties;


(5) 49 CFR Part 390, as effective October 1, 2001 [2000], General;

(6) 49 CFR Part 391, as effective October 1, 2001 [2000], Qualifications of Drivers;

(7) 49 CFR Part 392, as effective October 1, 2001 [2000], Driving of Motor Vehicles;

(8) 49 CFR Part 393, as effective October 1, 2001 [2000], Parts and Accessories Necessary for Safe Operation;

(9) 49 CFR Part 395, as effective October 1, 2001 [2000], Hours of Service of Drivers;

(10) 49 CFR Part 396, as effective October 1, 2001 [2000], Inspection, Repair and Maintenance; and


Section 3. Exemptions and Exceptions. The following exemptions and exceptions to compliance with the provisions of Section 2 of this administrative regulation are adopted:

(a) A city or suburban bus shall not be required to comply with the federal regulations adopted by or incorporated by reference in this administrative regulation.

(b) The operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall comply with the provisions of 49 CFR Parts 382 and 383 and provide proof of having passed the medical examination set forth in 49 CFR Part 391 or have received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 CFR Part 381 for interstate operators.

(c) A motor vehicle operated by the federal government, a state government, a county government, a city government, or a board of education shall not be required to comply with the federal regulations adopted in this administrative regulation.

(d) An operator of one (1) of these vehicles who is required by KRS Chapter 281A to obtain a commercial driver's license shall comply with the provisions of 49 CFR Parts 382 and 383 and provide proof of having passed the medical examination set forth in 49 CFR Part 391 or having received a medical waiver as set forth in 601 KAR 11:040 and subsection (7) of this section for intrastate operators or as set forth in 49 CFR Part 381 for interstate operators.

(e) The operator of a vehicle specified in paragraph (a) of this subsection shall meet the requirements of 49 CFR Part 362 relating to drug and alcohol testing.

(f) A motor vehicle which is used exclusively in intrastate commerce and exclusively in farm-to-market agricultural transportation when operated during daylight hours by a private motor carrier shall not be required to comply with Title 49, Code of Federal Regulations, Part 393, Subpart B, relative to lighting device requirements.

(g) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 CFR 393, Subpart B.

(h) A motor vehicle which is used exclusively in intrastate commerce and exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles (eighty and five-tenths (80.5) air kilometers) from the harvest area when operated during daylight hours shall not be required to comply with Title 49, Code of Federal Regulations, Part 393, Subpart B relative to lighting device requirements.

(i) A motor vehicle as described in paragraph (a) of this subsection shall have two (2) stop lamps and mechanical turn signals as set forth in 49 CFR 393, Subpart B.

(j) Except for a transporter of hazardous materials subject to the requirements of 601 KAR 1:025, a motor vehicle operator who is operating a vehicle in intrastate commerce shall not be required to have twenty-one (21) years of age as set forth in 49 CFR 391.110(k1). However, he shall be at least eighteen (18) years of age.

(k) A utility motor carrier if operating exclusively in intrastate commerce shall be exempt from the maximum and on-duty hours for drivers set forth in 49 CFR 395.3 during an emergency as defined in 49 CFR 390.5 which requires their employees to work to restore service.

(l) Medical waivers for intrastate drivers.

(a) A commercial vehicle driver who operates a commercial vehicle exclusively in intrastate commerce within Kentucky, may apply for a medical waiver of the requirements of 49 CFR Part 391 under the provisions of 601 KAR 11:040.

(b) If a medical waiver is issued, the waiver shall be in the possession of the commercial driver any time he is operating a commercial motor vehicle.

(c) Except for a farm-to-market agricultural transportation motor vehicle with a gross vehicle weight rating of 26,000 pounds or less, a motor carrier which operates exclusively in intrastate commerce shall:

(1) Apply for an intrastate motor carrier identification number on Form TC 95-1, "Kentucky Trucking Application", April 2000 edition or Form TC 92-150, "Application for Intrastate Motor Carrier Identification Number", March 1996 edition;

(2) Display the assigned intrastate motor carrier identification number and the name and location of the motor carrier in the same manner as required pursuant to 49 CFR Part 390.21 except the identification number shall be preceded by the letters "USDOT" and followed by the letters "KY";

(3) Notwithstanding 49 CFR Part 391.68(c), a Kentucky licensed commercial driver operating a passenger transportation vehicle on behalf of a private motor carrier of passengers [except to 49 CFR Part 391.68(d)] shall not be exempt from the sections of 49 CFR Parts 391, 394 and 395 requiring a driver to be medically examined and to have a medical examiner's certificate on his person.

Section 4. Buses. (1) A bus shall be maintained in a clean and sanitary condition so that the health of passengers will not be impaired.

(2) A seat shall be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare.

(3) An employee in charge of buses shall be courteous and helpful to passengers, properly caring for baggage so that it will not be damaged, and shall be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays.

(4) An operator shall take into consideration the health and welfare of his passengers and control his operations in the public interest.

(5) Express and freight mail bags, newspapers and baggage shall be so placed as not to interfere with the driver or with the safety and comfort of passengers. These items shall be protected from the weather but shall not be carried in the aisles or in a position to block exits or doorways on the bus.

Section 5. Overcrowding of Passenger Vehicles. A bus operated by an authorized carrier, except city or suburban buses, shall not be used to transport passengers in excess of its load limit. A passenger shall not be permitted to occupy the rear door-well of any bus vehicle that is equipped with a rear doorwell.
Section 6. Out-of-service Criteria and Sticker. (1) The basic safety criteria to be followed by the Kentucky Transportation Cabinet in determining if a commercial motor vehicle driver or commercial motor vehicle shall be declared unqualified or placed out of service shall be the "North American Uniform Out-of-service Criteria" issued by the Commercial Vehicle Safety Alliance.

(2)(a) If a commercial motor vehicle is being operated with improper or invalid registration, (illegible) registration or without registration or in violation of any safety regulation or requirement, an officer or inspector of the Division of Motor Vehicle Enforcement shall be authorized to affix to the vehicle a notice indicating the nature of the violation and requiring its correction before the commercial motor vehicle is further operated.

(b) Refusal of the vehicle operator to grant permission for a law enforcement officer or inspector to conduct a safety inspection of the vehicle shall be cause for the officer or inspector to place the vehicle out of service until the permission is granted.

(c) Operation of a vehicle in violation of the out-of-service notice affixed to it shall constitute a separate violation of these administrative regulations.

(3)(a) If a commercial motor vehicle driver is determined to be unqualified to drive and is placed out of service but the commercial motor vehicle is not placed out of service, the motor carrier may provide a different driver for the commercial motor vehicle.

(b) The commercial motor vehicle placed out of service shall not again operate a commercial motor vehicle until he is once again qualified.

(c) Refusal of the commercial motor vehicle driver to grant permission for a law enforcement officer or inspector to conduct a safety inspection regarding the driver himself shall be cause for the officer to place the driver out of service until the permission is granted.

(d) Operating a commercial motor vehicle in violation of an out-of-service order shall constitute a separate violation of this administrative regulation.

Section 7. Persons Allowed to Perform Physical Examinations. A physical examination required pursuant to state or federal law shall be conducted by a medical examiner as defined in 49 CFR 390.5. The following shall qualify: Medical examiner is defined in 49 CFR 390.5 as a person who is licensed, certified, or registered, in accordance with applicable state laws and administrative regulations, to perform physical examinations. According to Kentucky state law, this includes the following:

(1) Physician licensed by the Kentucky Board of Medical Licensure;

(2) Osteopath licensed by the Kentucky Board of Medical Licensure;

(3) Physician assistant certified by the Kentucky Board of Medical Licensure when working under the direct supervision of a licensed physician;

(4) Advanced registered nurse practitioner licensed by the Kentucky Board of Nursing; and

(5) Chiropractor licensed by the Kentucky State Board of Chiropractic Licensure.

Section 8. Interpretations of the Federal Motor Carrier Regulations. The document published by the Federal Highway Administration in the Federal Register at 62 Fed. Reg. 16370 on April 4, 1997 pertaining to the official interpretative guidance material for the Federal Motor Carrier Safety Regulations which govern this administrative regulation. The document shall be used to interpret the provisions of this administrative regulation.

Section 9. [Relief and Safety Demonstration Project. (1) In accordance with Section 34 of the National Highway System Designation Act of 1995 (49 U.S.C. 106, 109 Stat. 568 (1995)), until June 30, 2000, the Federal Highway Administration is allowing an operator of a commercial motor vehicle with a gross vehicle weight rating over 10,000 pounds but not more than 28,000 pounds limited exemptions from the motor carrier safety regulations. These exemptions and the criteria for participating in the federal program are set forth in the 'Motor Carrier Regulatory Relief and Safety Demonstration Project - OMC Internal Guidance.'

Section 10. Intrastate Safety Rating System. (1) The Transportation Cabinet may issue a safety rating to a motor carrier subject to the provisions of this administrative regulation if all of the commercial motor vehicles operated by the motor carrier are operated exclusively in intrastate commerce. The safety standards and rating criteria set forth in 49 CFR Part 357 shall be used by the Transportation Cabinet in issuing a safety rating.

Section 10. [44] Random Alcohol Testing Rate. Commercial Motor Vehicle employers shall randomly test a percentage of the average number of driver positions employed by them. The applicable percentage shall be determined by the Federal Motor Carrier Safety Administration's Administrator annually as set forth in 49 CFR 382.302. [The 1998 random alcohol testing rate required by 49 CFR Part 382 shall be ten (10) percent.]

Section 11. [42] Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) "North American Uniform Out-of-service Criteria" revised April 1, 2001 [4008] by the Commercial Vehicle Safety Alliance;

(b) 62 Fed. Reg. 16370, April 4, 1997;

(c) TC 95-1, revised April 2000; and


(d) 62 Fed. Reg. 85128, November 24, 1997; and

(c) "Motor Carrier Regulatory Relief and Safety Demonstration Project - OMC Internal Guidance." July 1997 edition issued by the Federal Highway Administration.]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, reviewed at any of the weigh stations operated by the Transportation Cabinet, and [Further, the material may be inspected, copied, or obtained] at the Division of Motor Vehicle Enforcement, 8th Floor, State Office Building, Corner of High and Clinton Streets, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.]

DALE SHROUT, Commissioner
JAMES C. CODELL, III Secretary
HOLLIE SPADE, Assistant General Counsel
APPROVED BY AGENCY: May 17, 2002
FILED WITH LRC: May 23, 2002 at 10 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Vehicle Enforcement
(As Amended at ACRS, August 13, 2002)

601 KAR 1:025. Transporting hazardous materials by air or highway.

RELATES TO: KRS 174.400 through 174.425, 49 CFR 107, 130, 171-173, 175, 177, 178, 180

STATUTORY AUTHORITY: KRS 174.410(2), 49 CFR Parts 130, 171-173, 175, 177, 178, 180

NECESSITY, FUNCTION, AND CONFORMITY: KRS 174.410(3) provides that the Secretary of the Transportation Cabinet, in consultation with the Secretary of the Natural Resources and Environmental Protection Cabinet and the Secretary of the Cabinet for Health and Family Resources (now Health Services), shall adopt by reference or in its entirety, the federal hazardous materials transportation regulation, 49 CFR (1978), as amended, to effectively carry out the intent of KRS 174.400 through 174.425 relating to the transportation of hazardous materials by air or highway. This
Section 1. (1) The following hazardous materials transportation regulations adopted and issued by the United States Department of Transportation shall govern the transportation of hazardous materials within Kentucky if the transportation of hazardous material is by air or highway and are hereby adopted without change:

(a) [44] 49 CFR Part 107, effective October 1, 2001 [4988]. Part 107 sets forth the requirements for a national registration of the transporters of hazardous materials.

(b) [42] 49 CFR Part 130 effective October 1, 2001 [4988]. Part 130 sets forth general information, regulations and definitions applicable to oil spill prevention and response plans.


1. [a] Shipments by pipelines;
2. [b] Package marking; and
3. [c] Labeling and transport vehicle placarding applicable to the shipment and transportation of those hazardous materials;

(e) [45] 49 CFR Part 173 effective October 1, 2001, as amended by 67 Fed. Reg. 15736, April 3, 2002 [4988]. Part 173 sets forth the general requirements which shippers are required to meet for shipments and packaging;

(f) [46] 49 CFR Part 175 effective October 1, 2001 [4988]. Part 175 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to aircraft operators transporting hazardous materials aboard, attached to or suspended from aircraft;

(g) [47] 49 CFR Part 177 effective October 1, 2001 [4988]. Part 177 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to private contract or common carrier carriers transporting hazardous materials on public highways;


(i) [49] 49 CFR Part 180 effective October 1, 2001, as amended by 67 Fed. Reg. 15736 [4988]. Part 180 prescribes requirements pertaining to the maintenance, reconditioning, repair, inspection and any other function having an effect on the continuing qualification and use of a packaging used to transport hazardous materials.

Section 2. Interpretation of the Federal Hazardous Materials Transportation Regulations. The question and answer document by the Research and Safety Programs Administration effective October 1, 1998 presents official interpretive guidance material for the Federal Hazardous Material Transportation Regulations which govern this administrative regulation. The document shall be used to interpret the provisions of this administrative regulation.

Section 3. Material Incorporated by Reference. (1) The following material is incorporated by reference as a part of this administrative regulation:

(a) The interpretations of the Federal Hazardous Materials Regulations effective October 1, 1998 are incorporated by reference;

(b) 63 Fed. Reg. 57029, October 29, 1998;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright laws, at the Division of Motor Vehicle Enforcement, 8th Floor, State Office Building, 501 High Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m. (Weekdays.)

DALE SHROUT, Commissioner
JAMES C. CODELL, III Secretary
HOLLIE SPADE, Assistant General Counsel
APPROVED BY AGENCY: May 17, 2002
FILED WITH LRC: May 23, 2002 at 10 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(As Amended at ARR'S, August 13, 2002)

805 KAR 4:010. Licensing and classification of blasters.

RELATES TO: KRS 351.315, 351.325
STATUTORY AUTHORITY: KRS [Chapter 13A.], 351.315(6), [Chapter 47], 351.335(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.335(1) authorizes the Department of Mines and Minerals to promulgate any administrative regulations necessary to effectuate the provisions of KRS 351.315 to 351.375. KRS 351.315 requires the department to license blasters and to establish fees; KRS 351.315 requires the Department of Mines and Minerals to license blasters. This administrative regulation establishes the licensing requirements and duties of a blaster to effect this law, and establishes the amount of fees to be consistent with KRS 351.315 [these increased by Acts 1992, chapter 462, codified as KRS Chapter 13A. Appendix A, Part 1, K, 69, page 147].

Section 1. (1) The department shall have the following two (2) classifications of blasting licenses, each of which shall have a separate test:

(a) The "Kentucky blaster's license"; and
(b) The "limited Kentucky blaster's license", [for each of which there shall be a separate test; one (1) termed "Kentucky blaster's license"; and one (1) termed "limited Kentucky blaster's license."];

(2) Persons holding a "limited Kentucky blaster's license" shall not conduct a blasting operation in which more than five (5) pounds of explosives are used in a single charge.

(3) Persons applying for either a "Kentucky blaster's license" or a "limited Kentucky blaster's license" shall submit a nonrefundable application fee of forty (40) dollars with the prescribed application form, EC-16 or EC-14. Upon successfully passing the examination and satisfying the experience requirement of KRS 351.315(1), a license shall be issued upon the payment of an additional fee of twenty-five (25) dollars, pursuant to KRS 351.315(2).

4. Each blaster shall be required to renew his license every three (3) years (each year) by application to the department. The [which] application shall be accompanied by a fee of sixty (60) dollars[1] and documentation verifying that the blaster [has] completed the hours of blaster retraining required in KRS 351.315(4) [twenty (20) dollars];

5. If a licensed blaster is not in violation of any final administrative decision or court order concerning blasting-related matters when [at the time] he makes application for renewal of his license, the department shall renew that license.

6. A blaster who fails to renew his "Kentucky blaster's license" within five (5) years of the expiration date of his last valid license shall be required to reapply for a license and retake the blasters examination in a manner established in KRS 351.315. Blasters not in the above category may have their licenses renewed by paying to the department a sum equal to the annual renewal fee for the years of nonrenewal.

7. The commissioner may grant a thirty (30) day nonrenewable blaster's license to any person qualified under KRS 351.315(3) upon the payment of a twenty-five (25) dollar fee.

8. For the purpose of licensure, a blaster shall be a person who makes any of the following decisions:

(a) [4] Decides hole size, spacing, or depth;
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805 KAR 4:040. Instrumentation.

RELATES TO: KRS 351.320, 351.330, 351.340, 351.440, 351.550

STATUTORY AUTHORITY: KRS 351.330, 351.335(1), 351.340

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.335(1) authorizes the Department of Mines and Minerals to promulgate any administrative regulations necessary to effectuate the provisions of KRS 351.315 to 351.375. KRS 351.330 requires the Department of Mines and Minerals to limit ground vibrations. This administrative regulation establishes specifications and guidelines for equipment used to monitor ground vibrations and air blasts from blasting operations and provides guidelines for the use of this equipment to ensure that the reading taken from this equipment is accurate [effects the provisions of that law].

Section 1. Instrumentation. (1) [All portable displacement seismographs currently in use will be approved until further notice by the Department of Mines and Minerals.

(2) A direct reading velocity instrument shall not be approved by the Department of Mines and Minerals unless it:
   (a) [only if it has a frequency range equal or greater than [as] five (5) cycles per second to 150 cycles per second [or greater];
   (b) Has [a] velocity range from zero to two (2.0) inches per second or greater; [adheres to] design criteria for portable seismographs as outlined in USBM RI 5728, and USBM RI 6412, and
   (c) Meets the [such] standards as are established [from time to time] by the Department of Mines and Minerals.

(3) Instruments of both the direct reading velocity type and the displacement type will be approved by the Department of Mines and Minerals for use as follows:
   (a) Particle velocity reading may be calculated from results obtained by a displacement instrument or obtained from an approved direct reading velocity instrument in any blasting operation where all of the following conditions exist:
      1. Recording distance is less than 200 feet from the blast;
      2. Scaled distance is numerically greater than twenty-five (25);
      3. Frequency range is forty (40) cycles per second or less.
   (b) A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:
      1. Recording distance is less than 200 feet from the blast;
      2. Scaled distance is numerically greater than fifty (50);
      3. Frequency range is forty (40) cycles per second or less.
   (c) A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:
      1. Recording distance is less than 200 feet from the blast;
      2. Scaled distance is numerically greater than twenty-five (25).
   (d) A direct reading velocity instrument will be required in any blasting operation where all of the following conditions exist:
      1. Recording distance is less than 200 feet from the blast;
      2. Frequency range is in excess of forty (40) cycles per second.
   (e) Scaled distance is defined as:

   De Saque’s root of W

   Where D is the actual distance in feet and W is the weight of explosives in pounds per delay period of eight (8) milliseconds or greater.

(2) [44] Any seismic reports submitted to this office for compliance or petition shall [must] be made using a direct-reading velocity seismograph and scaled according to the most recent calibration report of the [the] seismograph.

(3) [65] Beginning January 1, 1977] All velocity seismographs used for compliance or petition shall [must] have internal calibration capability and shall be operated in accordance with the recommendations included in the "ISEE Field Practice Guidelines for Blasting Seismographs" [Section 4(d) of the administrative regulation].


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Mines and Minerals, 1025 Capital Center Drive, Suite 201, PO Box 2244, Frankfort, Kentucky 40602-2244, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANCIS X. DELZER, Commissioner
EUGENE D. ATTIKISSON, Attorney
APPROVED BY AGENCY: May 30, 2002
FILED WITH LRC: June 6, 2002 at 9 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(As Amended at ARRS, August 13, 2002)

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PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(As Amended at ARRS, August 13, 2002)

805 KAR 4:100. Surface transportation of explosives.

RELATES TO: KRS 351.350, 14 CFR 103.1 to 103.23 [Part 103], 49 CFR 147.1 to 148.04-23 [Part 148], 49 CFR 171.1 to 179.500-18, 390.1 to 397.225 [Parts 391-397].

STATUTORY AUTHORITY: KRS 351.335, 351.350.

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and administrative regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unasssembled components of explosives, and the maintenance of these explosives, which have [have] a direct bearing on safety to life and property. This administrative regulation establishes the requirements for transporting explosive materials in a vehicle and establishes standards for vehicle construction, methods of loading explosives as cargo, and the warning signs and fire extinguishers required for the vehicle. [effects the provisions of that law.]

Section 1. (1) Transportation of explosives, blasting agents, and blasting supplies, shall be in accordance with the provisions of Department of Transportation regulations contained in 14 CFR 103.1 to 103.23 [Part 103], Air Transportation [49 CFR 147.1 to 148.04-23 [Part 148], Water Carriers; 49 CFR 171.1 to 179.500-18 [Part 179], Highways and Railways; and 49 CFR 390.1 to 397.225 [Parts 390-397], Motor Carriers.

(2) Motor vehicles or conveyances transporting explosives shall only be driven by, and be in the charge of, a licensed driver who is physically fit, as defined in 49 CFR 391.41, subpart E. He shall be familiar with the local, state, and federal regulations governing the transportation of explosives.

(3) A person shall not smoke, [no person shall smoke, or] carry matches or any other flame-producing device, or carry firearms or loaded cartridges (or shall firearms or loaded cartridges be carried) while in or near a motor vehicle or conveyance transporting explosives, blasting agents, and blasting supplies.

(4) Flammable blasting agents shall not be transported with other materials or cargoes in the same compartment. [said gases shall] Flammable material shall not be carried on the same vehicle as explosives.

(5) Explosives or blasting agents shall be transported in separate vehicles from detonators unless:

(a) The detonators are placed in a type 2 or type 3 magazine second to the body of the truck; [as]

(b) The detonators and explosives are separated by four (4) inches of hardwood, and the detonators are totally enclosed or confined by the hardwood construction; or

(c) The detonators are placed in suitable containers or compartments constructed in accordance with the Institute of Makers of Explosives Safety Library Publication No. 22, incorporated in Section 2 of this administrative regulation [omitted].

(6) Explosives shall be transported without difficulty, and shall be in good mechanical condition.

(7) If [when] high [Class A, B, or C] explosives or detonators are transported by a vehicle with an open body, a Class II magazine or original manufacturer's container shall be securely mounted within the bed to contain the cargo. Containers [No containers] of explosives or detonators shall not be stacked higher than the sides or the tailgate of the vehicle. Blasting agents shall be loaded in a stable manner so that they cannot fall from the vehicle.

(8) All vehicles used for the transportation of explosives shall have tight floors and any exposed spark-producing metal on the inside of the body shall be covered with wood, or other nonsparking material, to prevent contact with containers of explosives.

(9) Every motor vehicle or conveyance used for transporting any quantity of explosive materials on public highways shall display all placards required by the U.S. Department of Transportation. Vehicles transporting high explosives in areas off [other than public] highways [class A or C explosives] shall be placarded on both sides, front and rear, with either the word "explosives" in red letters not less than four (4) inches in height, on white background, or the appropriate U.S. Department of Transportation [Cabinet-approved orange and black, square on point, explosives] placards described in 49 CFR 172.504.

(10) Every vehicle or conveyance transporting blasting agents in areas other than public highways shall be placarded on front, back, and both sides with the words "Blasting Agent" or the appropriate U.S. Department of Transportation placards described in 49 CFR 172.519 through 172.560.

(11) Each motor vehicle used for transporting explosive materials shall be equipped with at least two (2) fire extinguishers in good condition, each with a rating of at least 4A:40BC. The driver shall be trained in the use of the extinguishers on his vehicle. Each vehicle used for transportation of explosives shall be equipped with a fully charged fire extinguisher, in good condition, for vehicles with a gross weight of less than 44,000 pounds, an Underwriters Laboratories approved extinguisher or combination of fire extinguishers having a total capacity of at least 3A:30 BC (or not less than ten (10) ABC rating shall [will] minimum extinguishing capacity. For vehicles with a gross weight of 14,000 pounds or greater, an Underwriters Laboratories approved extinguisher or combination of fire extinguishers having a total capacity of at least 4A:20 BC shall meet the minimum requirement. The driver shall be trained in the use of the extinguisher on his vehicle.

(12) Fire extinguishers shall be designed and maintained to allow a visual inspection that they are fully charged, and shall be located on or in the vehicle in a manner so that they are accessible for immediate use.

(13) Motor vehicles or conveyances carrying explosives, blasting agents, or blasting supplies shall not be taken inside a garage or shop for repairs or servicing.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Mines and Minerals, 1025 Capital Center Drive, Frankfort, Kentucky 40602, Monday through Friday, 8 a.m. to 4:30 p.m.

FRANCIS X. DELZER, Commissioner
EUGENE J. ATTIKISSON, Attorney
APPROVED BY AGENCY: May 30, 2002
FILED WITH LRC: June 6, 2002 at 9 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
Division of Explosives and Blasting
(As Amended at ARRS, August 13, 2002)

805 KAR 4:125. Firing the blast.

RELATES TO: KRS 351.330, 351.350, 351.990

STATUTORY AUTHORITY: KRS 351.335

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.335 requires the Department of Mines and Minerals to promulgate rules and administrative regulations concerning the manufacture, transportation, sale, storage, or use of explosives and unasssembled...
components of explosives, and the maintenance of these [such] explosives, which have [are] a direct bearing on safety to life and property. This administrative regulation establishes the safety procedures to be used prior to detonation of a blast, including warning signals, control of access to the blast area, and procedures for clearing the area around the blast. [Reflects the provisions of that law.]

Section 1. Firing the Blast. (1) A code of blasting signals equivalent to Table U-1[5] shall be posted at [in] one (1) or more conspicuous places at the operations, and all employees shall be required to familiarize themselves with the code and conform to it. The blaster shall ensure that this code is communicated clearly to all persons who may enter the danger zone surrounding the blast area. Danger signs shall be placed at all entrances to the blast area as designated.

TABLE U-1

<table>
<thead>
<tr>
<th>WARNING SIGNAL</th>
<th>Blast Signal</th>
<th>Clear Signal</th>
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<tbody>
<tr>
<td>A one (1) minute series of long blasts five (5) minutes prior to the blast signal.</td>
<td>A series of short blasts one (1) minute prior to the detonation signal.</td>
<td>A prolonged blast following the inspection of the blast area.</td>
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<tr>
<td>The device used to issue the warning signals shall be loud enough to be heard by all persons in the danger zone around the blast, and shall have a sound distinctive enough to be readily identified. Ordinary truck and automobile horns shall not be used as warning signals.</td>
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<tr>
<td>(a) Make certain that all surplus explosives are in a safe place;</td>
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<tr>
<td>(b) Make certain that all persons, vehicles, and equipment are at a safe distance or under sufficient cover; and</td>
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<tr>
<td>(c) Give a loud warning signal. A loud warning signal shall be given by the blaster in charge, who has made certain that all surplus explosives are in a safe place and all persons [employees], vehicles, and equipment are at a safe distance, or under sufficient cover.</td>
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<tr>
<td>(4) [43] No person shall remain in an area within the danger zone after being requested to leave by the blaster in charge or by a state explosives and blasting inspector.</td>
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<td>(5) [44] Flagmen shall be safely stationed on highways which pass through the danger zone to stop traffic during blasting operations.</td>
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<td>(6) [45] It shall be the duty of the blaster to fix the time of blasting and to determine the area constituting the danger zone around the blast within which the warning signals shall be audible.</td>
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<td>(7) If necessary for public safety, the department [if the department deems it necessary for public safety it may require the blaster to submit a written plan describing the warning signals, notification procedures, and access control methods to be used on a particular blast site.</td>
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<tr>
<td>(8) [46] Before firing an underground blast, warning shall be given, and all possible entries into the blasting area and any entries to any working place where a drift, raise or other opening is about to be filled, shall be carefully guarded. The blaster shall make sure that all persons [employees] are out of the blast area before detonating [firing] a blast.</td>
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</table>

FRANCIS X. DELZER, Commissioner
EUGENE B. ATTIKISSON, Attorney
APPROVED BY AGENCY: May 30, 2002
FILED WITH LRC: June 6, 2002 at 9 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
(As Amended at ARRS, August 13, 2002)

805 KAR 8:010. Definitions for 805 KAR Chapter 8.

RELATES TO: KRS 351.025, 351.1041, 351.194
STATUTORY AUTHORITY: KRS 351.070(13)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.025(1) requires the Department of Mines and Minerals to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. KRS 351.025(2) requires the department to promulgate administrative regulations that establish comprehensive criteria for the imposition of penalties against licensed premises if an owner or part-owner intentionally orders mine safety laws to be violated that place miners in imminent danger of serious injury or death. KRS 351.070(13) authorizes [gives] the department [the authority] to promulgate administrative regulations necessary to properly administer KRS 351.010 to 351.9901 [Chapter 351]. This administrative regulation establishes the definitions of terms used in 805 KAR 8:010 to 805 KAR 8:090 [Chapter 8].

Section 1. Definitions. (1) "Certified mine foreman" or "foreman" means any person who has procured a certificate from the department to perform the work duties of a mine foreman or assistant mine foreman, either underground or surface.

(2) "Certified miner" or "certified personnel" means a miner, mine foreman, assistant mine foreman, electrician, shot-firer, underground or surface mining instructor, or mine emergency technician (MET).

(3) [45] "Commission" means the Kentucky Mine Safety Review Commission.

(4) [46] "Equivalent to the value of the wages received" means the average daily wages received by a noncertified person, during a specified period to be determined by the Mine Safety Review Commission, multiplied by the number of days for which the noncertified person has been hired.

(5) [47] "First offense" means an individual's or entity's first intentional violation of, or order to violate, a mine safety law[s] which places a miner in imminent danger of serious injury or death, as adjudicated by the Kentucky Mine Safety Review Commission.

(6) [48] "Gross value of the production of the licensed premises" means the average sale price per ton of coal multiplied by the number of tons of coal produced at the mine where the first or subsequent offense occurred, during a specified period to be determined by the Mine Safety Review Commission, multiplied by the number of days for which the license was suspended.

(7) [49] "Imminent danger" is defined by KRS 352.010(1)(p) [means a danger to a person which is immediate].

(8) [50] "Intentional" or "intentionally" means, with respect to conduct or a result, that a person's conscious objective is to engage in that conduct or cause that result.

(9) [51] "Licensed premises" means any entity that has procured a license from the department to operate a coal mine.

(10) [52] "Mine foreman" means any person who has procured a certificate from the department to perform the duties of a foreman or assistant foreman, either underground or surface; synonymous with the term "foreman."

(11) [53] "Noncertified personnel" means any person in or around a coal mine who has not procured a certificate from the department to perform particular work duties in and around a coal mine.

(12) [54] "Serious injury" means an injury involving extreme physical pain or the protracted impairment of a function of a bodily member, organ, or mental faculty; or requiring medical intervention greater than first aid, such as surgery or hospitalization.

(13) [55] "Subsequent offense" means any intentional violation of, or order to violate, a mine safety law[s] which places a miner in imminent danger of serious injury or death, as adjudicated by the Kentucky Mine Safety Review Commission, and which occurs after the individual's or entity's first offense.

(14) "Willful" means voluntary and intentional.
805 KAR 8:030. Criteria for the imposition and enforcement of sanctions against certified miners.

RELATES TO: KRS 351.1041, 351.120, 351.194, 352.010 to 352.550 [Chapter 352]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070(13) authorizes the Commissioner of the Department of Mines and Minerals to promulgate administrative regulations he deems necessary and suitable for the proper administration of KRS 351.090 to 351.9901. KRS 351.025(1)(d) requires the Department of Mines and Minerals to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified miners whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. This administrative regulation establishes the criteria for the revocation, suspension, or probation of a miner’s certificate upon an adjudication by the Mine Safety Review Commission that a miner has committed this type of [such a] violation.

Section 1. (1) If a certified miner commits a first offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may revoke or suspend the [said] miner’s certificate for a period of time to be determined at the discretion of the commission, pursuant to KRS 351.194(5) and (6), or it may probe the miner’s certificate for a period of no greater than ten (10) working days.

(2) If a certified miner’s certificate is revoked pursuant to subsection (1) of this section [this administrative regulation], the miner may appeal to the Kentucky Mining Board for the reinstatement of his certificate, after the revocation period has ended, and after he has retained and passed the requisite examination required for the [said] certification. The Mining Board may grant or deny the application. [If the Mining Board determines] [said] adverse adjudication during its consideration of the individual’s application. The Mining Board may grant or deny the application. [If the Mining Board grants the individual’s application, it may at its discretion impose a probationary period and the terms of said probation. If the individual satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the individual fails to abide by the terms of said probation, the Mining Board may revoke the individual’s certification or impose other penalties.] (3) If [in the event that] an owner or part-owner of a licensed premises applies for a foreman’s certificate, an inspector’s certificate, or any other certificate under Kentucky’s mining laws, subsequent to a first offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Mining Board shall consider that the owner or part-owner of the licensed premises is subject to the imposition of a civil monetary penalty and other consequences upon an adjudication by the Mine Safety Review Commission that an owner or part-owner of a licensed premises has committed this type of [such a] violation.

Section 1. (1) If an owner or part-owner of a licensed premises commits a first offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may impose a civil monetary penalty against the [said] owner or part-owner of not less than $2,500 and not more than $10,000.

(2) If [in the event that] an owner or part-owner of a licensed premises applies for a foreman’s certificate, an inspector’s certificate, or any other certificate under Kentucky’s mining laws, subsequent to a first offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Mining Board shall consider that the owner or part-owner of the licensed premises is subject to the imposition of a civil monetary penalty and other consequences upon an adjudication by the Mine Safety Review Commission that an owner or part-owner of a licensed premises has committed this type of [such a] violation.

(3) If [in the event that] an owner or part-owner of a licensed premises applies for a license to operate a coal mine in the Commonwealth of Kentucky subsequent to a first offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Department of Mines and Minerals shall consider that the adverse adjudication during its consideration of the application. [In its discretion.] The department may grant or deny the application. [mine license, or it may grant the license subject to the imposition of a probationary period upon the licensee. If the licensee satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the licensees fails to abide by the terms of said probation, the Mining Board may revoke the mine license or impose other penalties.] (4) If an owner or part-owner of a licensed premises commits a second offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may impose a civil monetary penalty against the [said] owner or part-owner of not less than $5,000 and not more than $10,000.

(5) If [in the event that] an owner or part-owner of a licensed
premises applies for a foreman's certificate, an inspector's certificate, or any other certificate under Kentucky's mining laws, subsequent to a second offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Mining Board shall consider that [said] adverse adjudication during its consideration of the individual's application. After that [such-a] second offense adjudication, there shall be a rebuttable presumption that the applicant is not suitable to be certified in the Commonwealth of Kentucky, and the applicant shall [must] appear at a hearing before the Mining Board and present evidence as to his suitability. The applicant shall bear the burden of proof in the [said] proceeding, in accordance with KRS 13B.090(7). The Mining Board may grant or deny the application. [If the Mining Board decides to grant the individual's application, it shall impose a probationary period and set the terms of said probation. If the individual satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the individual fails to abide by the terms of probation, the Mining Board shall revoke the individual's certification.]

(6) If [the event that] an owner or part-owner of a licensed premises applies for a license to operate a coal mine in the Commonwealth of Kentucky subsequent to a second offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Department of Mines and Minerals shall consider that [said] adverse adjudication during its consideration of the application. After that [such-a] second offense adjudication, there shall be a rebuttable presumption that the applicant is not suitable to hold a mine license in the Commonwealth of Kentucky, and the applicant shall [must] appear at a hearing before the department and present evidence as to his suitability. The applicant shall bear the burden of proof in the [said] proceeding, in accordance with KRS 13B.090(7). The department may grant or deny the application. [If the department decides to grant the mine license, it shall impose a probationary period upon the licensee and set the terms of said probation. If the licensee satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the licensee fails to abide by the terms of probation, the department shall revoke the mine license or impose other penalties.]

(7) If an owner or part-owner of a licensed premises commits a third offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may impose a civil monetary penalty against the [said] owner or part-owner of not less than $7,500 and not more than $10,000.

(8) Upon the adjudication by the Mine Safety Review Commission of a third offense committed by an owner or part-owner of a licensed premises, whether those [said] offenses were committed at the same mine or at more than one (1) mine, the [said] owner or part-owner shall not be eligible to obtain or hold any mine certificate or mine license within the Commonwealth of Kentucky.

(9) Penalties against owners or part-owners of licensed premises, imposed pursuant to subsection (1), (4), or (7) of this section [this administrative regulation], may only be imposed for the individual acts of the owner or part-owner, not for the acts of another.

(10) If [the event that] an owner or part-owner of a licensed premises is also a certified miner at the time of committing his first or second offense, the Mine Safety Review Commission may additionally impose on that [said] owner or part-owner any nonmonetary penalties applicable to certified miners pursuant to 858 KAR 8:030.

FRANCIS X. DELZER, Commissioner
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PUBLIC PROTECTION AND REGULATION CABINET
Department of Mines and Minerals
(As Amended at ARRS, August 13, 2002)

805 KAR 8:050. Criteria for the imposition and enforcement of sanctions against noncertified personnel.

RELATED TO: KRS 351.0141, 351.104, 352.010 to 352.560

[Chapter 352]

STATUTORY AUTHORITY: KRS 351.025(1)(c), 351.070(13)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070(13) authorizes the Commissioner of the Department of Mines and Minerals to promulgate administrative regulations he deems necessary and suitable for the proper administration of KRS 351.090 to 351.091. KRS 351.025(1)(c) requires the Department of Mines and Minerals to promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against noncertified personnel whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. This administrative regulation establishes the criteria for the imposition of civil monetary fines and other consequences upon an adjudication by the Mine Safety Review Commission that a noncertified person has committed this type of [such-a] violation.

Section 1. (1) If a noncertified person commits a first offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may impose a civil monetary fine against the [said] noncertified person equivalent to the value of the wages received by that person for up to ten (10) working days.

(2) If [the event that] a noncertified person applies for a foreman's certificate, an inspector's certificate, or any other certificate under Kentucky's mining laws, subsequent to a first offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Mining Board shall consider that [said] adverse adjudication during its consideration of the individual's application. The Mining Board may grant or deny the application. [If the Mining Board grants the individual's application, it may at its discretion impose a probationary period and set the terms of said probation. If the individual satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the individual fails to abide by the terms of probation, the Mining Board may revoke the individual's certificate or impose other penalties.]

(3) If [the event that] a noncertified person applies for a foreman's certificate, an inspector's certificate, or any other certificate under Kentucky's mining laws, subsequent to a second offense adjudication by the Mine Safety Review Commission that he intentionally violated, or ordered another person to violate, a mine safety law[,] which placed a miner in imminent danger of serious injury or death, the Kentucky Mining Board shall consider that [said] adverse adjudication during its consideration of the individual's application. The Mining Board may grant or deny the application. [If the Mining Board grants the individual's application, it shall impose a probationary period and set the terms of said probation. If the individual satisfies the terms of his probation, the probation automatically expires at the end of the probationary period. If the individual fails to abide by the terms of probation, the Mining Board shall revoke the individual's certificate.]
pursuant to [805 KAR 8:040(l)], rather than under the provisions applicable to noncertified personnel, pursuant to subsections (1) through (4) of this section [this administrative regulation].

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PUBLIC PROTECTION AND REGULATION CABINET
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805 KAR 8:060. Criteria for the imposition and enforcement of sanctions against licensed premises.

RELATES TO: KRS 351.1041, 351.175, 351.194, 352.010 to 352.550 [Chapter 352]
STATUTORY AUTHORITY: KRS 351.025(2), 351.070(13)
NECESSITY, FUNCTION, AND CONFORMITY: KRS
351.070(13) authorizes the Commissioner of the Department of Mines and Minerals to promulgate administrative regulations that [as well as] he deems necessary and suitable for the proper administration of KRS 351.090 to 351.5901. KRS 351.025(2) requires the Department of Mines and Minerals to promulgate administrative regulations that establish comprehensive criteria for the imposition of penalties against licensed premises if an owner or part-owner intentionally or through negligence violates the coal mining laws to be violated that place miners in imminent danger of serious injury or death. This administrative regulation establishes the criteria for the revocation, suspension, or probation of a mine's license, and as [well as] the imposition of civil monetary penalties against a licensed premises, upon an adjudication by the Mine Safety Review Commission that an owner or part-owner of a licensed premises has intentionally ordered this type of [such a] violation.

Section 1. (1) If an owner or part-owner of a licensed premises commits a first offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may place the licensed premises on probation for a period of time to be determined at the discretion of the commission, pursuant to KRS 351.194(5). The commission may also impose a civil monetary penalty against the licensed premises not to exceed the gross value of the production of the licensed premises for up to ten (10) working days.

(2) If a licensed premises is placed on probation for a first offense violation pursuant to subsection (1) of this section, the commission may impose the terms of the probation [said probation at its discretion], and it may impose penalties for the violation of the terms of probation, including the suspension or revocation of the mine's license. If the licensed premises satisfies the terms of its probation, the probation shall automatically expire [expire] at the end of the probationary period.

(3) The department may file charges against a licensed premises for any alleged violation of its probationary terms. Hearings regarding the [said] allegations shall be conducted by the Kentucky Mine Safety Review Commission, pursuant to 825 KAR 1:020, [in accordance with the hearing provisions set forth in the procedure provisions of the Kentucky Mine Safety Review Commission.]

(4) If an owner or part-owner of a licensed premises commits a second offense, as adjudicated by the Kentucky Mine Safety Review Commission, the commission may suspend or revoke the mine's license for a period of not less than two (2) calendar years, or for a greater period of time, pursuant to KRS 351.194(5) and (6) [to be determined at the discretion of the commission]. The commission may also impose a civil monetary penalty against the licensed premises not to exceed the gross value of the production of the licensed premises for up to ten (10) working days.

(5) If a mine license is suspended for a second offense violation pursuant to subsection (4) of this section, it shall be automatically reinstated at the end of the period of suspension. If the mine's license is revoked, the licensed premises may apply to the Department of Mines and Minerals [Kentucky Mining Board] for the reinstatement of its mine license at the end of the revocation period. The department may grant or deny the application. If the Mining Board grants said reinstatement, it may set the terms of the reinstatement.

(6) Upon the adjudication by the Mine Safety Review Commission of a third offense by the owner or part-owner of a licensed premises, the commission shall revoke the mine's license for a period of not less than three (3) calendar years, or for a greater period of time, pursuant to KRS 351.194(5) and (6) [to be determined at the discretion of the commission], up to and including a permanent revocation with no possibility of reinstatement. If the revocation is for a period of less than a permanent revocation with no possibility of reinstatement, the licensed premises may apply to the Department of Mines and Minerals [Kentucky Mining Board] for the reinstatement of its mine license at the end of the revocation period. The department may grant or deny the application. If a third offense has been committed by an owner or part-owner of a licensed premises, the commission may impose a civil monetary penalty against the licensed premises not to exceed the gross value of the production of the licensed premises for up to ten (10) working days.

(7) If a licensed premises that has committed one (1) or more violations pursuant to subsection (1), (4), or (6) of this section [this administrative regulation], may also be sold or closed out of business, any penalties imposed on that [said] licensed premises for those [said] violations shall be imposed upon any entity that is determined by the commission to be the legal successor to the licensed premises in question, after a hearing conducted pursuant to KRS 351.194.

FRANCIS X. DELZER, Commissioner
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CABINET FOR HEALTH SERVICES
Office of Inspector General
(As Amended at ARRS, August 13, 2002)

902 KAR 20:016. Hospitals; operations and services.

STATUTORY AUTHORITY: KRS 216.2970(1), 216B.042(1), 216B.175(3), 42 USC 263a
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.042 requires that the Kentucky Cabinet for Health Services regulate health facilities and health services. This administrative regulation establishes [provides for] the minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals.

Section 1. Definitions. (1) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Commission on Medical Education of the American Medical Association and the American College of Medical Record Association, and who is certified as an accredited Record Technician by the American Medical Record Association.

(2) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of radiation producing machines.

(3) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(4) "Induration" means a firm area in the skin which develops as a reaction to the intradermal injection of five (5) tuberculin units of purified protein derivative by the Mantoux technique when a person has tuberculosis infection.

(5) "Long-term acute inpatient hospital services" means acute
inpatient services provided to patients whose average inpatient stay is greater than twenty-five (25) days.

(6) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority.

(7) "Organ procurement agency" means a federally designated organization which [a] coordinates and performs activities which encourage the donation of organs or tissues for transplantation.

(8) "Protective device" means a device designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

(10) "Registered, certified or registry-eligible dietician" means a person who is certified in accordance with KRS Chapter 310.

(11) "Registered records administrator" means a person who is certified as a registered records administrator by the American Medical Record Association.

(12) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(13) "Skin test" means a tuberculin skin test utilizing the intradermal (Mantoux) technique using five (5) tuberculin units of purified protein derivative (PPD). The results of the test shall be read forty-eight (48) to seventy-two (72) hours after injection and recorded in terms of millimeters of induration.

(14) "Two (2) step skin testing" means a series of two (2) tuberculin skin tests administered seven (7) to fourteen (14) days apart.

Section 2. Requirements to Provide Services. A facility shall not be licensed as, or held itself out to be, or be called, a hospital unless it provides:

(1) The full range of services required by Section 4 of this administrative regulation; and
(2) Treatment for a variety of illnesses.

Section 3. Administration and Operation. (1) Governing authority licensees.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local law pertaining to its operation.

(b) The governing authority shall:
1. Appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority; and
2. Designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall:
1. Act as the chief executive officer;
2. Be responsible for the management of the hospital; and
3. Provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through:
1. Periodic reports; and
2. Attendance at meetings of the governing authority.

(c) The administrator shall:
1. Develop an organizational structure including lines of authority, responsibility, and communication; and
2. Organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall:
1. Hold interdepartmental and departmental meetings, where appropriate;
2. Attend or be represented at the meetings on a regular basis; and
3. Report to each department as well as to the governing authority the pertinent activities of the hospital.

(f) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. Administrative reports shall include:
1. Minutes of the governing authority and staff meetings;
2. Financial records and reports;
3. Personnel records;
4. Inspection reports;
5. Incident investigation reports; and
6. Other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. If applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;
(b) Admission procedure which assures [assures] that a patient is admitted to the hospital in accordance with medical staff policy;
(c) Any constraint imposed on admissions by a limitation of:
   1. Services;
   2. Physical facilities;
   3. Staff coverage; or
   4. Other relevant factor;
(d) Financial requirements for patients on admission;
(e) Emergency admission;
(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;
(g) An effective procedure for recording accidents involving a patient, visitor, or staff member, including incidents of transfusion reactions, drug reactions, medication errors, and similar events, and a statistical analysis shall be reported in writing through the appropriate committee;
(h) Report of communicable diseases to the health department in whose jurisdiction the disease occurs, pursuant to the reporting requirements of KRS Chapter 214 and 902 KAR 2:020;
(i) Use of restraints and a mechanism for monitoring and controlling their use;
(j) Internal transfer of a patient from one (1) level or type of care to another, if applicable;
(k) Discharge and termination of services; and
(l) Organ procurement for transplant protocol developed by the medical staff in consultation with the organ procurement agency.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge; for example, an identification bracelet imprinted with:

(a) Name of patient;
(b) Hospital identification number;
(c) Date of admission; and
(d) Name of attending medical staff member.

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure continuity of care for a patient being:
1. Transferred to another health care facility; or
2. Discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall:
1. Coordinate the discharge of the patient with the patient and the person or agency responsible for the postdischarge care of the patient; and
2. Provide [All] pertinent information concerning postdischarge needs [shall be provided] to the responsible person or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have a written patient transfer [procedure and agreement] [procedures and agreements] with at least one (1) of each type of other health care facility able to provide a level of
inpatient care not provided by the hospital. A facility which does not have a transfer agreement in effect, but has documented a good faith effort to enter into such an agreement, shall be in compliance with this requirement. A transfer procedure and agreement (inpatient procedures and agreements) shall:

1. Specify the responsibilities of each institution as follows in the transfer of a patient; and
2. Establish the hospital's responsibilities for:
   a. Notifying the receiving entity (other institution) promptly of the impending transfer of a patient; and
   b. Arranging for appropriate and safe transportation.

(b) If a patient is transferred to another health care facility or to a home health agency:

1. A transfer form containing the following information shall accompany the patient or be sent immediately to the home health agency:
   a. Attending medical staff member's instructions for continuing care;
   b. Current summary of the patient's medical record;
   c. Information as to special supplies or equipment needed for patient care; and
   d. Pertinent social information on the patient and family; and

2. A copy of the patient's signed discharge summary shall be forwarded to the health care facility or home health agency within thirty (30) days of the patient's discharge.

(c) If a transfer is to another level of care within the same facility:

1. The history and physical examination report shall be transferred and shall serve to meet the history and physical examination requirement for the licensed level of care to which the patient has been transferred, in accordance with KRS 2168.175(3); and

2. The complete medical record or a current summary of the record shall be transferred with the patient.

(b) Medical staff:

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority. The medical staff shall be responsible to the governing authority for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership including licensure to practice medicine or dentistry in Kentucky, except for graduate physicians in their first year of hospital training;
2. a. Define and describe the responsibilities and duties of each category of medical staff, for example, active, associate, or courtesy;
   b. Delineate the clinical privileges of staff members and allied health professionals;
   c. Establish a procedure for granting and withdrawing staff privileges; and
   d. Credentials review;

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges;

4. Provide a method for the selection of officers of the medical staff;

5. Establish requirements regarding the frequency of, and attendance at, general staff and department or service meetings of the medical staff;

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. Committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee; and

7. Establish a policy requiring a member of the medical staff to sign a verbal (telephone) order for diagnostic testing or treatment;

a. As soon as possible after the order was given; or

b. If [in the event] the patient was discharged, prior to the order being authenticated, within thirty (30) days of the patient's discharge;

Within seventy-two (72) hours of the time the order was given.


(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and related services and shall have written personnel policies and procedures available to hospital personnel.

(b) There shall be a written job description for each position. Each job description shall be reviewed and revised as necessary.

(c) There shall be an employee health program for medication protection of employees and patients, including provisions for pre-employment and periodic health examination. The hospital shall comply with the following tuberculosis testing requirements:

1. The skin test status of each staff member shall be documented in the employee's personnel record.

2. Skin testing shall not be required at the time of initial employment if the employee:

   i. Documents a prior skin test of ten (10) or more millimeters of induration; or

   ii. Is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis.

3. Two (2) step skin testing shall be required for a new employee over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless the employee can document that he or she has had a tuberculosis skin test within one (1) year prior to his or her current employment.

4. A staff member who has never had a skin test result of ten (10) or more millimeters induration shall be skin tested annually, on or before the anniversary of the last skin test.

5. A staff member who has a skin test result of ten (10) or more millimeters induration on initial employment or annual testing, shall receive a chest x-ray unless:

   a. A chest x-ray within the previous two (2) months showed no evidence of tuberculosis; or

   b. The individual can document the previous completion of a course of prophylactic treatment with isoniazid. The employee shall be advised of the symptoms of the disease and instructed to report to his or her employer and to seek medical attention promptly if symptoms persist.

6. The hospital administrator shall ensure that [be responsible for ensuring that] skin tests and chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. Skin testing dates and results and chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the hospital administrator to the local health department having jurisdiction immediately upon becoming known:

a. Names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) or more millimeters at the time of employment; and

b. [all] Chest x-rays suspicious for tuberculosis.

5. A staff member whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with Mycobacterium tuberculosis. Recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for six (6) months, unless medically contraindicated, as determined by a licensed physician. A medication shall be administered only upon the written order of a physician or other ordering personnel acting within their statutory scope of practice. If an individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the disease, and shall have an integral medical history and a chest x-ray taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

6. A staff member who documents completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(c) The following information shall be included in each employee's personnel record:

1. Name, address, Socia Security number;
2. Health records;
3. Evidence of current registration, certification, or licensure;
4. Records of training and experience;
5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physical plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. The committee shall:
1. Receive every report of an infection incident discovered by an employee;
2. Develop written infection control policies, consistent with the Centers for Disease Control guidelines.

(d) The policies shall address:
1. Prevention of disease transmission to and from patients, visitors, and employees, including:
   a. Universal blood and body fluid precautions;
   b. Precautions for infections which can be transmitted by the airborne route; and
   c. Work restrictions for employees with infectious diseases;
2. Use of environmental cultures; culture testing results shall be recorded and reported to the Infection Control Committee;
3. Cleaning, disinfection, and sterilization methods used for equipment and the environment.

(e) The hospital shall provide in-service education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from accumulations of dirt, rubbish, and foul, stale or musty odors.
1. An adequate number of housekeeping and maintenance personnel shall be provided.
2. A written housekeeping procedure shall be established for the cleaning of each area and copies shall be made available to personnel.
3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed metal containers, and kept separate from other cleaning materials.
5. The facility shall be kept free from insects and rodents, their nesting places and entrances shall be eliminated.

6. Garbage and trash:
   a. shall be stored in areas separate from those used for preparation and storage of food;
   b. shall be removed from the premises regularly; and
   c. Containers shall be cleaned on a regular basis.

(g) Sharp wastes.
1. Sharp wastes, including needles, scalpels, razors, or other sharp instruments used for patient care procedures, shall be segregated from other wastes and placed in puncture resistant containers immediately after use.
2. A needle or other contaminated sharp shall not be purposely bent, broken, or otherwise manipulated by hand as a means of disposal, except as permitted by Occupational Safety and Health Administration guidelines at 29 CFR 1910.1030(d)(2)(vii).
3. A sharp waste container shall be incinerated on or off site, or shall be rendered nonhazardous.

4. Nondisposable sharps, such as large-bore needles or scissors, shall be placed in a puncture resistant container for transport to the Central Medical and Surgical Supply Department, in accordance with 502 KAR 20:009, Section 22.

(h) Disposable waste.
1. Disposable waste shall be placed in a suitable bag or closed container so as to prevent leakage or spillage, and shall be handled, stored, and disposed of in such a way as to minimize direct exposure of personnel to waste materials.
2. The hospital shall establish specific written policies regarding handling and disposal of waste material.
3. The following wastes shall receive special handling:
   a. Microbiology laboratory waste including a viral or bacterial culture, contaminated swab, or a specimen container or test tube used for microbiologic purposes shall be incinerated, autoclaved, or otherwise rendered nonhazardous; and
   b. Pathological waste including a tissue specimen from a surgical or necropsy procedure shall be incinerated.
4. The following wastes shall be disposed of by incineration, or be autoclaved before disposal, or be carefully poured down a drain connected to a sanitary sewer, subject to limitations in subparagraph 5 of this paragraph: blood, blood specimens, used blood tubes, or blood products.
5. Wastes conveyed to a sanitary sewer shall comply with applicable federal, state, and local pretreatment law, including 40 CFR 403, 401 KAR 5:557, and relevant local ordinances.
6. An incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 and 401 KAR 61:010.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.
1. Linens shall be handled, stored, and processed so as to prevent the spread of infection.
2. Clean linen and clothing shall be stored in a clean, dry, dust-free area designated exclusively for this purpose. An uncovered mobile cart may be used to distribute a daily supply of linen in patient care areas.
3. Soiled linen and clothing shall be placed in a suitable bag or closed container so as to prevent leakage or spillage, and shall be handled in such a way as to minimize direct exposure of personnel to soiled linen. Soiled linen shall be stored in an area separate from clean linen.

(11) Medical and other patient records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital or receiving outpatient services.

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time or part-time basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. Medical records shall be retained for at least five (5) years from date of discharge, or, in the case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

3. Provision shall be made for written designation of the specific location for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to assure the prompt location of a patient's medical record shall be maintained:
1. Index cards, if used, shall bear at least the patient's full name, birth date, and medical record number.
2. The system shall be a system for coordinating the inpatient and outpatient medical records of a patient whose admission is a result of, or related to, outpatient services.
3. Clinical information pertaining to inpatient and outpatient services shall be centralized in the patient's medical record.
4. A hospital using automated data processing may keep patient indices electronically or reproduced on paper and kept in books.

1. Records of patients are the property of the hospital and shall not be taken from the facility except by court order. A patient's records, or portion thereof, including x-ray film, may be routed for consultation.
2. Only authorized personnel shall be permitted access to the patient's records.
3. Patient information shall be released only on authorization of
the patient, the patient's guardian, or the executor of his estate.
(d) Medical record contents shall be pertinent and current and shall include the following:
1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;
2. Date of admission, name of attending medical staff member, and allied health professional in accordance with subsection (8)(b)(2) of this section;
3. Chief complaint;
4. Medical history including present illness, past history, family history, and physical examination results;
5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;
6. Provisional diagnosis or reason for admission;
7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member or other ordering personnel acting within the limits of their statutory scope of practice;
8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, dentist, or other ordering personnel acting within the limits of their statutory scope of practice when applicable, including records of all medication administered to the patient;
9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthesiologist assistant, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified pathologist on tissue surgically removed;
10. Patient care plan which addresses the comprehensive care needs of the patient, to include the coordination of the facility's service departments that have impact on patient care;
11. Nurses' observations and progress notes of a physician, dentist, or other ordering personnel acting within their statutory scope of practice;
12. Record of temperature, blood pressure, pulse and respiration;
13. Final diagnosis using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable;
14. Discharge summary, including condition of patient on discharge, and date of discharge;
15. In case of death:
   a. Autopsy findings, if performed; and
   b. An indication that the patient has been evaluated for organ donation in accordance with hospital protocol.
(e) Records shall be indexed according to disease, operation, and attending medical staff member. Any recognized indexing system may be used.
1. The disease and operative indices shall:
   a. Use recognized nomenclature;
   b. Include each specific disease diagnosed and each operative procedure performed; and
   c. Include essential data on each patient having that particular condition;
2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;
3. Indexing shall be current, within six (6) months following discharge of the patient.
(12) Organ donation.
(a) The hospital shall establish and maintain a written protocol for organ procurement for transplant, in consultation with an organ procurement agency, that encourages organ donation and identifies potential organ donors.
(b) If a patient has died or death is imminent, the patient's attending physician shall determine, in accordance with the hospital's protocol, whether the patient is a potential organ or tissue donor.
(c) The hospital protocol shall include:
   1. Criteria, developed in consultation with the organ procurement agency, for identifying potential donors;
   2. Procedures for obtaining consent for organ donation;
   3. Procedures for the hospital administrator or his designee to notify the organ procurement agency of a potential organ donor;
   4. Procedures by which the patient's attending physician or designee shall document in the patient's medical record that:
      a. If the patient is a potential donor, the organ procurement agency has been notified; or
      b. The contraindications to donation;
   5. Procedures for the hospital administrator or his designee to report to the Cabinet for Health Services, Office of the Inspector General, information about the possible sale, purchase, or brokering of a transplantable organ, as required by KRS 311.241(3).
   (d) A patient with impending or declared brain death or cardiopulmonary death, as determined pursuant to KRS 446.400, shall not be a potential donor if contraindications are identified and documented in the patient's medical record.

Section 4. Provision of Services. (1) Medical staff services.
(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.
(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his patient. Other qualified personnel may complete medical histories, perform physical examinations, record findings, and compile discharge summaries, in accordance with their scope of practice and the hospital's protocols and bylaws.
(c) A complete history and physical examination shall be conducted according to the requirements of KRS 216B.175(2).
1. The history and physical examination shall include:
   a. A description of the patient's chief complaint, the major reason for hospitalization;
   b. A history of the patient's:
      (i) Present illness;
      (ii) Past illnesses;
      (iii) Surgeries;
      (iv) Medications;
      (v) Allergies;
   c. A review of the patient's anatomical systems and level of function at the time of the exam;
   d. A patient's vital signs;
   e. A general observation of the patient's:
      (i) Alertness;
      (ii) Debridement; and
      (iii) Emotional behavior;
2. The results of the history and physical examination shall be recorded, reviewed for accuracy, and signed by the practitioner conducting the examination.
(d) The attending medical staff member shall state his final diagnosis, assure that the discharge summary is completed and sign the records within thirty (30) days following the patient's discharge.
(e) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.
(f) There shall be sufficient medical staff coverage for all clinical services of the hospital, in keeping with their size and scope of activity.
(2) Nursing service.
(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.
(b) There shall be a registered nurse on duty at all times.
1. There shall be registered nurse supervision and staffing personnel for each service or nursing unit to assure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.
2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.
3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital, in keeping
with their size and scope of activity.
4. Persons not employed by the hospital who render special
   duty nursing services in the hospital shall be under the supervision
   of the nursing supervisor of the department or service concerned.
   (c) The hospital shall have written nursing care procedures and
   written nursing care plans for patients. Patient care shall be carried
   out in accordance with attending medical staff member's orders,
   nursing process, and nursing care procedures.
   The nurse shall evaluate the patient using standard nursing
   procedures.
   2. A registered nurse shall assign staff and evaluate the nursing
   care of each patient in accordance with the patient's need and the
   nursing staff available.
   3. Nursing notes shall be written and signed on each shift by
   persons rendering care to patients. The notes shall be descriptive
   of the nursing care given and shall include information and observa-
   tions of significance which contribute to the continuity of patient
   care.
   4. A medication shall be administered only by a:
      a. Registered nurse;
      b. Physician;
      c. Dentist;
      d. Physician's assistant;
      e. Advanced registered nurse practitioner; [a]
      f. Licensed practical nurse under the supervision of a registered
         nurse; or
      g. Paramedic acting within his statutory scope of practice, and
         in accordance with the hospital's operating policies and proce-
         dures.
   5. Except in a circumstance that requires a verbal order, a medi-
   cation, diagnostic test, or treatment shall not be given without a
   written order signed by a physician, dentist, or other ordering per-
   sonal acting within their statutory scope of practice.
   a. A verbal [telephone] order for a medication shall be given only to
      a licensed practical or registered nurse, paramedic, or a [a]
      pharmacist and shall be signed by a member of the medical staff or
      other ordering practitioner:
         (i) As soon as possible after the order was given; or
         (ii) If in [the event] the patient was discharged prior to the order
             being authenticated, within thirty (30) days of the patient's dis-
             charge.
   b. A verbal order for a diagnostic test or treatment [within seven-
      only two (72) hours from the time the order is given, by a member
      of the medical staff or other ordering personnel acting within their
      statutory scope of practice. A telephone order may be given to a
      licensed practitioner acting within his statutory scope of practice
      [physical, occupational, speech, or respiratory] and in accor-
      dance with the therapeutic scope of practice and the hospital's pro-
      tocols.
   c. A person receiving a verbal order for medication, a diagno-
      stic test, or treatment shall, at the time the order is received:
      (i) Immediately transcribe the order;
      (ii) Repeat the order to the person issuing the order; and
      (iii) Annotate the order on the patient's medical record, as
          repeated and verified. Verbal orders for medications, diagno-
          stic tests, and treatments at the time received shall be:
          (i) Immediately transcribed by the person receiving the order;
          (ii) Repeated back to the person requesting the order to ensure
               accuracy; and
          (iii) Annotated on the patient's medical record, by the person
               receiving the order, as repeated and verified.
   6. Patient restraints or protective devices, other than bed rails,
   shall not be used, except in an emergency until the attending medi-
   cal staff member can be contacted, or upon written or telephone
   orders of the attending medical staff member. If restraint is neces-
   sary, the least restrictive form of protective device shall be used
   which affords the patient the greatest possible degree of mobility
   and protection. A locking restraint shall not be used under any cir-
   cumstances.
   7. Meetings of the nursing staff and other nursing personnel
   shall be held at least monthly to discuss patient care, nursing serv-
   ice problems, and administrative policies. Written minutes of all
   meetings shall be kept.
   (3) Dietary services.
   (a) The hospital shall have a dietary department, organized,
   directed and staffed to provide quality food service and optimal
   nutritional care.
   1. The dietary department shall be directed on a full-time basis
      by an individual who, by education or specialized training and ex-
      perience, is knowledgeable in food service management.
   2. The dietary service shall have at least one (1) registered,
      certified or registry-eligible dietitian working full-time, part-time, or
      on a consultative basis, to supervise the nutritional aspects of pa-
      tient care.
   3. Sufficient additional personnel shall be employed to perform
      assigned duties to meet the dietary needs of all patients.
   4. The dietary department shall have current written policies
      and procedures for food storage, handling, and preparation. Writ-
      ten dietary policy and procedure shall be available to dietary per-
      sonnel.
   5. An in-service training program, which shall include the
      proper handling of food, safety and personal grooming, shall be
      given at least quarterly for new dietary employees.
   (b) Menus shall be planned, written and rotated to avoid repeti-
      tional. Nutritional needs shall be met in accordance with recom-
      mended dietary allowances of the Food and Nutrition Board of the
      National Research Council of the National Academy of Sciences
      and with the medical staff members' criteria of medical care.
   (c) Each meal shall correspond with the posted menu. When a
      change is necessary, substitution shall provide equal nutritive value
      and the change shall be recorded on the menu. Each menu shall be
      kept on file for thirty (30) days.
   (d) Every diet, regular and therapeutic, shall be prescribed in
      writing, dated, and signed by the attending medical staff member
      or other ordering personnel acting within their statutory scope of prac-
      tice. Information on the diet order shall be specific and complete
      and shall include the title of the diet, modifications in specific nutri-
      ents stating the amount to be allowed in the diet, and specific
      problems that may affect the diet or eating habits.
   (e) Food shall be prepared by methods that conserve nutritive
      value, flavor, and appearance, and shall be served at the proper
      temperatures and in a form, such as cut, chopped, or ground, to
      meet individual needs [e.g., I shall be cut, chopped, or ground to
      meet individual patient needs].
   (f) If a patient refuses foods served, nutritious substitutions
      shall be offered.
   (g) At least three (3) meals or their equivalent shall be served
      daily with not more than a fifteen (15) hour span between a sub-
      stantial evening meal and a breakfast unless otherwise directed by
      the attending medical staff member. Meals shall be served at regu-
      lar times with between-meal or bedtime snacks or nourishing
      quality offered.
   (h) There shall be at least a three (3) day supply of food avail-
      able in the facility at all times to prepare well-balanced palatable
      meals for all patients.
   (i) There shall be an identification system for patient trays, and
      methods used to assure that each patient receives the appropriate
      diet as ordered.
   (i) The hospital shall comply with all applicable provisions of
      KRS 219.011 to KRS 219.081 and 902 KAR 45:005, the Cattle
      Food Code.
   (4) Laboratory services. The hospital shall have a well-
      organized, adequately supervised laboratory with the necessary
      space, facilities and equipment to perform services commensurate
      with the hospital's needs for its patients. Anatomical pathology
      services and blood bank services shall be available in the hospital
      or by arrangement with other facilities.
   (a) Clinical laboratory. Basic clinical laboratory services
      necessary for routine examinations shall be available regardless of
      the size, scope and nature of the hospital.
   1. Equipment necessary to perform the basic tests shall be
      provided by the hospital.
   2. Equipment shall be in good working order, routinely
      checked, and precise in terms of calibration.
   3. Provision shall be made to carry out adequate clinical labora-
      tory examinations including chemistry, microbiology, hematology,
      serology, and clinical microscopy.
   a. Some services may be provided through arrangement with
another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to 42 CFR Part 405, KRS 333.030, and relevant administrative regulations.

b. The original report from a test performed by an outside laboratory shall be contained in the patient’s medical record.

4. Laboratory facilities and services shall be available at all times.

a. Emergency laboratory services shall be available twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangement, as specified in subparagraph 3a of this paragraph.

b. The conditions, procedures, and availability of a service performed by an outside laboratory shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. The laboratory shall not perform a procedure or test outside the scope of training of the laboratory personnel.

6. Laboratory services shall be under the direction of a pathologist, or the director of medicine or osteopathy with training and experience in clinical laboratory services, or a laboratory specialist with a doctoral degree in physical, chemical or biological sciences, and training and experience in clinical laboratory services.

7. A signed report of each laboratory service provided shall be filed with the patient’s medical record. A duplicate copy shall be kept in the department.

8. The laboratory report shall be signed by the technologist who performed the test.

b. Every request for a laboratory test shall be ordered and signed by qualified personnel in accordance with their scope of practice and the hospital’s protocols and bylaws.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital, either in the hospital or under arrangement as specified in paragraph (a)(3a) of this section.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing the qualifications of staff and for their in-service training.

4. Except for exclusions listed in written policies of the medical staff, tissues removed at surgery shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or designated physician with the approval of the medical staff.

b. A tissue file shall be maintained in the hospital.

c. In the absence of a pathologist, there shall be an established plan for sending tissue requiring examination to a pathologist outside the hospital.

5. A signed report of a tissue examination shall be filed promptly with the patient’s medical record. A duplicate copy shall be kept in the department.

6. Each report of a macro or microscopic examination performed shall be signed by the pathologist.

b. Examination results shall be filed promptly in the patient’s medical record. The medical staff member requesting the examination shall be notified promptly.

c. A duplicate copy of each examination report shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the proficiency testing and quality control provisions in accordance with certification requirements of 42 USC Part 263a.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or shall be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.
authorized member of the house staff;
2. Review of the original order, or a direct copy by the pharma-
cist dispensing the drugs;
3. The establishment and enforcement of automatic stop orders;
4. Proper accounting for, and disposition of, unused medications
or special prescriptions returned to the pharmacy as a result of:
a. The discharge of the patient; or
b. The medication or prescription does not meet requirements
for stability or labeling;
5. Emergency pharmaceutical services; and
6. Reporting adverse medication reactions to the appropriate
committee of the medical staff.
(d) Therapeutic ingredients of medications dispensed shall be
favorably evaluated in the:
1. United States Pharmacopoeia;
2. National Formulary;
3. United States Homeopath-Pharmacopoeia;
4. New drugs; or
5. Accepted dental remedies. Other necessary medication shall
be approved for use by the appropriate committee of the medical
staff.
(e) [4] A pharmacist shall be responsible for determining speci-
fications and choosing acceptable sources for drugs, with approval of
the appropriate committee of the medical staff.
(f) [2] There shall be available a formulary or list of drugs ac-
ccepted for use in the hospital which shall be developed and
amended at regular intervals by the appropriate committee of the
medical staff.
(6) Radiology services.
(a) The hospital shall have:
1. Diagnostic radiology facilities currently licensed or registered
pursuant to the Kentucky Radiation Control Act of 1978 (KRS
211.842 to 211.852);
2. At least one (1) fixed diagnostic x-ray unit capable of general
x-ray procedures;
3. A radiologist on at least a consulting basis to:
   a. Function as medical director of the department; and
   b. Interpret films requiring specialized knowledge for accurate
      reading;
4. Personnel adequate to supervise and conduct services, in-
cluding one (1) certified radiation operator who shall be on duty or
on call at all times.
(b) There shall be written policies and procedures governing
radiologic services and administrative routines that support sound
radiologic practices:
1. Signed reports shall be filed in the patient's record and dupli-
cate copies kept in the department.
2. Radiologic services shall be performed only upon written
order of qualified personnel in accordance with their scope of prac-
tice and the hospital's protocols and bylaws, and the order shall
contain a concise statement of the reason for the service or exami-
nation.
3. Reports of interpretations shall be written or dictated and
signed by the radiologist.
4. Only a certified radiation operator, under the direction of
medical staff members, if necessary shall use any x-ray apparatus
or material. Uses include application, administration, and removal of
radioactive elements, disintegration products, and radioactive iso-
topes. A certified radiation operator, under the direction of a phy-
cian, may administer medications allowed within their professiona-
scope of practice and the context of radiological services and proce-
dures being performed.
(c) The radiology department shall be free of hazards for pa-
tients and personnel. Proper safety precautions shall be maintained
against fire and explosion hazards, electrical hazards and radiation
hazards.
(7) Physical restoration or rehabilitation service. If the hospital
provides rehabilitation, work hardening, physical therapy, occupa-
tional therapy, audiology, or speech pathology services, the services
shall be organized and staffed to insure the health and safety of
patients.
(a) A hospital in which physical restoration or rehabilitation
services are available shall provide individualized techniques re-
quired to achieve maximum physical function normal to the patient
while preventing unnecessary debilitation and immobilization.
(b) Written policies and procedures shall be developed for
each rehabilitation service provided.
(c) A member of the medical staff shall be designated to coor-
dinate restorative services provided to patients in accordance with
their needs.
(d) Therapeutic equipment shall be adequate to meet the
needs of the service and shall be in good condition.
(e) Therapy services shall be provided only upon written orders
of qualified personnel in accordance with their scope of practice
and according to the hospital's protocols and bylaws.
(f) Therapy services shall be provided by or under the supervi-
sion of a licensed therapist, on a full-time, part-time or consultative
basis.
(g) A complete therapy record shall be maintained for each
patient provided physical therapy services. The report shall be
signed by the therapist who prepared it and shall be a part of the
patient's medical record.
(8) Emergency services.
(a) A [Hospital] hospital shall develop written procedures for
emergency patient care, including a requirement for:
1. Each patient requesting emergency care to be evaluated by a
registered nurse;
2. At least one (1) registered nurse on duty to perform
patient evaluation; and
3. A physician to be on call. Have procedures for taking care
of an emergency patient with at least a registered nurse on duty (to
evaluate the patient) and a physician on call.
(b) A patient that presents to the hospital requesting emer-
gency services shall be triaged by a registered nurse or paramedic
acting within his statutory scope of practice, and in accor-
dance with the hospital's formal operating policies and proce-
dures.
(c) The medical staff of a hospital within an organized emer-
gency department of service shall establish and maintain a manual
of policy and procedures for emergency and nursing care provided
in the emergency room.
1. The emergency service shall be under the direction of a
licensed physician. Medical staff members shall be available at all
times for the emergency service, either on duty or on call. Current
schedules and telephone numbers shall be posted in the emer-
gency room.
2. Nursing personnel shall be assigned to, or designated to
cover, the emergency service at all times.
3. Facilities shall be provided to assure prompt diagnosis and
emergency treatment. A specific area of the hospital shall be util-
ized for patients requiring emergency care on arrival. The emer-
gency area shall be located in close proximity to an exterior en-
trance of the facility and shall be independent of the operating
room suite.
4. Diagnostic and treatment equipment, drugs, and supplies
shall be readily available for the provision of emergency services
and shall be adequate in terms of the scope of services provided.
5. Adequate medical records shall be kept on every patient
seen in the emergency room. These records shall be under the
supervision of the Medical Record Service and, where appropriate,
shall be integrated with inpatient and outpatient records. Emer-
gency room records shall include at least:
   a. A log [book] listing the patient visits to the emergency room
in chronological order, including:
      (i) Patient identification;
      (ii) Means of arrival;
      (iii) Person transporting patient; and
      (iv) Time of arrival;
   b. History of present complaint and physical findings;
   c. Laboratory and x-ray reports, where applicable;
   d. Diagnosis;
   e. Treatment ordered and details of treatment provided;
   f. Patient disposition;
   g. Record of referrals;
   h. Instructions to the patient or family for those not admitted
to the hospital; and
   i. Signatures of attending medical staff member, and nurse
when applicable.
(9) Outpatient services.  
(a) A hospital with organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.  
(b) The outpatient department shall be organized in sections, or clinics, the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.  
(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.  
(d) Each service offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.  
  1. A registered nurse shall be responsible for the nursing services of the department.  
  2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.  
(e) Necessary laboratory and other diagnostic tests shall be available through:  
  1. The hospital;  
  2. A laboratory in another licensed hospital;  
  3. A laboratory licensed pursuant to KRS 333.030.  
(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.  
  1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.  
  2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment.  
(10) Surgery services.  
(a) A hospital in which surgery is performed shall have an operating room and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.  
  1. Sufficient surgical equipment, including suction facilities and instruments in good repair, shall be provided to assure safe and aseptic treatment of surgical cases.  
  2. If flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.  
(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.  
  1. Surgical privileges shall be delineated for each member of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.  
  2. Except in emergencies, a surgical operation or other hazardous procedure shall be performed only on written consent of the patient or his legal representative.  
  3. The operating room register shall be complete and up to date. It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.  
  4. There shall be a complete history and physical workup in the chart of every patient prior to surgery. If the history and workup has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart shall accompany the patient to the operating suite and shall be returned to the patient's floor or room after the operation.  
  5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and shall be signed by the surgeon.  
  6. Tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examination.  
  7. An infection of a clean surgical case shall be recorded and reported to the appropriate committees of the medical staff. The committee shall investigate the matter according to a procedure previously developed by the committee.  
(c) Rules and policies related to the operating rooms shall be available and posted.  
(11) Anesthesia services.  
(a) A hospital that provides surgical or obstetrical services shall have anesthesia services available. Anesthesia services shall be organized under written policies and procedures regarding staff privileges, the administrator of anesthetics, and the maintenance of safety controls.  
(b) A physician member of the medical staff shall be the medical director of anesthesia services. If possible, the director shall be a physician specializing in anesthesiology.  
(c) If anesthesiastics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics at the direction of the operating surgeon.  
(d) A qualified medical staff member shall perform a preanesthetic physical examination for every patient requiring anesthesia services [shall have a preanesthetic physical examination by a medical staff member]. The following shall be recorded within forty-eight (48) hours of surgery:  
  1. Findings of the preanesthetic physical examination;  
  2. An anesthetic record on a special form; and  
  3. A postanesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.  
(e) The postanesthetic follow-up note shall be written upon discharge from the postanesthesia recovery area or within three (3) to twenty-four (24) hours after the procedure requiring [procedure was required]. The [following] note shall include:  
  1. Blood pressure and pulse measurements;  
  2. [a record of blood pressure, pulse.] Presence or absence of the swallowing reflex and cyanosis;  
  3. [any] Postoperative abnormalities or complications; and  
  4. The patient's [and the] general condition [of the patient].  
(12) Obstetrics service.  
(a) A hospital providing obstetrical care shall have adequate space, necessary equipment and supplies, and a sufficient number of nursing personnel to assure safe and aseptic treatment of mothers and newborns and to provide protection from infection and cross-infection.  
  1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. A hospital with an obstetrical caseload that does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.  
  2. A registered nurse shall be on duty in the labor and delivery unit if a patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until the patient is transferred to the maternity unit.  
  3. An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and for an obstetrical emergency.  
  4. Patients in labor shall be cared for in adequately equipped labor rooms.  
(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered within thirty (30) minutes after delivery, in accordance with 902 KAR 4:020.  
(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.  
(d) The hospital shall have a method and procedure for the positive associative identification of the mother and infant. The identifiers shall be placed or mother and newborn in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.  
(e) An up-to-date register book of deliveries shall be maintained containing the following information:  
  1. Infant's full name, sex, date, time of birth and weight;
2. Mother’s full name, including maiden name, address, birthplace and age at time of this birth;
3. Father’s full name, birthplace, age at time of this birth; and
4. Full name of attending physician or nurse midwife.

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for:
1. A delivery occurring outside the delivery room; and
2. A patient with infectious disease.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(i) The hospital shall comply with the provisions of KRS 214.175 in participating in surveys relating to the determination of alcohol or other substance abuse among pregnant women and newborn infants.

(j) The hospital shall comply with the provisions of KRS 216.2970 in conducting auditory examinations for newborn infants.

13. Pediatric services.
(a) A hospital providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. Nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or “room-in” with their hospitalized child for moral support and assistance with care.

14. Psychiatric services. A hospital with a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric and shall meet the requirements for psychiatric hospital operations, services, and licensure administrative regulation.

15. Chemical dependency treatment services. A hospital providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:100, Sections 3 and 4, and shall designate location and number of beds to be used for chemical dependency treatment services.

16. Medical library.
(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff. The library collection shall be organized and available to the medical and nursing staff members at all times.

Section 5. Long-term Acute Inpatient Hospital Services. (1) A hospital licensed pursuant to this administrative regulation and seeking to qualify for available Title XVIII Medicare reimbursement may provide long-term acute inpatient hospital services pursuant to applicable federal law and upon the following conditions:

(a) The area of the hospital designated to provide long-term acute inpatient hospital services shall provide services in compliance with:
1. This administrative regulation; and
2. 42 CFR Section 412.22 [shall have:]
3. An average length of patient stay greater than twenty-five (25) days.
4. A separate governing body.
5. A separate medical staff.
6. A separate chief executive officer.

(b) [Medical services shall be provided by hospital employees or under contract or other written agreement with an entity not associated with:]

1. The host hospital; or
2. A third-party that controls both the hospital and the long-term acute care facility.

(c) Food, dietetic, housekeeping, maintenance and other services necessary to maintain cleanliness and safety may be obtained:

1. Under a contract or other written agreement with:
   a. The host hospital, or
   b. A third-party that controls both the hospital and the long-term acute care facility; or

2. As otherwise provided by federal law.

(d) A hospital wishing to provide long-term acute inpatient hospital services may request authorization from the [Division of Licensing and Regulation] Office of Inspector General, Cabinet for Health Services. The Office of Inspector General, Cabinet for Health Services shall conduct a survey to determine if the requirements of this section are met and shall notify the hospital of the survey results by letter.

2) A hospital that establishes its authority to be reimbursed for Title XVIII Medicare for long-term care acute inpatient hospital services pursuant to this section, shall not receive Title XIX Medicaid reimbursement for the same services.

PAMELA J. MURPHY, Inspector General
MARcia R. MORGAN, Secretary
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CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, August 13, 2002)

922 KAR 1:360. Private child care placement, levels of care, and payment.

RELATES TO: KRS Chapter 13B, 199.011, 199.640 to 199.680 [199.620], 199.601, 209.020(2)(d), 620.090(1), 605.150(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.641(4) requires the cabinet to establish the rate setting methodology and the rates of payment for nonprofit child-care facilities, consistent with the level and quality of services provided. KRS 605.090(1)(d) authorizes the cabinet to place a child committed to the Department of Juvenile Justice, or the cabinet, in a child-caring facility operated by a local governmental unit or private organization willing to receive the child, upon such conditions as the cabinet may prescribe. KRS 605.150(1) authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605. This administrative regulation establishes: (a) five (5) levels of care based upon the needs of a child for whom the cabinet has legal responsibility; (b) a payment rate for each level; (c) gatekeeper responsibilities; (d) provider requirements; (e) procedures for classification at the appropriate level of care; and (f) procedures for determination of components of the formula program cost analysis. [authorizes the cabinet to establish the rate of reimbursement for child-caring facilities, consistent with the level of service provided. This administrative regulation establishes [a] five (5) levels of care [b] level reimbursement system based on the needs of a child for whom the cabinet has legal responsibility; (c) the child with a reimbursement rate for each level; (d) gatekeeper responsibilities; (e) provider requirements. The functions of this administrative regulation shall be to establish procedures whereby a child shall be evaluated to assure classification in the appropriate level of care.]

Section 1. Definitions. (1) "Cabinet" is defined at KRS 199.011.
(2) "Child-caring facility" or "facility" is defined at KRS 199.641(1)(b).
(3) "Department" means the Department for Community Based
Services or the department's agent,

(4) [(24)] "District placement coordinator" means an individual
whose responsibilities are described in KRS 199.901(4).

(5) "Emergency shelter" is defined at KRS 600.020(23).

(6) [(49)] "Gatekeeper" means the department or agent responsi-
ble for:
   (a) Making a clinical determination of the level of care necessary
to meet a child's treatment and service needs; and
   (b) Other administrative duties in the areas of:
      1. Assessment;
      2. Placement;
      3. Performance measurement; and
   4. Consultation regarding children and their needs.

(7) [(46)] "Index factor" means a specific number derived from
study data, used to determine payment for each level of
care, that is used as part of the cabinet's payment methodology to
(determine the appropriate payment increment for each level
of care; and
   (b) [Fairly compensate private child caring facilities based on
the cost of providing treatment services.]

(8) [(45)] "Initial level of care" means a level of care:
   (a) Assigned by the gatekeeper to a child at the point of entry
into the level of care system; and
   (b) That is time-limited and effective for the first six (6) months
of a child's placement.

(9) [(25)] "Level of care" means one (1) of five (5) standards rep-
resenting the treatment and service needs of a child placed by the
cabinet in an out-of-home care.

(10) [(48)] "Level of care packet" means a collection of [the
forms required for submission to the gatekeeper for the purpose of
determining the appropriate level of care and includes the:
   (a) DPP-886, Private Client Interagency Referral Form;
   (b) DPP-886A, Application for Referral and Needs Assessment;
and
   (c) If a child has an IQ of seventy (70) or above:
      1. Until October, 2003, Child Behavior Checklist for Ages 4-
         18 (Achenbach);
      2. After October, 2003:
      a. Child Behavior Checklist For Ages 1 1/2-5 (Achenbach);
or
      b. Child Behavior Checklist For Ages 6-18; or [Child Behavior
         Checklist For Ages Four (4) to Eighteen (18) (Achenbach) for a child
         whose IQ is seventy (70) or above, or]
   (d) If a child has an IQ below seventy (70):
      1. Reiss Scales for Children's Dual Diagnosis (Mental Retarda-
         tion and Psychopathology); and

(11) [(40)] "Model program cost analysis" is defined at KRS
199.64(1)(e).

(12) [(42)] "Reassigned level of care" means a level of care that
is:
   (a) Determined by the gatekeeper after a child's level of care
expires; and
   (b) Authorized for a specific period of time.

(13) [(11)] "Redetermination of a level of care" means the gate-
keeper's reassessment of a child's assigned level of care at the request of
the cabinet, a child-caring facility, or child-placing agency if new
information related to a child's treatment and service needs is pro-
vided to the gatekeeper.

(42) "Time study" is defined at KRS 199.641(1)(e).

(14) [(13)] "Utilization review" means a gatekeeper's [an] ex-
amination, during a child's placement in a child-caring facility or
child-placing agency, [by the gatekeeper of the child's case record
and existing documentation for the purpose of:
   (a) Identifying the child's current level of functioning; and
   (b) Assigning the appropriate level of care.

Section 2. Referral Process for Level of Care System Place-
ment. (1) A level of care packet shall be completed by a cabinet staff
person and submitted to the gatekeeper for a child at least forty-
eight (48) months of age as the time that [when]:
   (a) The child enters the level of care system;
   (b) A child currently placed in a child-caring facility or a child-
placing agency reaches forty-eight (48) months of age; or
   (c) A child's level of care expires and assignment of a new
level is necessary.

(2) Upon assignment of an initial level of care by the gate-
keeper, a cabinet staff person shall submit a copy of the completed
level of care packet, including level assignment, to the district
placement coordinator who shall forward the level of care packet to
potential child-caring facilities or child-placing agencies.

(3) If a child-caring facility or child-placing agency accepts a
child for out-of-home placement and the cabinet approves the
placement, a cabinet staff person shall:
   (a) Complete the DPP-114, Level of Care Schedule, on or
before the date of placement; and
   (b) Transport the child to the placement on a date prearranged
by the cabinet and provider:

   1. Section 3. Gatekeeper Responsibilities. The gatekeeper shall:
      (1) Evaluate a child, at least forty-eight (48) months of age
or older [month of age]:
         (a) Who is referred by the department or currently placed in a
child-caring facility or child-placing agency;
         (b) For an initial or reassigned level of care; and
         (c) Within three (3) working days of receipt of the level of care
packet:
            (a) Determine the appropriate level of care according to a
needs assessment consistent with one (1) of the five (5) levels of
care; and
            (b) Return the completed DPP-886, Private Client Interagency
Referral Form, to the department;
      (3) Reassess a child through a utilization review:
            (a) Six (6) months from the initial placement or reassignment
and placement in a child-caring facility and child-placing agency;
            (b) Every three (3) months thereafter if the child is in a private
child care residential placement; or
            (c) Every six (6) months thereafter if the child is in a foster care
placement or therapeutic foster care;
            (4) Reassign a child's level of care after the level has expired;
            (5) Monitor each child-caring facility and child-placing agency,
at the request of the cabinet, through a program review that in-
cludes:
               (a) Reviewing the extent to which services provided are in
compliance with the child's individual treatment plan;
               (b) Determining if a change in the child's needs is reflected in
the child's individual treatment plan;
               (c) Reviewing records on site;
               (d) Interviewing residents and staff;
               (e) Conducting satisfaction surveys of each;
               (f) Cabinet staff person making a referral for out-of-home care;
   2. [or child-placing agency, and each] Child's parent or custo-
dian:
      (f) Submitting written reports to the:
         1. Child-caring facility or child-placing agency; and
         2. Cabinet;
      (g) Maintaining a confidential information system for each child
cared for that shall include:
         (a) Placement history;
         (b) Child-caring facility, placement or child-placing agency,
placement;
         (c) Level of care assignments;
         (d) [dis] Length of treatment; and
         (e) [dis] Discharge outcomes.

Section 4. Levels of Care. Each level of care shall meet the fol-
lowing criteria:
   (1) A Level I child requires a routine home environ-
ment that:

   (a) Provides maintenance;
   (b) Provides guidance;
   (c) Provides supervision to meet the needs of the child; and
   (d) Ensures the emotional and physical well-being of the child.

(2) A Level II child:
(a) May engage in nonviolent antisocial acts, but be capable of meaningful interpersonal relationships; and
(b) Requires supervision in a structured supportive setting with:
1. Counseling available from professional or paraprofessional staff;
2. Educational support; and
3. Services designed to improve development of normalized social skills.

(3) A Level III child:
(a) May engage in an occasional violent act;
(b) May have superficial or fragile interpersonal relationships;
(c) Requires [require] supervision in a structured, supportive environment where the level of supervision and support may vary from low to moderate, proportional to the child's ability to handle reduced structure;
(d) May occasionally require intensive levels of intervention to maintain the least restrictive environment; and
(e) Requires [require] a program that is flexible enough to allow:
1. Extended trials of independence when the child is capable;
2. A period of corrective and protective structure during relapse; and
3. Counseling available from professional or paraprofessional staff.

(4) A Level IV child:
(a) Has behavioral and physical, mental or social needs that may present a moderate risk of causing harm to himself or others; or

1. Himself, or
2. Others;
(b) Requires a structured supportive setting with:
1. Therapeutic counseling available by professional staff; and
2. A physical, environmental, and [a] treatment program designed to improve social, emotional, and educational adaptive behavior. [adaptation behavior]

(5) A Level V child:
(a) Has a severe impairment, disability, or need; or
1. Impairment;
2. Disability; or
3. Need;
(b) Is consistently unable or unwilling to cooperate in his own care; or
(c) Presents a severe risk of causing harm to himself or others; and:

1. Himself, or
2. Others; and
(d) Requires Level IV services and a:
1. Highly structured program with twenty-four (24) hour supervision; or
2. Specialized setting that provides safe and effective [safely and effectively] care for a severe, [and] chronic medical condition complicated by a behavioral disorder or emotional disturbance.

Section 5. Payment Methodology and Rates. (1) Payment Methodology. The cabinet shall establish a per diem rate for the care of a child placed by the cabinet in a private child-caring facility, based upon the model program cost analysis defined at KRS 199.641(d). Each private, nonprofit child caring facility shall report to the cabinet annually, on Form DPP-888, cost report and time study data. [A per diem rate for the care of a child placed by the cabinet in a private child caring facility or child-placing agency shall be established by using the model program cost analysis defined at KRS 199.641(d).] The total cost report and time study data used for the model program cost analysis shall be reported:

(a) To the cabinet on an annual basis by:
1. Private child-caring facilities; and
2. Private child-placing agencies;

(2) The cabinet shall establish an index factor for payment on behalf of a child for whom a level of care has been determined. The factor shall be determined as follows:
(a) Based on the amount of treatment provided at each level of care; and
(b) By determining the median of:
1. Number of daily treatment hours, derived from time study data, provided to children served by private, nonprofit child-caring facilities [or child-placing agencies]; and
2. Level of care of children served by private, nonprofit child-caring facilities that contract with the cabinet;
(c) The median number of daily treatment hours for children whose level is:
1. Determined [considered], the median level of care shall be represented by an index factor of one (1); or
2. Not determined [considered], the median level of care shall be represented by an index factor that is proportionate to the amount of treatment provided to a child in the median level.

(3) A statewide median cost, including base costs, and treatment components, for each level of care shall be calculated by using a utilization factor of ninety (90) percent for residential treatment and seventy-five (75) percent for a group home.
(4) The payment rate for each level of care shall be calculated by multiplying the median cost by the index factor specific to that level of care. The rate for each level of care shall be adjusted by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.
(5) Median cost shall be calculated [calculation shall be composed]:
(a) Using a utilization factor of eighty (80) percent:
1. For an emergency [a] shelter with a treatment license:
   a. Board; and
   b. Care; and
   c. Treatment components; or
2. For an emergency [a] shelter without a treatment license:
   a. Board; and
   b. Care components; and
(b) Adjusting [of an adjustment] for each level of care by the Consumer Price Index during each intervening period between the fiscal year used for the cost analysis and calculation of the rate.
(6)(a) To the extent that in any period the extent falls below the index, for a private, nonprofit child-caring facility [or child-placing agency] that participates in a per diem rate contract with the cabinet shall be determined by evaluating the performance of the child-caring facility, in accordance with KRS 199.641 (2)(a) [or child-placing agency]. Measureable performance outcomes include:
1. [a] Child safety while in the care of a private child-caring facility or child-placing agency;
2. [b] Child safety after reunification with the child's family;
3. [c] Adequate educational support;
4. [d] Reduced time spent in out-of-home care without an increase in the rate of out-of-home care reentry;
5. [e] Increased placement stability during the service period;
6. [f] Increased achievement of permanency goals; and
7. [g] Increased stability in permanency placement following planned discharge.
(b) [c] The cabinet's contract with a private, nonprofit child-caring facility [or child-placing agency] shall specify the:
1. [a] Indicators used to measure the performance outcomes described in subsection (6)(a) of this section; and
2. [b] Target percentages used as performance goals.
(c) [d] Each child in the custody of the cabinet who is placed in a private, nonprofit child-caring facility [or child-placing agency] during the contract period shall be included in the percentage of children for whom the cabinet expects achievement of an outcome.
(d) At the time [where] the contract expires, each private, nonprofit child-caring facility [or child-placing agency] shall be ranked based on the percentage of children for whom the facility achieved an outcome [was achieved by the child-placing agency]. Upon the expiration of the contract the extent funds are available, a payment incentive shall be distributed to a private, nonprofit child-caring facility [or child-placing agency] that performed in the top one-third (1/3) of the facilities.
(e) [e] The amount of a payment incentive shall be determined according to the funding appropriated for this purpose in the biennial budget.
(7) [443] In addition to services provided on a per diem rate, the cabinet shall solicit proposals from private, nonprofit child-caring facilities [or child-placing agencies] to provide alternative services to children and their families. To the extent funds are available, the alternative services:
(a) Shall be geared toward improved outcomes;
(b) Shall be tailored to fit the specific needs identified for the service region served by the child-caring facility [or child-placing agency];
(c) Shall be available within the geographic area encompassed by the service region; and
(d) May include case management responsibilities shared between the cabinet and the child-caring facility [or child-placing agency].

(8) [443] Payment to child-caring facilities [and child-placing agencies] that provide alternative services according to subsection (7) [443] of this section shall be based upon:
(a) The model program cost analysis; and
(b) Expectations agreed upon between the cabinet and the child-caring facility [or child-placing agency], such as:
1. Reduced length of stay in out-of-home placement;
2. Increased safety from child abuse or neglect;
3. Increased number of children moving into and remaining in permanent placement;
4. Increased number of children and their families cared for in close proximity to their home communities [community];
5. Increased number of children reunified with their families; and
6. Increased accountability for success in after care; and
7. Decreased reentry into state custody.

Section 6. Residential Care. (1) A child-caring facility or child-placing agency in the levels of care reimbursement plan shall be licensed under 922 KAR 1:305 and shall meet the standards for child-caring facilities established in 922 KAR 1:300 or child-placing agencies established in 922 KAR 1:340.

(2) The provider shall comply with 922 KAR 1:390, Section 4, Residential Treatment Program, if providing treatment oriented services.

(3) The daily rate for residential care shall be:
(a) Level I - [443] forty-eight (48) dollars and nineteen (19) cents [per day for Level I];
(b) Level II - [443] fifty-eight (58) dollars and fifty-two (52) cents [per day for Level II];
(c) Level III - [443] $108.71 [per day for Level III];
(d) Level IV - [443] $130.80 [per day for Level IV]; and
(e) Level V - [443] $162.43 [per day for Level V].

Section 7. Emergency Shelter Care. (1) An emergency shelter child-caring facility shall meet the requirements of 922 KAR 1:380. The rate for emergency shelter care shall be:
(a) Ninety-nine (99) dollars and eighty-seven (87) cents per day for a child-caring facility with a treatment license; and
(b) Eighty-seven (87) dollars and eighty-three (83) cents per day for a child-caring facility without a treatment license.

(2) If a child's treatment placement is disrupted and the child enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall:
(a) Receive a rate consistent with the child's assigned level of care [rate] for residential care during the previous placement, pending a determination of the next-scheduled utilization review; or
(b) If the child is Level I or lower, receive a rate not less than ninety-nine (99) dollars and eighty-seven (87) cents per day; and
(c) Adhere to the child's individual treatment plan.

(3) [443] If the department determines [makes a determination] that a child without an assigned level of care shall remain in an emergency shelter child-caring facility longer than thirty (30) days, the department shall make a referral to the gatekeeper, by the 30th day of placement, for assignment to an appropriate level of care.

(4) If a child remains in an emergency shelter longer than thirty (30) days, the emergency shelter child-caring facility with a treatment license shall:
1. Receive the Residential Rate consistent with the assigned level of care for each day the child is in the facility beyond the 30th day;
2. If the child is Level II or lower, receive a rate not less than ninety-nine (99) dollars and eighty-seven (87) cents per day; and
3. Adhere to the child's individual treatment plan.

Section 8. Foster Care and Therapeutic Foster Care. (1) Basic daily rate for foster care shall be forty (40) dollars.

(2) Daily rates for therapeutic foster care shall be as follows:
(a) Levels I and II, if the child is stepped down from Level III or higher - seventy (70) dollars.
(b) Level III - seventy-six (76) dollars and seventy-eight (78) cents.
(c) Level IV - ninety-four (94) dollars and eleven (11) cents.
(d) Level V - $131.26. [A child-placing agency providing foster care services shall receive a basic rate of forty (40) dollars per day. Except as specified in Section 9 of this administrative regulation, this rate also applies to a child:
1. Less than forty-eight (48) months of age; or
2. Not stepped down from a previous level of care of III, IV, or V.]

(3) A child-placing agency providing foster care shall meet the requirements of 922 KAR 1:310, Sections 9 and 10.

(b) The rate for therapeutic foster care shall be based on the child:
1. Assigned level of care; and
2. Previously assigned level of care.
(c) [443] If a child is stepped down from a Level III or higher, the rate for Level I and Level II therapeutic foster care shall be seventy (70) dollars per day.

(d) [443] The rate for Level III therapeutic foster care shall be seventy-six (78) dollars and seventy-eight (78) cents per day.
(e) [443] The rate for Level IV therapeutic foster care shall be ninety-four (94) dollars and eleven (11) cents per day.
(f) [443] The rate for Level V therapeutic foster care shall be $131.26 per day.

Section 9. Pregnant and Parenting Teen Programs. A child-caring facility with a pregnant and parenting teen program shall receive:
(1) A rate consistent with the assigned level of care for the adolescent parent; and
(2) Inclusive of child care cost, forty (40) dollars [and ninety (90) cents per day for the committed child of an adolescent parent who is committed to the cabinet.

Section 10. Provider Requirements. A child-caring facility or child-placing agency shall:
(1) [443] A child-caring facility or child-placing agency shall inform the department of the [assigning which] levels of care for the facility or agency [child-caring facility or child-placing agency] has the ability to serve; and
(2) [443] The child-caring facility or child-placing agency shall demonstrate its ability to provide services, either directly or by contract, appropriate to the assigned level for each child, including [that child. These services shall include:
(a) Room, board, and other [and board, including] activity contributing to housing, food, clothing, school supplies, or personal incidentals;
(b) Clinical services including:
1. The evaluation and treatment of an emotional disorder, mental illness, or substance abuse problem; and
2. Identification and alleviation of related disability or distress, experienced by the child who follows a specific individual treatment plan targeted to identify a problem; and
(c) Support services that:
1. Identify necessary resources and coordinate services provided by a range of agencies or professionals;
2. Allow a child to cope with the disability or distress;
3. Provide access to improving the educational or vocational status of the child; and
4. Provide essential elements of daily living; and
(3) [443] A child-caring facility or child-placing agency shall submit the following reports to the gatekeeper in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date:
(e) [The child caring facility or child-placing agency shall provide to the gatekeeper] A behavior inventory appropriate to the child's developmental level consisting of completed by completing forms:

1. Child Behavior Checklist For Ages Four (4) to Eighteen (18) (Achenbach), every six (6) months; or
2. Reise Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology) and Scales of Independent Behavior-Revised (SIB-R), every twelve (12) months.

(b) And to the [child caring facility or child-placing agency] shall submit to the gatekeeper and the department, a copy of the following completed forms:

1. On a quarterly basis, for a private child care residential placement, "CRP-001, Children's Review Program Residential Private Child Care Quarterly Report"; or
2. On a semiannual basis for a foster care placement, "CRP-003, Children's Review Program Foster Care Six Month Progress Report"; or

4. The child caring facility or child-placing agency shall submit to the gatekeeper Outcomes data and information as requested by the gatekeeper; and

5. Before October 2004 or within two (2) years of initial licensure, obtain accreditation from a nationally-recognized accreditation organization, such as:

(a) The Council on Accreditation; or
(b) The Joint Commission on Accreditation for Healthcare Organizations. [The child caring facility or child-placing agency shall become accredited by a nationally-recognized accreditation organization;]

(a) Before October 2004; or
(b) Within two (2) years of initial issuance of a license (for treatment

Section 11. Utilization Review and Authorization of Payment. (1) The purpose of the utilization review is to determine the care needs that are in the best interest of a child. (2) The child caring facility or child-placing agency shall submit to the gatekeeper the reports specified in Section 10(3) of this administrative regulation for the utilization review in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date. (3) A child caring facility or child-placing agency fails to submit the reports as specified in Section 10(3) of this administrative regulation in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date. the cabinet shall:

(a) Suspend payments until all of the necessary information has been submitted to the gatekeeper [by the child caring facility or child-placing agency];

(b) If a child’s level is reduced and timely reports are not received by the gatekeeper, make an adjustment for overpayment retroactive to the first utilization review due date that was missed; or

(c) If a child’s level is increased as a result of delinquent reports, apply a higher rate beginning the day after the delinquent report is received by the gatekeeper.

(4) If the child caring facility makes timely submission of the reports, [or child-placing agency submits the reports as specified in Section 10(3) of this administrative regulation in time for the reports to be received by the gatekeeper within thirty (30) days prior to the utilization review due date] and if the: (a) Level of care remains unchanged, payments shall continue unchanged; or

(b) Level of care is reduced, [child is assigned a lower level of care by the utilization review] and the: 1. Child remains in the same [child caring facility or child-placing agency] placement, the lower level of care shall be effective on the 31st day following the utilization review due date; or
2. Child is placed in another child caring facility or child-placing agency after the utilization review due date, the rate for the lower level shall be effective on the day the child is placed or

(c) Level of care is increased [child is assigned a higher level of care by the utilization review], the rate for the higher level of care shall be effective the day after the utilization review due date.

(4) [6] If a child caring facility, child-placing agency, or the department determines it to be in the best interest of a child to [a child may] be transitioned to another program and the utilization review has been completed on time; and if:

(a) The program is not therapeutic foster care, the rate for the current assigned level shall remain in effect until the next scheduled utilization review; or
(b) The [a] new program is therapeutic foster care, the residential rate for the current level shall remain in effect for thirty (30) days after the change in placement. On the 31st day the therapeutic foster care rate for the assigned level shall apply.

(5) If the child caring facility or child-placing agency disagrees with the level of care assigned by the gatekeeper, the child caring facility or child-placing agency may request a redetermination as specified in Section 12 of this administrative regulation.

Section 12. Redetermination. (1) If the child caring facility or child-placing agency disagrees with the level of care assigned by the gatekeeper, the child caring facility or child-placing agency may request a redetermination of the assigned level by providing to the gatekeeper:

(a) New information which supports the request for a new level; and
(b) Completion of the "request for redetermination" section of one of the following forms:

1. DPP-886, Private Child Care Client Interagency Referral Form for an initial or reassigned level;
2. CRP-002, Children's Review Program Private Child Care (PCC) Notice of Level Assignment form for a utilization review; or
3. CRP-005, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment form for a utilization review; and

(c) The "request for redetermination" section of the CRP-002 for the level resulting from a utilization review.

(2) If the request for a redetermination is received by the gatekeeper within thirty (30) days after the most recent utilization review or admission, and if a higher level is assigned by the gatekeeper, the increased payment shall be retroactive:

(a) To the date of the most recent utilization review due date; or

(b) The date of admission.

(3) If the request for a redetermination is received by the gatekeeper more than thirty (30) days after the most recent utilization review or admission, and if a higher level is assigned by the gatekeeper, the increased payment shall be effective the day after the request is received by the gatekeeper.

(4) If the child caring facility or child-placing agency does not agree with the redetermination, an appeal may be requested in accordance with Section 15 (14) of this administrative regulation.

Section 13. Reassignment. (1) If the level of care expires and the child is moved to a different placement, a reassigned level of care shall be obtained by the department by completing a level or care packet for a level assignment. The reassigned level of care rate shall be effective on the date of admission to the new placement.

(2) If the child caring facility or child-placing agency disagrees with the level of care assigned by the gatekeeper, the child caring facility or child-placing agency may request a redetermination as specified in Section 12 of this administrative regulation.

Section 14. Informal Dispute Resolution. (1) A contract agent dissatisfied by a decision of the cabinet or a gatekeeper may seek informal resolution by filing a request with the secretary of the cabinet, or designee, within ten (10) days following notice of the decision.

(2) Upon receipt of a request for informal resolution, the cabinet shall:

(a) Review the request; and

(b) Render a written decision on the issue raised.
(3) If the dispute relates to a decrease or denial of payment, the contract agent may request an administrative hearing in accordance with Section 15 of this administrative regulation.

Section 15. Administrative Hearing Process. (1) A child-caring facility or child-placing agency may request an administrative hearing regarding an adverse action that results in:
(a) A decrease in payment, or
(b) Denial of payment. [If the child-caring facility or child-placing agency disagrees with the initial or redetermination decision, the child-caring facility or child-placing agency may request an administrative hearing.]

(2) If an administrative hearing is requested within thirty (30) calendar days of the action by the gatekeeper, payments shall continue at the disputed level until a hearing decision is rendered.

(3) If the hearing decision is rendered in favor of the child-caring facility or child-placing agency, the department shall reimburse the child-caring facility or child-placing agency the difference between the ordered level of payment and the disputed payment.

Section 16. Incorporation by Reference. (1) The following materials are incorporated by reference:
(a) "DFS-114, Level of Care Schedule, edition March 2002;"
(b) "DDP-888, Private Child Care Client-Intergovernmental Referral Form, edition July 2002;"
(c) "DDP-886A, Application for Referral and Needs Assessment, edition July 2002;"
(d) "Child Behavior Checklist For Ages Four (4) to Eighteen (18) (Achenbach), edition June 1999, until 10/03;"
(e) "Child Behavior Checklist For Ages 1 1/2 - 5 (Achenbach), edition 7/00, after 10/03;"
(f) "Child Behavior Checklist For Ages 6-8 (Achenbach), edition 6/01, after 10/03;"
(g) "Reiss Scales for Children's Dual Diagnosis (Mental Retardation and Psychopathology), edition 1990;"
(h) "Scales of Independent Behavior-Revised (SIB-R), edition 1996;"
(i) "DDP-888, Kentucky Cabinet for Families and Children Annual Audited Cost Report and Time Study and Instructions for Completing the Cost Report Time Study Codes and Definitions, and Instructions for the Time Study, for Child and Child-Care Programs and Facilities, edition July 2002;"
(j) "CRP-001, Children's Review Program Residential Private Child Care Quarterly Report, edition March 2002;"
(k) "CRP-002, Children's Review Program Private Child Care (PCC) Notice of Level Assignment, edition March 2002;"
(l) "CRP-003, Children's Review Program Foster Care Six (6) Month Progress Report, edition March 2002;"
(m) "CRP-004, Children's Review Program Notice of Redetermination, edition March 2002;"
(n) "CRP-005, Children's Review Program DCBS Foster Care Utilization Review Notice of Level Assignment, edition March 2002;"

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(3) "Commissioner" means the Commissioner of the Department of Community Based Services or the commissioner's designee.

(4) "Department" is defined at KRS 409.041(4).]

(5) "District placement coordinator" is defined at KRS 409.801(1).

(6) "Gatekeeper" means the department or agent responsible for making a clinical determination of the level of care necessary to meet the child's treatment and service needs.

(7) "Index factor" means a specific number derived from time-study data that is used as part of the cabinet's payment methodology:
(a) Determine the appropriate payment increment for each level of care; and
(b) Equally compensate private child-caring facilities based on the time spent providing treatment services.

(8) "Model program cost analysis" is defined at KRS 409.801(1).
shall specify that: 
(a) Indicators used to measure the performance outcomes described in subsection (5) of this section; and 
(b) Target percentages used as performance goals.

(3) Each child in custody of the facility who is placed in a private child-caring facility during the contract period shall be included in the percentage of children for whom the facility expects achievement of an outcome specified in subsection (6) of this section.

(4) When the contract period expires, each private child-caring facility shall be ranked, based on the percentage of children for whom the outcome was achieved, in the percentage of children for whom the facility expects achievement of an outcome specified in subsection (6) of this section.

(5) The amount of a payment incentive shall be determined according to the funding appropriated for this purpose in the biennial budget.

(6) In addition to services provided on a per diem rate, the facility shall submit proposals for services other than child caring facilities to provide alternative services to children and their families. The alternative services shall be: 
(a) Be designed toward improved outcomes; 
(b) Be tailored to fit the specific needs identified for the service region served by the facility; 
(c) Be available within the geographic area encompassed by the service region; and 
(d) May include case management responsibilities shared between the facility and the system.

(7) The payment methodology for services described in subsection (6) of this section shall be based on: 
(a) The model program cost analysis; and 
(b) Expectations agreed to by the facility, such as: 
1. Reduced length of stay in facilities; 
2. Increased safety from child abuse or neglect; 
3. Increased number of children moving into and remaining in permanent placement; 
4. Increased number of children cared for in close proximity to their home community; 
5. Increased number of children reunified with their families; 
6. Increased accountability for success in foster care; and 
7. Decreased time in state custody.

Section 3. Levels of Care. The department shall establish a five level reimbursement system based on the needs of a child in the custody of the facility. 

Level 1: Child requiring routine home environment: 
(a) Provides maintenance; 
(b) Provides guidance; 
(c) Provides supervision to meet the needs of the child; and 
(d) Ensures the emotional and physical well-being of the child.

Level 2: Child requiring care at a social and emotional level: 
(a) May engage in occasional antisocial acts, but be capable of meaningful interpersonal relationships; and 
(b) Requires supervision in a structured supportive setting with: 
1. Counseling available from professional or paraprofessional staff; 
2. Educational support; and 
3. Services designed to improve development of normalized social skills.

Level 3: Child requiring care at a social and emotional level: 
(a) Engage in occasional violent act; 
(b) Have superficial or fragile interpersonal relationships; 
(c) Require supervision in a structured, supportive environment where level of supervision and support may vary from low to moderate; 
(d) Require intensive level of intervention to maintain the least restrictive environment; and 
(e) Require a program that is flexible enough to allow: 
1. Extended periods of time when the child's needs are not being met.

Level 4: Child requiring care at a medical level: 
(a) Need medical care; 
(b) Need regular or continuous medical supervision; 
(c) Need special facilities or equipment; and 
(d) Require admission to an institution or hospital.

Level 5: Child requiring care at a custodial level: 
(a) Need constant supervision; 
(b) Need full-time custodial care; 
(c) Need constant medical supervision and care; and 
(d) Require admission to an institution or hospital.

Section 4. Emergency Shelter Care. (1) An emergency shelter child-caring facility shall meet the requirements of 22b KAR 1:380. The rate for emergency shelter care shall be: 
(a) Ninety-nine (99) dollars and eighty-seven (87) cents per day for a child-caring facility with a treatment license; and 
(b) Eighty-seven (87) dollars and eighty-three (83) cents per day for a child-caring facility without a treatment license.

(2) If a child's treatment plan is disrupted and the child enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall: 
(a) Receive a rate consistent with the child's assigned level of care during the previous placement; and 
(b) If the child is Level I or lower, receive a rate not less than ninety-nine (99) dollars and eighty-seven (87) cents per day, and 
(c) Adhere to the child's treatment plan.

(3) If a child's treatment plan is disrupted and the child enters an emergency shelter child-caring facility with a treatment license, the emergency shelter child-caring facility shall: 
(a) Receive a rate consistent with the assigned level of care for residential placement; and 
(b) Adhere to the child's treatment plan.

Section 5. Pregnant and Parenting Teen Programs. A child-caring facility with a pregnant and parenting teen program shall receive: 
(a) A rate consistent with the assigned level of care for the adolescent parent; and 
(b) Twenty-one (21) dollars and ninety-nine (99) cents per day for the child of an adolescent parent who is committed to the facility.

Section 6. Foster Care. (1) A child-placing agency providing foster care services shall receive a basic rate of forty (40) dollars per day.

(2) A child-placing agency providing therapeutic foster care shall meet the requirements of 22b KAR 1:310, Sections 9 and 10. The rate for therapeutic foster care shall be based on the child's assigned level of care.

(3) The rate for Level I therapeutic foster care shall be seventy (70) dollars per day.
Section 7. Role of the Gatekeeper. The gatekeeper shall be responsible for:

(1) Assessing each child caring facility to determine what levels of care are provided;

(2) Evaluating a child referred by the department or currently in a child caring facility or child placing agency placement to determine classification in the appropriate level of care;

(3) Reevaluating a child within six months after placement in a facility or child placing agency placement, and every three (3) months thereafter if the child is in a child care residential placement or every six (6) months thereafter if the child is in foster care placement, at which time the child may be reassigned to another level of care or recommended for placement outside the level of care system;

(a) If a child is reassigned to a lower level by the gatekeeper and the child is remaining in the same child caring facility or child placing agency placement, the rate for the lower level of care shall be effective thirty (30) days from the date the utilization review was due, if the child is placed in another child caring facility, the rate for the lower level shall be effective on the day the child is placed;

(b) If a child is reassigned to a higher level or care by the gatekeeper and the child is remaining in the same child caring facility or child placing agency placement, the rate for the higher level of care shall be effective the day after the materials for the utilization review are received by the gatekeeper or the day after the utilization due date, whichever is later. If the child is placed in another child caring facility or another child placing agency placement, the rate shall be effective on the day the child is placed;

(c) If after the first six (6) months and before the next scheduled utilization review the child caring facility determines a child may be transitioned to a lower level of care, the rate for the current assigned level shall remain in effect until the next scheduled utilization review. If the lower level of care is therapeutic foster care, the facility shall notify the department;

(d) If the child caring facility determines a child is beyond the facility's or child placing agency's capacity to provide care, or there is no determination, previously not considered by the gatekeeper, a request for a redetermination may be made by the gatekeeper prior to the next regularly scheduled utilization review;

1. After a redetermination is completed by the gatekeeper, the child caring facility or child placing agency and department shall be notified of the results;

2. If the child caring facility or child placing agency disagrees with a redetermination made by the gatekeeper, a request for dispute resolution shall be submitted in writing to the department as governed by Section 9 of this administrative regulation;

(4) Monitoring each placement for quality assurance as part of the reevaluation for each child within six (6) months of the placement and every three (3) months thereafter for a child in a private child care residential placement, or every six (6) months thereafter for a child in foster care placement. The gatekeeper shall:

(a) Review the extent to which services provided are in compliance with the child's treatment plan;

(b) Determine if a change in the child's needs are reflected in the child's treatment plan and

(c) Advise the Division of Licensing and Regulation and the Cabinet for Families and Children of a discrepancy.

(a) Maintain an information system for a child served; to include:

1. Placement history;

2. Facility placement or child placing agency placement;

3. Cost of services;

4. Length of treatment, and

5. Discharge outcomes; and

(b) Monitoring each child caring facility annually for quality assurance with:

(a) On-site record reviews;

(b) Interviews of residents and staff, and

(c) Satisfaction surveys of referring cabinet staff and parents. Written reports shall be submitted to:

1. Child caring facility and

2. Cabinet.

Section 8. Provider Requirements. (1) The provider in the level of care reimbursement plan shall be licensed under 922 KAR 1:005. The provider shall comply with 922 KAR 1:300, Section 4, Residential Treatment Program, if providing intensive treatment oriented services.

(2) The provider shall demonstrate its ability to provide services, either directly or by contract, appropriate to the assigned level for that child and shall include:

(a) Room and board, including activity contributing to housing, food, clothing, school supplies, or personal incidentals;

(b) Clinical services including:

1. The evaluation and treatment of an emotional disorder, mental illness, or substance abuse problem; and

2. Are directed to the identification and alleviation of related disability or distress, experienced by a child who follows a specific treatment plan targeted to identify a problem; and

(c) Support services that:

1. Identify necessary services and coordinate services provided by a range of agencies or professionals;

2. Allow a child to cope with the disability or distress;

3. Provide access to improving the educational or vocational status of the child; and

4. Provide essential elements of daily living.

Section 9. Referral Process. (1) When the social service worker determines a need to place a child with a child caring facility or child placing agency, a referral packet shall be completed and a copy submitted to the gatekeeper.

(2) The gatekeeper shall within three (3) working days of receipt of the referral packet:

(a) Determine the appropriate level of care needed, using a needs assessment consistent with one (1) of the five (5) levels of care in this regulation;

(b) Return the completed OCHC 886 Private Child Care Client Inter-Agency Referral Form to the social service worker;

(2) The social service worker shall submit a copy of the completed referral packet with level assignment to the placement coordinator, who shall forward the referral packet to potential child caring and child placing agencies.

4. If a child caring facility accepts a child for placement, the social service worker shall complete the OCHC 114, Schedule of Payment, and en-route arranged date of placement, transport the child to the facility.

5. On a quarterly basis for a private child care residential placement or semiannual basis for a foster care placement, the child caring facility or child placing agency shall submit to the gatekeeper and social service worker a copy of the child's record or a narrative summary including:

(a) Information regarding the child's adjustment;

(b) Services provided to both the child and family;

(c) Progress made toward returning the child home; and

(d) Future plans for the child.

Section 10. Dispute Resolution. A child caring facility or child placing agency may request resolution to a disputed determination made by the gatekeeper in the application of the provisions of this administrative regulation.

(1) A party wishing to dispute a determination shall submit a written notice of dispute to the social service region administrator or designee within thirty (30) days after a child caring facility or child placing agency is notified of a level of care determination. The notice of dispute shall:

(a) Specify the action being disputed;

(b) Specify the reason the child caring facility or child placing agency believes the level of care determination is unwarranted;

(c) Include documentation the child caring facility or child placing agency considers relevant to support the dispute; and
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(d) Specify an alternative determination or action that may be taken.
(2) The service region administrator or designee shall cause the dispute to be reviewed and evaluated and shall:
(a) Notify the facility or child-placing agency of the date, time, and place for the informal conference within thirty (30) days of the receipt of the notice of dispute. The informal conference with the child-caring facility or child-placing agency shall be conducted according to the following procedures:
1. The service region administrator or designee shall provide notice of the informal conference to the child-caring facility or child-placing agency;
2. The proceeding shall be recorded;
3. The child-caring facility or child-placing agency or an authorized representative may present oral arguments or documentation considered relevant to support the facility's contention regarding the assigned level of care;
4. The department staff and the gatekeeper shall explain the department's decision regarding the assigned level of care;
5. The service region administrator or designee may question each participant and may permit questions or discussions among participants if that may contribute to reaching a decision regarding the assigned level of care under dispute; and
(b) Issue a written decision on the dispute, including findings of fact and conclusions of law, within thirty (30) days after the informal conference.

Section 11. Administrative Hearing Process. If the child-caring facility disagrees with the service region administrator or designee's decision on the dispute, the facility may apply for an administrative hearing held pursuant to KRS Chapter 138. The notice of hearing shall comply with KRS 138.050.

Section 12. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) OOHIC 114, "Schedule of Payment", edition July 2000;
(b) OOHIC 886, "Private Child Care Client Interagency Referral Form", edition July 2000;
(c) OOHIC 886A, "Application for Referral to Private Child Care", edition July 2000;
(d) "Achenbach Child Behavior Checklist (CBCL)", edition June 1991;
(e) "Cost Report for Child-Caring and Child-Placing Programs and Residential Facilities" and instructions for completion, edition May 1990;
(f) "Time Study Codes and Definitions" and instructions for time study, edition May 1990; and
(g) "Worker's One (1) Day Activity Log", edition May 1990.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, 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.

ETTRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGNCY; June 25, 2002
FILED WITH LRC: June 28, 2002 at 11 a.m.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(As Amended at ARRS, August 13, 2002)


RELATES TO: KRS 138.125, 198.8941, 198.8943, 198.8992
STATUTORY AUTHORITY: KRS 198.8941(1), 198.8943(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 198.8943(2) requires the Cabinet for Families and Children to promulgate an administrative regulation that implements a voluntary quality-based graduated child care rating system for licensed child care centers; agency time frames for review of quality ratings; an appeals process under KRS Chapter 13B; and a process for the registration of quality ratings. KRS 198.8941(1) requires the Early Childhood Development Authority to develop a program of monetary incentives tied to participation in a quality rating system. This administrative regulation establishes criteria for implementation of the voluntary quality rating system for type I licensed child care centers, and establishes the amount of each monetary incentive awarded to a participant in the Stars for KIDS NOW Program.

Section 1. Definitions. (1) "Commonwealth child care credential" means a certificate of completion of sixty (60) clock hours of instruction from a state agency-approved organization that:
(a) Includes training in the following areas:
1. Child growth and development;
2. Learning environments and curriculum;
3. Health, safety, and nutrition;
4. Family and community partnerships;
5. Child assessments;
6. Professional development; and
7. Program management and
(b) Is effective for a period of one (1) year; and
(c) Is renewed upon completion of fifteen (15) hours of training.
(2) "Environment rating scale" means one (1) of four (4) rating scales—published by the Teacher College Press—designed to assess the process quality in an early childhood or school age care group, and consists of the following items to evaluate:
(a) Physical environment;
(b) Basic care;
(c) Curriculum;
(d) Interaction;
(e) Schedule and program structure; and
(f) Parent and staff education.
(3) (c) Level One Center means a Type One Center that participates in the STARS for KIDS NOW Program. A Type One Center may achieve a quality rating of Level One through Level Four.
(4) "Parental or family participation" means involvement of a parent or custodian in a child care program's attempt to provide information or include the "involve-a" parent or caregiver in the program's activities, such as:
(a) Distribution of a newsletter;
(b) Distribution of a program calendar;
(c) A conference between a child care program's staff and a parent or caregiver; or
(d) Any other activity designed to engage a parent or caregiver in the program's activities.
(5) (d) "Program" or "Stars for KIDS NOW Program" means the voluntary quality-based graduated child care rating system established by KRS 198.8941(1).
(6) "Provisional quality rating certificate" means a six (6) month probationary certificate issued to a new participant in the program immediately upon change of ownership of a child-care center participating in the program at the time of transfer.
(7) (e) "Resource and referral agency" means a cabinet-designated entity described at KRS 198.8921(1).
(8) (f) "State agency" means the:
(a) Cabinet for Health Services; or
(b) Cabinet for Families and Children.
(9) (g) "Substitute" means a person employed by a type I licensed child care center for a period not to exceed fourteen (14) days in a one (1) year period. If an individual employed as a substitute in excess of fourteen (14) days in a one (1) year period shall meet the training requirement consistent with a center's rating level.
(10) "Type One Center" means a child care center licensed by the Cabinet for Health Services to care for four (4) or more children.

Section 2. Application. (1) A type I licensed child care center [operating under a provisional license required by 922 KAR 2:090, Section 1(2)] may apply to participate in the program after [no sooner than] six (6) months from the date of initial licensure. A center that changes [operating under a provisional license due to a
change of ownership may continue participation in the program:
(a) [4] Under a provisional quality rating certificate; and
(b) [5] For a period of not more than six (6) months.
(2) If an applicant seeks participation as a level one (1) center:
(a) The applicant shall complete an "Application for Level One (1) Rating Certificate", incorporated by reference [listed in Section 12(1)(e) of the administrative regulation]; and
(b) [6] A resource and referral agency staff person, [or designee], shall verify on the "Level One (1) Standards", incorporated by reference [listed in Section 12(1)(b) of this administrative regulation], the center's documented compliance with the level one (1) requirements described in Section 3 of this administrative regulation.
(3) If an applicant seeks participation as a level two (2), three (3), or four (4) center, the applicant shall:
(a) Obtain a "Request for STAR Rating Visit Request Form", incorporated by reference [listed in Section 12(1)(c) of this administrative regulation], from a resource and referral agency; and
(b) Submit the completed form to the Cabinet for Health Services.
(4) Upon receipt of a properly-completed "STAR Rating Visit Request Form", the Cabinet for Health Services shall:
(a) Schedule [Conduct] a prearranged rating visit within sixty (60) calendar days. During an initial and each subsequent rating visit, an environment rating scale shall be completed for one-third (1/3) of the total number of classrooms, including at least one (1) classroom for each of the following age groups for which the center provides care:
1. Birth to two and one-half (2.5) years of age;
2. Two and one-half (2.5) to five (5) years of age; and
3. Five (5) to twelve (12) years of age; and
(b) Issue the rating visit, within sixty (60) calendar days from the date of the rating visit, a quality rating certificate that shall:
1. Be valid for the period of one (1) year; and
2. Specify the rating level representing a child care center's compliance with the requirements of that level.
(5) A participant in the program may request, at least six (6) months after issuance [receipt] of a quality rating certificate, another rating visit for the purpose of reevaluating the center's rating.

Section 3. Level One (1) Requirements. A licensed child care center participating in the program as a level one (1) center shall:
(4) If, after two (2) years of participation as a level one (1) center, the center has not achieved a rating level above level one (1), the certificate shall expire. The center may reapply for participation six (6) months after expiration of the level one (1) quality rating certificate. A center participating in the program as a Level One (1) center shall:
(1) [5-43] Post prominently in each classroom, and maintain compliance with, the minimum staff-to-child ratios and group size established in 922 KAR 2:120;
(2) [44] Comply with the staff requirements set forth in 922 KAR 2:110;
(2) [44] Ensure that the center's director or an individual with decision-making authority such as the owner, board chair, or minister, attends an overview of the program prior to program participation;
(4) [45] Agree to a curriculum assessment in which at least one (1) environment rating scale shall be used to observe each age group described in Section 2(4)(4)(a)[1 to 4] of this administrative regulation, under the following conditions:
(a) Each environment rating scale shall be conducted by the center's director with assistance from a resource and referral agency staff person, [or designee], within the first twelve (12) months of participation in the program.
(b) Participation as a level one (1) center shall not require achievement of a specific score on the environment rating scale; and
(c) Upon completion of the environment rating scale by the center's director during the second year of participation as a level one (1) center, the director shall develop a written plan, with assistance from a resource and referral agency staff person, [or designee], for improved performance in each area identified by the environment rating scale as needing improvement;
(5) [46] Post in a prominent area, the center's:
(a) Planned program of activities; and
(b) Daily schedule;
(6) [47] Coordinate at least one (1) annual activity involving parental or family participation;
(7) [48] Implement an annual plan for professional development for each employee;
(8) [49] Ensure that the individual who attended the overview described in subsection (2) of this section provides, to each employee who has direct supervisory authority over a child, training regarding the:
(a) Licensing requirements in:
1. 922 KAR 2:090, Child care facility license;
2. 922 KAR 2:110, Child care facility provider requirements; and
3. 922 KAR 2:120, Child care facility health and safety standards;
(b) Requirements for participation in the program;
(c) Environment rating scale; and
(d) Early Childhood Development Scholarship Program;
(9) [43] Not have an immediate closure, denial of relicensure, or a pending suspension or revocation action against the center's license;
(10) Pay [44] any civil penalty levied against the center if the:
(a) Center has waived the right to appeal a civil penalty; or
(b) Civil penalty has been upheld on appeal; and
(11) [43] Comply with the requirements of 922 KAR 2:160, Child care assistance program.

Section 4. Level Two (2) Requirements. A licensed child care center participating in the program as a level two (2) center shall:
(1) Meet the requirements of Section 3(1) to (5), and (7) to (11) [44] for improved performance on subsequent rating scales;
(2) Achieve an overall average score of at least three (3) on the environment rating scale, calculated based upon the total number of environment rating scales conducted during the quality rating visit;
(3) Achieve an overall average score of four (4) on the environment rating scale as the fifth year of participation as a level two (2) center;
(4) Maintain an overall average score of four (4) on the environment rating scale for every year beyond the fifth year of participation as a level two (2) center [in the State for KIDS NOW Program];
(5) Comply with the provisions of:
(a) 11 KAR 16:040, Early Childhood Development Scholarship Program record keeping requirements; and
(b) 11 KAR 16:060, Early Childhood Development Scholarship Program system of monetary incentives;
(6) Ensure that each employees or substitute who has direct supervisory authority over a child:
(a) Receives three (3) clock hours of state agency [Health Services Cabinet] approved child development training annually, beyond the twelve (12) hour requirement specified in 922 KAR 2:110;
(b) Has completed the Commonwealth child care [entry-level credential] consisting of forty (40) to sixty (60) clock hours of child development training;
(c) Has a child development associate's credential;
(d) Has a Montessori Certificate; or
(e) Has an associate or higher level of education in:
1. Interdisciplinary early childhood education;
2. Early childhood special education;
3. Early childhood education;
4. Early childhood development;
5. Elementary education for teaching kindergarten through fourth grade, if the employee cares for school-age children; or
6. A related degree approved by the Early Childhood Development Authority;

(11) Ensure that the center's director, or the person responsible for the center's on-site operation, as required by 922 KAR 2:110:
(a) Receives six (6) clock hours of state agency [Health Services Cabinet] approved child development training annually, beyond the twelve (12) hour requirement specified in 922 KAR 2:110; or
(b) After July 1, 2004, has completed the director's credential or an equivalent credential approved by the Early Childhood Development Authority;
(c) Has a child development associate's credential;
(d) Has a Montessori Certificate; or
(e) Has an associate degree or higher level of education in:
1. Interdisciplinary early childhood education;
2. Early childhood special education;
3. Early childhood education;
4. Early childhood development;
5. Elementary education for teaching kindergarten through fourth grade, if the director works primarily with school-age children; or
6. A related degree approved by the Early Childhood Development Authority; and
(12) Provide documentation demonstrating that standardized personnel evaluations are conducted annually.

Section 5. Level Three (3) Requirements. A licensed child care center participating in the program as a level three (3) center shall:
(1) Post prominently in each classroom and maintain the following staff-to-child ratios and group size:

<table>
<thead>
<tr>
<th>Age</th>
<th>Ratio</th>
<th>Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>Birth - 1 year</td>
<td>1 staff for 4 children</td>
<td>8</td>
</tr>
<tr>
<td>1 to 2 years</td>
<td>1 staff for 5 children</td>
<td>10</td>
</tr>
<tr>
<td>2 to 3 years</td>
<td>1 staff for 8 children</td>
<td>16</td>
</tr>
<tr>
<td>3 to 4 years</td>
<td>1 staff for 11 children</td>
<td>22</td>
</tr>
<tr>
<td>4 to 6 years</td>
<td>1 staff for 12 children</td>
<td>24</td>
</tr>
<tr>
<td>6 to 12 years</td>
<td>1 staff for 14 children</td>
<td>28</td>
</tr>
</tbody>
</table>

(2) Meet the requirements of Section 3(1) to (3), (5), and (7) to (11) [2], [3], [4], [5], [6], [9], [10], [11], [12]) of this administrative regulation;
(3) Coordinate at least three (3) annual activities involving parental or family participation;
(4) Document a procedure for use of parental or family feedback;
(5) Achieve an overall average score of at least four point five (4.5) on the environment rating scale;
(6) Meet the requirements of Section 4(2), (4), (9), (10), (11b), (c), (d), (e), and (12) of this administrative regulation;

(10) Ensure that one (1) of the following is present in the center at least seventy-five (75) percent of the center's daily hours of operation:
(a) The center's director;
(b) A person responsible for the center's operation;
(c) An employee qualified as a child development associate or
d) An employee with a higher level of education, as described in Section 4(10)(d) and (e) of this administrative regulation;
(11) Provide at least six (6) days paid leave per year to each employee who:
(a) Works at least thirty-seven and one-half (37.5) hours per week in the center; and
(b) Has been employed in the center less than one (1) year;
(12) Provide paid leave in an amount prorated according to the standard set forth in subsection (11) of this section for each employee who:
(a) Works less than thirty-seven and one-half (37.5) hours per week in the center; and
(b) Has been employed in the center for at least one (1) year;
(13) Provide at least eleven (11) days paid leave per year to each employee who:
(a) Works at least thirty-seven and one-half (37.5) hours per week in the center; and
(b) Has been employed in the center for at least one (1) year;
(15) If year-round child care services are not offered, provide paid leave in an amount prorated according to the standards set forth in subsections (11), (12), (13), and (14) of this section.

Section 6. Level Four (4) Requirements. A licensed child care center participating in the program as a level four (4) center shall:
(1) Post prominently in each classroom and maintain the staff-to-child ratios and group size required by the National Association for the Education of Young Children, which are:

<table>
<thead>
<tr>
<th>Age</th>
<th>Ratio</th>
<th>Group Size</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 12 months</td>
<td>1 staff for 3 children</td>
<td>6</td>
</tr>
<tr>
<td>12 to 24 months</td>
<td>1 staff for 3 children</td>
<td>6</td>
</tr>
<tr>
<td>24 to 30 months</td>
<td>1 staff for 4 children</td>
<td>8</td>
</tr>
<tr>
<td>30 to 36 months</td>
<td>1 staff for 5 children</td>
<td>10</td>
</tr>
<tr>
<td>3 years old</td>
<td>1 staff for 7 children</td>
<td>14</td>
</tr>
<tr>
<td>4 years old and older</td>
<td>1 staff for 8 children</td>
<td>16</td>
</tr>
</tbody>
</table>

(2) Meet the requirements of Section 3(1) to (3), (5), and (7) to (11) [2], [3], [4], [5], [6], [9], [10], [11], [12]) of this administrative regulation;
(3) Coordinate at least four (4) annual activities involving parental or family participation;
(4) Meet the requirements of Section 4(2), (4), (9), (10), (11b), (c), (d), (e), and (12) of this administrative regulation;
(5) Meet the requirements of Section 5(4), (7), (8), and (10) to (15) [14], (15), (16), (17), (18), and (19) of this administrative regulation;
(6) Achieve an overall average score of at least six (6) on the environment rating scale;
(7) Be accredited by:
Section 7. Star Achievement and Quality Incentive Awards. (1) A one (1) time participation award of $200 shall be provided [awarded], to the extent that funds are available, to a provider who enters the program as a level one (1) participant. [Star achievement and quality incentive award shall not be available to a level one (1) program participant.] (2) A one (1) time star achievement award shall be awarded, to the extent that funds are available, according to the following chart:

<table>
<thead>
<tr>
<th>Level 2</th>
<th>Level 3</th>
<th>Level 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participant's enrollment is less than 50 children</td>
<td>$500</td>
<td>$1,700</td>
</tr>
<tr>
<td>Participant's enrollment 51 to 100 children</td>
<td>$750</td>
<td>$2,200</td>
</tr>
<tr>
<td>Participant's enrollment more than 100 children</td>
<td>$1,000</td>
<td>$2,700</td>
</tr>
</tbody>
</table>

(3) If a child care center's initial rating level is higher than level two (2), the center shall receive a star achievement award, to the extent that funds are available, for each level, beginning at level two (2), up to the center's rating level. A center shall not receive an achievement [award] for a level more than one (1) time.

(4) If a participating center continues in the program under new ownership, a star achievement award shall not be paid to the new owner unless the center's rating level increases.

(5) A quality incentive award shall not be available to a level one (1) program participant.

(6) The following chart shall be used when calculating the amount of a quality incentive award:

<table>
<thead>
<tr>
<th>Amount per month for each child served by the Child Care Assistance Program who is under age three (3)</th>
<th>Amount per month for each child served by the Child Care Assistance Program who is age three (3) and over</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 2</td>
<td>Level 3</td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
</tr>
<tr>
<td>1-10% of participant's enrollment served by the Child Care Assistance Program</td>
<td>$8</td>
</tr>
<tr>
<td>11-25% of participant's enrollment served by the Child Care Assistance Program</td>
<td>$9</td>
</tr>
<tr>
<td>26-50% of participant's enrollment served by the Child Care Assistance Program</td>
<td>$10</td>
</tr>
<tr>
<td>51-75% of participant's enrollment served by the Child Care Assistance Program</td>
<td>$11</td>
</tr>
<tr>
<td>76% or more of participant's enrollment served by the Child Care Assistance Program</td>
<td>$12</td>
</tr>
</tbody>
</table>

(7) [48] A quality incentive award shall be:
(a) Awarded to the extent that funds are available; and
(b) Calculated and paid as follows:
1. A participating center's current rating level and the percentage of enrolled children served by the Child Care Assistance Program shall be used to determine, according to the chart in subsection (6) [48] of this section, the amount that shall be multiplied by the number of enrolled children who were served by the Child Care Assistance Program during the month in which the quality rating certificate was issued. The product of this equation shall be multiplied by twelve (12) and divided by four (4).
2. A quality incentive award shall be paid quarterly to a qualifying participating program that has received a quality rating certificate for the first day of the payment quarter.

(8) [48] The percentage of children who are enrolled at a participating center and served by the Child Care Assistance Program shall be reviewed at the end of six (6) months. If the percentage of children served by the Child Care Assistance Program decreases, a quality incentive award shall be lowered according to the percentage of subsidy children served at the time of the six (6) month review.

(9) [48] If the percentage of children who are enrolled at a participating center and served by the Child Care Assistance Program increases, the quality incentive award shall be increased accordingly upon issuance of a renewed quality rating certificate.

Section 8. Renewal of a Quality Rating Certificate. (1) The Cabinet for Health Services shall notify a participant at least ninety (90) calendar days before expiration of the participant's quality rating certificate.

(2) A participant shall submit a written request to the Cabinet for Health Services for a quality rating visit at least sixty (60) calendar days prior to expiration of the quality rating certificate.

(3) If the Cabinet for Health Services determines that a participant does not meet the rating level standards for which the center is recognized, a center shall:
(a) Accept a lower rating level; or
(b) Submit a written request to the Cabinet for Health Services, within ten (10) calendar days from receipt of a reduced quality rating certificate, for an informal dispute resolution meeting. The request shall be accompanied by a request for an administrative hearing pursuant to KRS Chapter 13B. If an appellant is satisfied with the outcome of the informal dispute resolution process,
the administrative hearing shall be cancelled. Payment of a quality incentive award shall be held in abeyance pending resolution of appeal of a demoted rating level.

Section 9. Conditions Requiring Reevaluation. Reevaluation of a participant's rating level shall be conducted:
(1) If the location of a licensed child care center changes;
(2) If the participant requests a reevaluation in accordance with Section 2(5) of this administrative regulation; or
(3) Within ninety (90) days of transfer of ownership, if a center continues participation under a provisional quality rating certificate.

Section 10. Conditions Requiring Revocation. (1) A participant's quality rating certificate shall be revoked for:
(a) Immediate closure pursuant to KRS 13B.125;
(b) Denial of relicensure;
(c) A pending suspension or revocation action taken against the child care center's license;
(d) Extension of a provisional license beyond six (6) months, if a center participates under a provisional quality rating certificate;
(e) [Blank]

1. The center waived the right to appeal the civil penalty; or
2. The civil penalty has been upheld on appeal; or

(e) [Blank]

2. Payment of a quality incentive award shall cease upon revocation of a quality rating certificate.

Section 11. Quality Rating Certificate. A quality rating certificate shall be returned to the Cabinet for Health Services if:
(1) The certificate is revoked;
(2) The certificate is not renewed; or
(3) The center voluntarily withdraws from the program.

Section 12. Appeals. (1) If a participant appeals revocation of a quality rating certificate for a negative action described in Section 10(1)(a) through (c) of this administrative regulation, the quality rating appeal shall be combined with appeal of the negative action.
(2) If denial, suspension, or revocation of a child care center's license is reversed upon appeal, the center may reapply for participation in the program.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Application for Level One (1) Rating Certificate", edition July 2001;
(b) "Level One (1) Standards", edition February 15, 2001; and
(c) "STAR Rating Visit Request Form", edition July 2001.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Inspector General's Office, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
HIREN DECAY, Attorney
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: May 13, 2002
FILED WITH LRC: May 15, 2002 at 11 a.m.
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002
ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING
OR RECEIPT OF WRITTEN COMMENTS

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student Services
(redirectTo:
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 de-
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 prior to 2004
summer sessions, 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) se-
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 that
is:

(a) Provided by an educational institution under which the insti-
tution provides instructional materials, including examinations on
the materials, to students who are not physically attending classes at
the institution;

(b) Meets the following requirements:

1. When a student completes a portion of the instructional mate-
rials, the student takes the examinations that relate to that portion of
the materials, and returns the examinations to the institution for
grading;

2. Provides instruction in whole or in part through the use of
video cassettes or video discs in an academic year, unless the in-
stitution also delivers the instruction on the cassette or disc to stu-
dents physically attending classes at an institution during the same
academic year; and

3. If a course is part correspondence and part residentail train-
ing, the course shall be considered to be a correspondence course;

(c) Does not include courses from the Kentucky Commonwealth
Virtual University (KCVU).

(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 sec-
ondary 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. Immi-
grant and Naturalization Service showing any one (1) of the fol-
lowing designations:

a. “Refugee”;

b. “Asylum granted”;

c. “Indefinite parole” or “humanitarian parole”;

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 pro-
gram and, for purposes of CAP grants, a program of study design-
ned as an equivalent undergraduate program of study by the Coun-
cil on Postsecondary Education in an administrative regulation
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 edu-
cation at the institution at which the student is enrolled; and

(c) For purposes of the CAP Grant Program, leads to a certifi-
date, 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 method-
ology established in 20 USC 1087kk through 1087vv to the infor-
mation that the student and his family provided on the application.

(13) “Federal act” is defined by KRS 164.740(6) and means 20
USC 1001 through 1148a.

(14) “Full-time student” means an enrolled student who is car-
rying a full-time academic workload.

(a) That may include any combination of courses, work, re-
search, or special studies that the institution considers sufficient to
classify the student as a full-time student, except that correspond-
ence 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 require-
ments:

1. Twelve (12) semester hours or twelve (12) quarter hours per
academic term in an educational program using a semester, tri-
semester, 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
protracted 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
5. 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);
6. 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
7. The work portion of a cooperative education program in which the amount of work performed is equivalent to the academic work-load 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 who 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 funded; 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 per semester;
2. Six (6) quarter hours per quarter; or
3. Half of the academic workload of a full-time student as determined by the educational institution.
(22) "Pell Grant" means an award under the federal Pell Grant Program operated by the secretary under the provisions of 20 USC 1070a.
(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.

VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

Higher Education Assistance Authority, PO Box 798, Frankfort, Kentucky 40602-0798, (502) 696-7290, Fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Richard F. Casey, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program.
(b) The necessity of this administrative regulation: 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.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program. The proposed amendment conforms the regulation to legislation recently passed by the 2002 Regular Session of the General Assembly, particularly the definition to HB 684 by broadening the definition of eligible program of study.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation merely defines terms used in 11 KAR Chapter 5 pertaining to the Kentucky Tuition Grant Program and the College Access Program. The proposed amendment merely broadens the definition of eligible program of study pertinent to CAP grants to ensure that the College Access Program is awarded to qualified applicants.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The Kentucky Higher Education Assistance Authority intends to amend this administrative regulation governing the subject matter discussed above, particularly, to amend the definition of "eligible program of study" to include students enrolled in an "equivalent undergraduate program of study" as designated by the Council on Postsecondary Education. This is to conform the definition to HB 684 passed in the 2002 Regular Session of the General Assembly.
(b) The necessity of the amendment to this administrative regulation: The proposed amendment conforms the regulation to legislation recently passed by the 2002 Regular Session of the General Assembly, particularly, HB 684.
(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment conforms the regulation to legislation recently passed by the 2002 Regular Session of the General Assembly, particularly, HB 684.
(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment merely broadens the definition of eligible program of study pertinent to CAP grants to ensure that the College Access Program is awarded to qualified applicants.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Currently only 2 educational entities provide programs of study which are designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The proposed amendment merely broadens the definition of eligible program of study pertinent to CAP grants to ensure that the College Access Program is awarded to qualified applicants. This will allow students, enrolled in a graduate or professional program after only 2 or 3 years of undergraduate work, to receive consideration for a CAP grant for the maximum of 9 semesters. The proposed amendment conforms the regulation to legislation recently passed by the 2002 Regular Session of the General Assembly, particularly, HB 684.

(5) Provide an estimate of how much it will cost to implement
this administrative regulation:

(a) Initially: The proposed amendment merely broadens the definition of eligible program of study pertinent to CAP grants. Therefore, there is no direct or indirect cost or savings.

(b) On a continuing basis: Same as (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation. Grants for students under the College Access Program and the Kentucky Tuition Grant Program are funded from state lottery revenues transferred to the authority for grant and scholarship programs and administrative costs are borne by the authority through receipts of the authority.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation does not establish any fees, nor does this administrative regulation directly or indirectly increase any fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied to the amendment of this administrative regulation.

The concept is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity 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
(Amended After Hearing)

11 KAR 5:034. CAP grant student eligibility.

RELATES TO: KRS 164.744(2), 164.753(4), 164.7535
STATUTORY AUTHORITY: KRS 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 honoraria 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 authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes the authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes the authority to promulgate administrative regulations pertaining to grants.

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 as [for] at least a part-time student [six (6) semester hours or full-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 5:12 through 11 KAR 5:145 for CAP grant assistance;
(4) Have remaining KHEAA grant limit.

(a) [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 shall be limited to five (5) semesters of CAP grant program eligibility.
(b) A student enrolled as a full-time student in each academic term of a four (4) year eligible program of study shall be limited to nine (9) semesters of CAP grant program eligibility (including any KHEAA grant limit used in a two (2) year eligible program of study);
(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;
(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) For a student enrolled in an equivalent undergraduate program of study, as defined by the Council on Postsecondary Education in administrative regulation, the student shall have received a CAP grant in the preceding year; and
(10)(a) 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
(a) 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.

ALBERT KIRKPATRICK, Chairman
APPROVED BY AGENCY: August 2, 2002
FILED WITH LRC: August 6, 2002 at 10 a.m.
CONTACT: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, PO Box 798, Frankfort, Kentucky 40602-0798, (502) 696-7290, Fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Richard F. Casey, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes student eligibility requirements for the College Access Program. The amendment merely deletes a requirement that a student enrolled as a part-time student at an educational institution using a quarter-hour system must be enrolled part-time in 2 quarters to be the equivalent of a student enrolled part-time in a single semester at an educational institution using a semester system.
(b) CONFORMITY: The necessity of this administrative regulation: KRS 164.748(4) requires the authority to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honoraria 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 authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes the authority to promulgate administrative regulations pertaining to grants. KRS 164.7535 authorizes the authority to promulgate administrative regulations pertaining to grants.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes student eligibility requirements for the College Access Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation ensures that students meet certain criteria for eligibility to receive CAP grant funds, including being at least a part-time student and ensuring that students enrolled as an educational institution using quarter hours as a part-time or full-time student receive the maximum CAP grant allowed for any academic period.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The Kentucky Higher Education Assistance Authority intends to amend this administrative regulation governing the subject matter listed above, particularly to modify student enrollment requirements for CAP grant eligibility by deleting a requirement that a student enrolled as a part-time student at an educational institution using a quarter-hour system be enrolled part-time in two quarters to be the equivalent of a student enrolled part-time in a single semester.
at an educational institution using a semester system.

(b) The necessity of the amendment to this administrative regulation: The amendment eliminates a disparity in the treatment of students enrolled part-time at institutions using a semester system and institutions using a quarter system.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment establishes student eligibility requirements for the College Access Program by creating a requirement that a student enrolled as a part-time student at an educational institution using a quarter-hour system must be enrolled part-time in 2 quarters to be deemed equivalent of a student enrolled part-time in a single semester at an educational institution using a semester system and, therefore, treats the students consistently regardless of whether they attend an institution using semesters or quarters.

(d) How the amendment will assist in the effective administration of the statutes: The amendment merely deletes a requirement that a student enrolled as a part-time student at an educational institution using a quarter-hour system must be enrolled part-time in two quarters to be deemed equivalent of a student enrolled part-time in a single semester at an educational institution using a semester system.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: As many as 72 Kentucky postsecondary institutions are eligible for attendance by recipients of KHEAA grants. In the academic year ending June 30, 2001, there were 123,000 applicants and 38,900 who received KHEAA grants. In addition, there are 13 quarter-hour postsecondary schools that will be treated more consistently in regard to CAP grant eligibility.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment merely deletes a requirement that a student enrolled as a part-time student at an educational institution using a quarter-hour system must be enrolled part-time in 2 quarters to be deemed equivalent of a student enrolled part-time in a single semester at an educational institution using a semester system.

(5) Provide an estimate of how much it will cost to implement this administrative regulation.

(a) Initially: The amendment merely deletes a requirement relative to student enrollment requirements for CAP grant eligibility. The increased cost involved in reprogramming of the authority's grant system: but the amount of the grant, the funds available for grants, and in general the overall cost of administering the program will not increase or decrease.

(6) On a continuing basis: Same as (5)(a) above.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation. Grants for students under the College Access Program and the Kentucky Tuition Equalization Fund 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.

(8) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation does not establish any fees, nor does this administrative regulation directly or indirectly increase any fees.

(8) Statute whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) Tiering: Is tiering applied? No. Tiering was not applied to the amendment to this administrative regulation. The concept is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY Division of Student Services (Amended After Hearing)

11 KAR 5:100. Disbursement procedures.

RELATES TO: KRS 164.7353, 164.780, 164.785
STATUTORY AUTHORITY: KRS 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. This administrative regulation establishes the disbursement procedures for KHEAA grant programs.

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 students and submit to the authority a complete and accurate eligibility verification file (EVF). KHEAA grant recipients shall return the roster to the authority according to instructions accompanying [attached to the eligibility verification file layout provided by the authority, to indicate which KHEAA grant recipients are actually enrolled at the institution.

(2) The educational institution shall submit to the authority a properly certified eligibility verification file (EVF):

(a) For the fall academic term, [beginning not earlier than June 4 and not later than December 31] by:
   1. October 1 for educational institutions using nonquarter hour academic terms; and
   2. October 15 for educational institutions using quarter hour academic terms; and

(b) For the spring academic term, [beginning not earlier than January 1 and not later than June 30], by:
   1. February 15 for educational institutions using nonquarter hour academic terms; and
   2. April 15 for educational institutions using quarter hour academic terms.

(3) The instructions accompanying the eligibility verification file layout shall specify:

(a) Conditions under which a KHEAA grant shall be disbursed to the benefit of the KHEAA grant recipient; and

(b) Conditions under which KHEAA grant funds shall be returned to the authority.

(4) If the KGPO fails to provide complete and accurate information in the proper format in the eligibility verification file according to the instructions or fails to submit the file to the authority by the deadline established in subsection (2) of this section, the authority shall not advance KHEAA grant funds in the next academic term until the file for the next academic term is properly certified and submitted. [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 not disburse KHEAA grant funds in the next academic term until the roster for that academic term is properly certified and returned.]

Section 2. Disbursement and Delivery of Funds. [44] KHEAA grant funds shall be disbursed by the authority twice during an academic year to educational institutions for subsequent delivery to eligible students or application of the funds to the accounts of eligible students during the academic term for [44] which the funds are received by the educational institution.

(1)(a) Except as provided in Section 1(3)(4) of this administrative regulation and subject to the availability of funds, [a disbursement] by the authority shall disburse in August to educational institutions, for subsequent delivery to eligible students or application of the funds to the accounts of eligible students enrolled at the institution during the fall academic term [beginning not earlier than June 4 and not later than December 31], the amount of KHEAA grant funds equal to the total amount of KHEAA grant funds that the institution
properly paid to students for the fall academic term of the preceding academic year, to educational institutions of one-half (1/2) of the KHEAA grants indicated on the eligibility verification roster shall be made in August for subsequent delivery by the institution to eligible students or application of the funds to the accounts of eligible students enrolled in a semester or quarters beginning not earlier than June 1 and not later than December 31.

Section 2. The institution in Section 1(2) of this administrative regulation and subject to the availability of funds, the authority shall disburse in January to educational institutions, for subsequent delivery to eligible students or application of the funds to the accounts of eligible students enrolled in the fall semester, [beginning not earlier than January 1 and not later than June 30], the amount of KHEAA grants funds equal to the total amount of KHEAA grant funds that the institution properly paid to students for the spring academic term of the preceding academic year.

(2) The educational institution shall deliver KHEAA grant funds to eligible students or apply KHEAA grant funds to the accounts of eligible students enrolled for the academic term beginning not earlier than ten (10) days before the first day of classes of each semester, trimester or quarter of the academic term.

(3) Upon receipt of the properly certified eligibility verification file for that academic term, the authority shall process the EVF for each update the grant database with award information. Based on the newly-revised database, the authority shall generate a semester College Disbursement Report/File for each institution. Based on this update, the authority shall determine through a reconciliation process whether any additional funds are owed to or refunds are due from the authority. If additional funds are owed to the institution, the authority shall forward those funds to the institution and if refunds are due from the institution, the authority shall bill the institution.

(4) Not later than thirty (30) days after the end of the academic term, the KGO shall return to the authority, according to instructions attached to the eligibility verification file layout [roster], all funds advanced for that academic term that remain undisbursed to eligible students or the authority may withhold any services and funds from the educational institution from the due date until the eligibility verification file and all funds advanced, that remain undisbursed to eligible students, are received by the authority. Upon receipt of the properly certified eligibility verification roster for that academic term, the authority shall transfer additional funds, if necessary, to the KGO.

(5) Except as provided in Section 1(2) of this administrative regulation, a disbursement by the authority to educational institutions of one-half (1/2) of the KHEAA grants indicated funds on the eligibility verification roster shall be made in January for subsequent delivery by the institution to eligible students or application of the funds to the accounts of eligible students enrolled in a semester or quarters beginning not earlier than January 1 and not later than June 30. Not later than thirty (30) days after the end of the academic term, the KGO shall return to the authority, according to instructions attached to the roster, all funds advanced for that term 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 KGO.

(6) 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.

(7) An institution which has not returned an eligibility verification roster shall be in accordance with the instructions included in subsection (2) of this section. The authority 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. (1) If the student is going to graduate at the end of the fall academic term and has been awarded the KTG for the entire academic year, then the KGO may request that the authority disburse the student's full KTG award amount during the fall. That request by the KGO must be indicated on the fall EVF, in which case, [Alternative Disbursement]. In lieu of the process requiring the disbursement of KHEAA grant funds pursuant to Section 3.2 of this administrative regulation, the authority may enter agreements with the educational institution on terms as the authority deems appropriate 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 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 be disbursed by the authority 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) The educational institution shall adjust the amount of CAP grant delivered to an eligible student or applied to the account of the eligible student enrolled at the institution during the academic term. [A CAP grant for an academic year shall be divided by the number of semesters, trimesters or quarters in the academic year. The amount of CAP grant disbursed in an academic term shall be adjusted for enrollment as a part-time student during the 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 first disbursement occurs in the first [second] quarter of enrollment as at least a part-time student and the second disbursement occurs in the third quarter of enrollment as at least a part-time student in the fall and spring academic terms. The maximum CAP grant that may be applied by the educational institution to the 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. (1) KHEAA grants 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 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.

(2) Enrollment during the shorter winter academic term shall not qualify a student for KHEAA grant assistance for that academic term. 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. (1) The educational institution shall:

(a) Be responsible for proper disbursement of KHEAA grants to the eligible student during the academic term [period] for which the grants are intended;

(b) Not make KHEAA grant funds available to the grant recipient nor apply those funds to the recipient's account:

1. Prior to the date that the recipient has completed the registra-
tion 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; or (c) after the end of the academic term for which the funds are received by the institution;

(c) Be liable for disbursement to the wrong individual or to an ineligible student or for untimely disbursement pursuant to this section;

and (d) 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.

ALBERT KIRKPATRICK, Chairman
APPROVED BY AGENCY: August 2, 2002
FILED WITH LRC: August 2, 2002 at 10 a.m.
CONTACT: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, PO Box 798, Frankfort, Kentucky 40602-0798, (502) 696-7290, Fax (502) 696-7293.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Richard F. Casey, General Counsel

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the disbursement procedures for KHEAA grant programs.

(b) The necessity of this administrative regulation: 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.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes the disbursement procedures for KHEAA grant programs. This administrative regulation conforms to the content of the authorizing statutes by prescribing a method of disbursement of grant funds that places more funds initially in the hands of the educational institutions, subject to reconciliation, thereby more efficiently allocating grant funds.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment establishes the disbursement procedures for KHEAA grant programs to ensure better portability of state grant funds among Kentucky schools for Kentucky students.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The Kentucky Higher Education Assistance Authority intends to amend an administrative regulation governing the subject matter listed above. In particular, the word "roster" shall be replaced with the word "file" throughout the above-cited administrative regulation. The Kentucky Higher Education Assistance Authority proposes to amend Section 1 to provide that the eligibility verification file (EVF) is forwarded to the authority from the KGPO at each institution. Section 1(2)(a) has been added to provide that, for the fall award period, the institution submits the EVF to the authority no later than October 1 for nonquarter hour schools and by October 15 for quarter hour schools. Section 1(2)(b) has been added to provide that, for the spring award period, the institution shall submit the EVF to the authority by no later than February 15 for non-quarter hour schools and by April 15 for quarter hour schools. Section 2(1)(a) has been amended to provide that the authority shall disburse in August a pool of funds equal to the total amount of properly-paid grant funds by the school to students for the fall award period of the prior year. Section 2(1)(b) has been added to provide that the authority shall disburse in January a pool of funds equal to the total amount of properly-paid grant funds by the school to students for the spring award period of the prior year. Section 2(1)(c) has been added to provide that EVF data be processed and the grant database be updated by the authority after each award period which will allow the authority to generate disbursement reports and determine funds owed or refunds due.

(b) The necessity of the amendment to this administrative regulation: This amendment conforms to the content of the authorizing statutes by prescribing a method of disbursement of grant funds which allows more flexibility to the recipients and educational institutions, thereby more efficiently allocating grant funds. The process by which the authority disburses funds to the institutions is changing, funds to the institutions are used to accommodate the wishes of both the schools and the students. These changes will serve to allow better portability of state grant funds among Kentucky schools by Kentucky students.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the content of the authorizing statutes by prescribing a method of disbursement of grant funds which allows more flexibility to the recipients and educational institutions, thereby more efficiently allocating grant funds.

(d) How the amendment will assist in the effective administration of the statutes: This amendment establishes the disbursement procedures for KHEAA grant programs to ensure the efficiency of allocating grant funds.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 72 post-secondary educational institutions and an estimated 21,150 CAP grant recipients and 8,200 KTG recipients will receive Kentucky Higher Education Assistance Authority grant funds.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This amendment establishes the disbursement procedures for KHEAA grant programs. This administrative regulation conforms to the content of the authorizing statutes by prescribing a method of disbursement of grant funds that allows more flexibility to the recipients and educational institutions, thereby more efficiently allocating grant funds.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is an undetermined cost involved in reprogramming of the authority's grant system, but the amount of the grant, the funds available for grants, and in general the overall cost of administering the program will not increase or decrease. Therefore it has no substantial direct or indirect cost or savings.

(b) On a continuing basis: Same as (5)(a) above.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Grants for students under the College Access Program and the Kentucky Tax Grant 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.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation does not establish any fees, nor does this administrative regulation directly or indirectly increase any fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not applied to the amendment of this administrative regulation. The concept is not applicable to this amendment of this administrative regulation. The administrative regulation is intended to provide equal opportunity to participate within parameters, and consequently does not inherently result in disproportionate impacts on certain classes of regulated entities or address a particular problem to which certain regulated entities do not contribute. Disparate treatment of any person or entity affected by this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution. The regulation provides equal treatment and opportunity for all applicants and recipients.
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

COUNCIL ON POSTSECONDARY EDUCATION
(Amended After Hearing)

13 KAR 2:090. Kentucky Educational Excellence Scholarship (KEES) Program.

RELATES TO: KRS 154A.130(4), 156.070, 164.7535, 164.7871, 164.7874, 164.7877, 164.7879, 164.7881, 164.7885, 164.7887. STATUTORY AUTHORITY: KRS 164.020(28), 164.7874, 164.7877(3), 164.7879(1), (2), (3), 164.7881(4)(a), (6) NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.7877(3) requires the council to administer the Kentucky Educational Excellence Scholarship (KEES) Program. KRS 164.7874(3) requires the council to administer the funds appropriated to the trust fund for the program. KRS 164.7874(13) requires the council to develop and implement standards for high school curriculum as they relate to eligibility for participation in the program. KRS 164.7879(3)(c) requires the council to determine the eligibility of a noncertified, nonpublic high school graduate and for a GED recipient for a supplemental award. KRS 164.7874(3) requires the council to establish a high school graduation SAT score to an ACT standard. KRS 164.7881(6) requires the council to establish a five (5) year postsecondary education program standard. KRS 164.7881(4)(a) requires the council to establish overall award levels for the program. The council is required to determine eligibility for children of parents who are in the military and who claim Kentucky as their home of record. The council is required to identify equivalent units and equated programs of study. This administrative regulation establishes those requirements relating to the Kentucky Educational Excellence Scholarship (KEES) 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.

(2) "Academic year" is defined in KRS 164.7874(2).

(3) "Accredited out-of-state high school" means a high school located in a state other than Kentucky or in another country that is a member of an organization belonging to the Commission on International Trans-Regional Accreditation.

(4) "ACT" means the test:
(a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
(b) Owned by the ACT Corporation of Iowa City, Iowa.

(5) (44) "Advanced placement" means a cooperative educational endeavor between secondary schools and colleges and universities administered by the College Board of the Educational Testing Service and recognized by KDE.

(6) "Authority" or "KHEAA" is defined in KRS 164.7874(4).

(7) "CPE" is defined in KRS 164.7874(4).

(8) "Cumulative grade point average" means the total grade point average for a postsecondary education student as reported by the postsecondary education institution where a student is currently enrolled.

(9) "Department of Defense high school" is a school operated by the U.S. Department of Defense for the purpose of providing a high school education to a child whose custodial parent or guardian is in active military or diplomatic service in a state other than Kentucky or in another country.

(10) (50) Eligible high school student" is defined in KRS 164.7874(7) and 164.7879(2)(c).

(11) (59) "Enrolled" means the status of a student who has completed the registration requirements, except for the payment of tuition and fees, at a participating postsecondary education institution that a student is attending.

(12) (60) "GED" means a general educational development diploma awarded to a student.

(13) (400) "High school" is defined in KRS 164.7874(11).

(14) "International baccalaureate course" means a course in a secondary education program sponsored by the International Baccalaureate Organization and recognized by the KHE in 704 KAR 3:340, Section 3(2)(d).

(15) (422) "KDE" means the Kentucky Department of Education authorized and established pursuant to KRS 156.010.

(16) (643) "KEES curriculum" is defined in KRS 164.7874(13).

(17) (444) "Participating institution" is defined in KRS 164.7874(17).

(18) (456) "SAT" means the test:
(a) Administered to a student for entrance to a Kentucky postsecondary education institution; and
(b) Owned by the college board.

Section 2. High School Grade Point Average Calculation and Reporting. (1) An eligible high school student's grade point average, as defined in KRS 164.7874(10), for an academic year shall be calculated using each grade awarded for all courses taken during an academic year.

(2)(a) Except as provided in paragraph (b) of this subsection, an eligible high school student's grade point average shall be calculated by:
1. Taking the number of units in a course multiplied by the course grade as expressed on a 4.0 point grading scale where 4.0 is an "A" and 0.0 is an "F;"
2. Adding the total number of points accumulated for an academic year; and
3. Dividing the total number of points accumulated in subparagraph 2. of this paragraph by the total number of units for the academic year.

(b) Notwithstanding the provisions of paragraph (a)1 of this subsection, for an eligible high school student taking an advanced placement or international baccalaureate course during the academic year, the grade assigned shall be calculated using a 5.0 point scale where 5.0 is an "A" and 1.0 is an "F;"

(3) The grade point average reported for an eligible high school student for each academic year shall include all information as set forth in KRS 164.7885(1) and in the manner as the KDE or the KHEAA shall require.

(4) A high school student who participated in an educational high school foreign exchange program or the Congressional Page School that was approved by the student's local high school shall have the student's grade point average reported in accordance with KRS 164.7879(2)(b).

Section 3. High School Students of Custodial Parents or Guardians in Active Military Service. (1) (55) (a) For purposes of determining eligibility under the provisions of KRS 164.7879(2)(c), a high school student shall [must] establish that the custodial parent or guardian meets the requirements of KRS 164.7879(2)(c) and KRS 164.7879(2)(c)1 and shall submit the council's "Home of Record Certification" designated as KEES 102.

(b) The council annually shall certify to the Kentucky Department of Education the names of students who are eligible under the provisions of KRS 164.7879(2)(c).

(c) The council annually shall notify the eligible high school student and the custodial parent or guardian of the student's eligibility [of the results of a residency determination].

(2) (65) (a) A high school student, determined to be eligible for the KEES program under the terms of KRS 164.7879(2)(c) and subsection (5)(a) of this section, shall be responsible for:
1. Requesting:
   a. Grade; and
   b. Curriculum information from the local school; and
2. Requesting that the local school submit [Submit] the information to the Kentucky Department of Education using the Kentucky Department of Education's "Curriculum Certification" Form KEES 202 and the "Data Submission" Form KEES 302.

(b) The Kentucky Department of Education, upon receipt of curriculum and grade information from an accredited out-of-state high school or Department of Defense school for [as] a student determined to be eligible for the KEES program under this section, shall:
1. Verify that the submitted curriculum meets the requirements of Section 4 of this administrative regulation;
2. Verify that the out-of-state high school or Department of Defense school is an accredited high school;
3. Retain the "Curriculum Certification" on file until the student's eligibility has expired; and
4. Submit the grade information to the KHEAA.
Section 4, [4] KEES. (1) A Kentucky postsecondary education student shall be eligible to receive a base scholarship award when the student:

(a) Has earned a base scholarship award in high school;
(b) Has completed the KEES curriculum as set forth in subsection (2) of this section;
(c) Has graduated from a Kentucky high school except as provided in:

1. Section 2(4) of this administrative regulation; or
2. Section 3.2(253) of this administrative regulation; and
(d) Is enrolled in a participating institution in an eligible program.

[2] A student shall complete the KEES curriculum established in this section to quality for the base scholarship award.

[4] Except as provided in subsection (3) of this section (paragraph (b) of this subsection), the KEES curriculum shall consist of the courses and electives required by this subsection (paragraph).

(a) [4] For a student enrolled in high school during the 1997-1998 academic year, the curriculum required in 704 KAR 3:305, Section 1 or 2, as appropriate without restriction on the type of electives taken.
(b) [a] For a student enrolled in high school during the 1999-2000 and 2000-01 academic years and who is required to meet the curriculum standards in 704 KAR 3:305, Section 1, the eight (8) electives required by 704 KAR 3:305, Section 1, shall be taken in the areas and according to the standards established in paragraph (d) of this subsection (subparagraph 4 of this paragraph).
(c) [4] For a student enrolled in high school during 1999-2000 and for each year thereafter who is required to meet the curriculum standards in 704 KAR 3:305, Section 2, five (5) of the seven (7) electives required by 704 KAR 3:305, Section 2 shall be taken in the areas and according to the standards established in paragraph (d) of this subsection (subparagraph 4 of this paragraph).
(d) [4] The following subject areas and standards shall be applicable for electives. An elective in:

1. [a] Social studies, science, mathematics, English/language arts, or arts and human shall be a course whose academic content is as rigorous as the content established for courses in this area in 703 KAR 4:060.
2. [b] Physical education or health shall be a course whose academic content is as rigorous as the content established for courses in this area in 703 KAR 4:060, and shall be limited to one-half (1/2) academic unit of credit for each area.
3. [c] Foreign languages shall be a course whose academic content includes teaching the spoken and written aspects of the language.
4. [d] Agriculture, industrial technology education, business education, marketing education, family and consumer sciences, health sciences, technology education or career pathways shall be a course whose academic content is beyond the introductory level in the vocational education areas of study as established by 703 KAR 4:060.
5. [d] A high school may substitute an integrated, applied, interdisciplinary or higher level course for a required course or required elective if:

(a) [4] The course provides the same or greater academic rigor and the course covers the minimum required content areas or exceeds the minimum required content areas established in 703 KAR 4:060, and the document "Academic Expectations";
or
(b) [2] The course is an honors course, cooperative education course, advanced placement course, international baccalaureate course, dual credit course, or a course taken at a postsecondary education institution.

[4] A high school annually shall provide written documentation to the student's advisor to determine whether the student's schedule of coursework meets the requirements of the KEES curriculum.

Section 5, [4] Eligible Postsecondary Education Programs. (1) An eligible program shall be a certificate or degree program offered by a participating institution and recognized by the council.

(2) An eligible program at an out-of-state participating institution shall be limited to those programs that qualify through the Academic Common Market administered by the Southern Regional Education Board except as provided in subsection (4) of this section.

(3) [4] Pursuant to 164.78581(4)(c), the following academic programs at Kentucky postsecondary education institutions shall be approved as five (5) year baccalaureate degree programs:

(a) [4] Architecture (04.0201); and
(b) [4] Landscape architecture (04.0601); and

(4) [4] Pursuant to 164.78583 and 164.7881(4)(a), the following academic programs are designated as equivalent undergraduate programs of study:

(a) [5] Semesters of study completed by an eligible postsecondary education student when a student:

1. [a] Has not received eight (8) semesters of a KEES award; and
2. [b] Is classified by an institution (enrolled) as a graduate or professional student in an academic program determined by the council to be an equivalent undergraduate program; or
3. [c] Is enrolled in either the:
   a. [3] Pharm. D.; or
   b. [3] The Kentucky Contract Spaces Program; or
   c. The optometry or veterinary medicine programs at institutions which are part of the Kentucky Contract Spaces Program; and [6]
      [Optometry; or
      [Veterinary medicine.]
4. Has not completed a baccalaureate degree.
(b) [2] The council may designate other equivalent undergraduate academic programs and annually shall publish a list of equivalent undergraduate programs of study and shall distribute that list to participating institutions and the KHEAA.

(4) [3] This paragraph shall be subject to the provisions of 164.7881(3).

(4) [4] The provisions of this paragraph shall be effective with the 2001-02 academic year.

Section 6, [5] Base Scholarship Award. A Kentucky resident enrolled in a Kentucky high school who is eligible for a base scholarship award shall be limited to a maximum of four (4) base scholarship awards.

Section 7, [6] SAT Conversion Table. Pursuant to 164.7874(3), the following SAT to ACT Conversion Table shall be used:

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Section 8. [27] Criteria for Supplemental Award to Noncertified, Nonpublic High School Students and to GED Students. (1) A Kentucky resident who is a citizen, national or permanent resident of the United States and who graduates from a nonpublic Kentucky high school not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;
(b) The date of the student's graduation is May 1999 or thereafter;
(c) The student takes the ACT or SAT and has at least a minimum score as established by KRS 164.7879(3);
(d) The student enrolls in a participating institution within five (5) years after graduation from high school.

(2) A Kentucky resident who is a citizen, national or permanent resident of the United States and who has not graduated from either a certified Kentucky high school or a nonpublic Kentucky high school that is not certified by the Kentucky Board of Education shall be eligible for a supplemental award if:

(a) The student is not a convicted felon;
(b) The student's eighteenth (18) birthday occurs on or after January 1, 1999;
(c) The student takes and receives a GED diploma in Kentucky within five (5) years of attaining eighteen (18) years of age;
(d) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and
(e) The student enrolls in a participating institution after July 1, 1999, and within five (5) years of receiving the GED diploma.

(3) A student who graduates from or attends an accredited out-of-state high school or Department of Defense school qualifies for a supplemental award when:

(a) The parents meet the provisions of KRS 164.7879(2)(c) and 2;
(b) An eligible student takes and receives a GED diploma within five (5) years of attaining eighteen (18) years of age;
(c) The student takes the ACT or SAT and achieves a minimum score for eligibility as established by KRS 164.7879(3); and
(d) The student enrolls in a participating institution within five (5) years of receiving the GED diploma.

(4) A student requesting a supplemental award under this section shall notify the participating institution where the student has or intends to enroll.

(5) (49)(a) Residency shall be determined by a participating institution in accordance with 13 KAR 2:045.
(b) A participating institution shall determine a student's eligibility for a supplemental award under this section and shall notify KHEAA of the student's eligibility.

Section 9. [28] Supplemental Award. An eligible high school student who receives a supplemental award as a result of taking and receiving a GED within five (5) years of obtaining eighteen (18) years of age shall have a maximum of five (5) years eligibility beyond the date the GED is received.

Section 10. Administrative Responsibilities and Expenses of Program. (1) The CPE annually shall determine the level of funding for expenses associated with the program and shall allocate funds from the "Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund" described in KRS 164.7877(1) and (3).

(2) The KHEAA annually, by June 15, shall provide to the CPE a budget proposal indicating the amount of funds requested and a detailed listing of the expenditures necessary to operate the program.

(3) The CPE shall notify the KDE and the KHEAA of the amount of funds available for the next fiscal year no later than April 30 of the fiscal year preceding the fiscal year that funds are to be made available.

(4) The CPE shall develop an allotment schedule for the release of the administrative funds and shall notify the KDE and the KHEAA of that schedule.
4:30 p.m.

SUE HODGES MOORE, Interim President
DENNIS L. TAULBEE, General Counsel

APPROVED BY AGENCY: August 6, 2002
FILED WITH LRC: August 7, 2002 at 10 a.m.

CONTACT PERSON: Barbara Cook, Associate, Academic Affairs, Council on Postsecondary Education, Suite 320, 1024 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-1555, fax (502) 573-1535.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Taulbee, General Counsel

(1) Provide a brief summary of:
   (a) What this administrative regulation does: The KEES program provides scholarships for Kentucky high school graduates who earn certain grade point averages.
   (b) The necessity of this administrative regulation: This regulation is mandated by KRS 164.7874 through 164.7881.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statutes.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation provides details to students, parents, local schools, KHEAA and KDE in support of implementing the statutory scholarship program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: The amendment makes changes to conform with statutory changes adopted during the 2002 regular session, specifically: high school students can earn KEES awards while attending accredited out-of-state high schools or Department of Defense schools when their custodial parent or guardian is an active duty member of the United States Armed Forces and retains Kentucky as their home of record, and that postsecondary education students may receive KEES awards when enrolled in equivalent undergraduate programs.
   (b) The necessity of the amendment to this administrative regulation: An amendment is necessary to incorporate legislative changes made in the 2002 regular session.
   (c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms explicitly to the authorizing statutes.
   (d) How the amendment will assist in the effective administration of the statutes: The statute allows high school students to earn KEES awards while attending accredited out-of-state high schools or Department of Defense schools when their custodial parent or guardian is an active duty member of the United States Armed Forces and retains Kentucky as their home of record, and postsecondary education students to receive KEES awards when enrolled in equivalent undergraduate programs. The amendment to the regulation conforms the regulation to that statutory change.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The primary organizations affected by this regulation are KHEAA, KDE, public and private postsecondary education institutions, and local school districts. Students, parents and prospective students will indirectly benefit from this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: No impact will be felt as a result of this change.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: No cost.
   (b) On a continuing basis: No cost.
   (c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(6) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regula-
COUNCIL ON POSTSECONDARY EDUCATION
(Amendment)

13 KAR 1:030. Campus security, private institutions.


STATUTORY AUTHORITY: KRS 164.020(28), (34)

NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, KRS 164.948 to 164.9489, requires public postsecondary education institutions and those private postsecondary education institutions licensed by the Council on Postsecondary Education to report campus crimes to employees, students and the public and to report annually to the Council on Postsecondary Education. KRS 164.948(1) or (2) requires the council to approve a form for the daily security log maintained by each institution. KRS 164.948(2) requires the council to specify uniform reporting formats for each institution's annual report to the council, in compliance with KRS 164.9485. KRS 164.9483(1) and (2), and 227.220(3)(b), authorize the State Fire Marshal to enter in or upon the property of a postsecondary education institution licensed by the council. This administrative regulation addresses the responsibilities of private, independent postsecondary education institutions licensed by the Council on Postsecondary Education.

Section 1. Definitions. (1) "Annual report" means the report submitted by an institution to the council that satisfies the requirements of KRS 164.9485.

(2) "Campus" is defined in KRS 164.948(1).

(3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of KRS 164.9481(1).

(4) "Campus security authority" is defined in KRS 164.9482(1).

(5) "Clergy Act" means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f) and as implemented in 34 CFR 668.46.

(6) "Council" means the Council on Postsecondary Education as established by KRS 164.011.

(7) "Crime" is defined in KRS 164.948(3).

(8) "Fire scene" means the immediate area necessary for a local fire department or the State Fire Marshal's Office to investigate an actual fire.

(9) "Immediately" is defined in KRS 164.9484.

(10) "Institution" means a private, independent postsecondary education institution as defined in KRS 164.9484.

(11) [(a)] "State Fire Marshal" means the officer described in KRS 227.220.

Section 2. Property Subject to Reporting. (1) An institution shall establish a list of all property the institution:

(a) Owns;

(b) Manages or controls.

(2) The list of property shall include the areas described in KRS 164.948(1) and in 34 CFR 668.46(a), "Campus:" (1) and (2) and "Noncampus Building or Property:" (1) and (2).

(3) The list shall be updated as necessary but not less than annually.

(4) An institution shall provide the property list to the council upon the council's request.

Section 3. Campus Crime Log. (1) An institution shall maintain a campus crime log as required by KRS 164.9481(1).

(2) The campus crime log shall include each data element required by KRS 164.9481(1).

(3) An institution shall develop and maintain a written policy that:

(a) Ensures crime log information is available to the public as soon as possible, but no later than the time frame specified in KRS 164.9481(1)(b); and

(b) Is subject to the limitations established in KRS 164.9481(1).

(4) The policy shall state that the institution shall not withhold information except as provided in KRS 164.9481(1).
SUE HODGES MOORE, Interim President
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: August 1, 2002
PUBLISHED WITH AG: August 9, 2002 at 3 p.m.
PUBLIC HEARING: A public hearing on 13 KAR 1:030, Campus security, private institutions. shall be held on September 26, 2002, at 10 a.m. at the Council on Postsecondary Education, Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing by September 19, 2002, five days prior to the hearing, of their intention to be heard on specific matters to be considered at that date. The hearing shall be closed to the public.

COUNCIL ON POSTSECONDARY EDUCATION
(Amendment)


RELATES TO: KRS Chapter 13B, 164.020, 164.030, 164.362(9)
STATUTORY AUTHORITY: KRS 164.020(8)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.020(8) requires the Council on Postsecondary Education to determine tuition and approve the minimum qualifications for admission to a state-supported postsecondary education institution and authorizes the Council to set different tuition amounts for residents of Kentucky and for nonresidents. This administrative regulation establishes the procedures that determine the residency status of a student who is seeking admission to, or who is enrolled at, a state-supported postsecondary education institution.

Section 1. Definitions. (1) "Academic term" means a division of the school year during which a course of studies is offered, and includes a semester, quarter, or single consolidated summer term as defined by the institution.

(2) "Continuing enrollment" means enrollment in a state-supported postsecondary education institution at the same degree level for consecutive terms, excluding summer term, since the beginning of the period for which continuous enrollment is claimed unless a sequence of continuous enrollment is broken due to extenuating circumstances beyond the student's control, including serious personal illness or injury, or illness or death of a parent.

(3) "Degree level" means enrollment in a course or program which could result in the award of:

(a) Certificate, diploma or other program award at an institution;

(b) Baccalaureate degree or lower including enrollment in a course by a nondegree-seeking postbaccalaureate student;

(c) Graduate degree or graduate certification other than a first-professional degree in law, medicine, dentistry or "Pharm. D";

(d) Professional degree in law, medicine, dentistry, or "Pharm. D".

(4) "Demonstration of Kentucky domicile and residency" means the presentation of documented information and evidence sufficient to prove by a preponderance of the evidence that a person is domiciled in Kentucky and is a resident of Kentucky.

(5) "Dependent person" means a person who cannot demonstrate financial independence from parents or persons other than a spouse and who does not meet the criteria established in Section 5 of this administrative regulation.

(6) "Determination of residency status" means the decision of a postsecondary education institution that may include a formal hearing that results in the classification of a person as a Kentucky resident or as a nonresident for admission and tuition assessment purposes.
"Domicile" means a person's true, fixed, and permanent home and is the place where the person intends to remain, and to which the person expects to return if absent without intending to establish a new domicile elsewhere.

(8) "Full-time employment" means continuous employment for at least forty-eight (48) weeks at an average of at least thirty (30) hours per week.

(9) "Independent person" means a person who demonstrates financial independence from parents or persons other than a spouse and who can meet the criteria established in Section 5 of this administrative regulation.

(10) "Institution" means an entity defined in KRS 164.001(10) if the type of institution is not expressly stated and includes the Kentucky Commonwealth Virtual University, the Council on Postsecondary Education, and the Kentucky Higher Education Assistance Authority.

(11) [Kentucky residency or] "Kentucky resident" means the result of a determination by an institution that a person is domiciled in and is a resident of Kentucky as determined by this administrative regulation.

(12) "Nonresident" means a person who is domiciled outside of Kentucky or who currently maintains legal residence outside Kentucky or who is not a Kentucky resident within the meaning of [has not met the criteria for Kentucky residency established in] this administrative regulation.

(13) "Preponderance of the evidence" means the greater weight of evidence, or evidence which is more credible and convincing to the mind.

(14) "Parent" means one (1) of the following:
(a) A person's father or mother; or
(b) A court-appointed legal guardian if:
1. The guardianship is recognized by an appropriate court within the United States;
2. There was a relinquishment of the rights of the parents; and
3. The guardianship was not established primarily to confer Kentucky residency on the person.

(15) "Residency" means the place of abode of a person and the place where the person is physically present most of the time for a noneducational purpose in accordance with Section 3 of this administrative regulation.

(16) "Student financial aid" means all forms of payments to a student if one (1) condition of receiving the payment is the enrollment of the student at the institution.

(17) "Student" means living expenses including room, board, maintenance, transportation, and also may include educational expenses including tuition, fees, books, and supplies.

Section 2. Scope. (1) State-supported postsecondary education institutions were established and are maintained by the Commonwealth of Kentucky primarily for the benefit of qualified residents of Kentucky. The substantial commitment of public resources to postsecondary education is predicated on the proposition that the state benefits significantly from the existence of an educated citizenry. As a matter of policy, access to postsecondary education shall be provided so far as feasible at reasonable cost to an individual who is domiciled in Kentucky and who is a resident of Kentucky.

(2) The Council on Postsecondary Education may require (requiring) a student who is not domiciled in and is a resident of Kentucky to meet higher admission standards and to pay a higher level of tuition than resident students.

(3) This administrative regulation applies to all student residency determinations regardless of circumstances, including residency determinations made by the state-supported institutions for prospective and currently-enrolled students; the Southern Regional Education Board contract spaces; reciprocity agreements, where appropriate; the Kentucky Commonwealth Virtual University; and academic common market programs; the Kentucky Educational Excellence Scholarship Program; and other state student financial aid programs, as appropriate.

Section 3. Determination of Residency Status; General Rules. (1) A determination of residency shall include:
(a) An initial determination of residency status by an institution during the admission process or upon enrollment in an institution for a specific academic term or for admission into a specific academic program;
(b) A reconsideration of a determination of residency status by an institution based upon a changed circumstance; and
(c) A formal hearing conducted by an institution upon request of a student after other administrative procedures have been completed.

(2) An initial determination of residency status shall be based upon:
(a) The facts in existence when the credentials established by an institution for admission for a specific academic term have been received and during the period of review by the institution;
(b) Information derived from admissions materials;
(c) Other materials required by an institution and which are consistent with this administrative regulation; or
(d) Other information available to the institution from any source.

(3) An individual, having a determination of Kentucky residency status shall demonstrate that status by a preponderance of the evidence.

(4) A determination of residency status shall be based upon verifiable circumstances or actions.

(5) Evidence and information cited as the basis for Kentucky domicile and residency shall accompany the application for a determination of residency status or shall be made available to the student.

(6) A student classified as a nonresident shall retain that status until the student is officially reclassified by an institution.

(7) A student may apply for a review of a determination of residency status once for each academic term.

(8) If an institution has information that a student's residency status may be incorrect, the institution shall review and determine the student's correct residency status.

(9) If the Council on Postsecondary Education has information that an institution's determination of residency status for a student may be incorrect, it may require the institution to review the circumstances and report the results of that review.

(10) An institution shall impose a penalty or sanction against a student who gives incorrect or misleading information to an institution or official, including payment of nonresident tuition for each academic term for which resident tuition was assessed based on an improper determination of residency status. The penalty may also include:
(a) Student discipline by the institution through a policy written and disseminated to students; or
(b) Criminal prosecution.

Section 4. Presumptions Regarding Residency Status. (1) In making a determination of residency status, it shall be presumed that a person is a nonresident if:
(a) A person is, or seeks to be, an undergraduate student and admissions records show the student to be a graduate of an out-of-state high school within five (5) years prior to a request for a determination of residency status;
(b) A person's admissions records indicate the student's residence to be outside of Kentucky at the time of application for admission;
(c) A person moves to Kentucky primarily for the purpose of enrollment in an institution;
(d) A person moves to Kentucky and within twelve (12) months enrolls at an institution more than half time; or
(e) A person has a continuous absence of one (1) year from Kentucky.

(2) A presumption arising from subsection (1) of this section shall be overcome by presentation of evidence that is sufficient to demonstrate that a person is domiciled in and is a resident of Kentucky [a demonstration of Kentucky domicile and residency].

Section 5. Determination of Whether a Student is Dependent or Independent. (1) In a determination of residency status, an institution shall first determine whether a student is dependent or independent. This provision is predicated on the assumption that a dependent person lacks the financial ability to live independently of the person upon whom the student is dependent and therefore lacks the ability to form the requisite intent to establish domicile.

(2) In determining the dependent or independent status of a
person, the following information shall be considered as well as any other relevant information available at the time the determination is made:

(a) Whether the person has been claimed as a dependent on federal or state tax returns of a parent or other person for the year preceding the date of application for a determination of residency status; or

(b) Whether the person has financial earnings and resources independent of another person other than an independent spouse necessary to provide for the person's own sustenance.

(3) An individual who enrolls at an institution immediately following graduation from high school and remains enrolled shall be presumed to be a dependent person unless the contrary is evident from the information submitted.

(4) Domicile may be inferred from the student's permanent address, parent's mailing address, or location of high school graduation.

(5) Marriage to an independent person domiciled in and who is a resident of Kentucky shall be a factor considered by an institution in determining whether a student is dependent or independent.

(6) Financial assistance from a loan made by a parent or family member other than an independent spouse, if used for sustenance of the student:

(a) Shall not be considered in establishing a student as independent; and

(b) Shall be a factor in establishing that a student is dependent.

Section 6. Effect of a Determination of Dependent Status on a Determination of Residency Status. (1) The effect of a determination that a person is dependent shall be as follows:

(a) The domicile and residency of the dependent person shall be the same as either parent. The domicile and residency of the parent shall be determined in the same manner as the domicile and residency of an independent person.

(b) The domicile and residency of a dependent person whose parents are divorced, separated, or otherwise living apart shall be determined in the same manner as the domicile and residency of the independent person.

(2)(a) If the parent or parents of a dependent person are residents of Kentucky and are domiciled in Kentucky but subsequently move from the state, the dependent person shall be considered a resident ofKentucky while in continuous enrollment at the degree level in which currently enrolled.

(b) If continuous enrollment is broken or the current degree level is completed, the dependent person's residency status shall be reassessed when the circumstances detailed in subparagraph 1 of this paragraph are present.

(c) If the sole parent or both parents of a dependent person moves out of state, Kentucky domicile and residency, having been previously established, shall be retained until steps are taken to establish domicile and residency elsewhere.

Section 7. Member of Armed Forces of the United States, Spouse and Dependent; Effect on a Determination of Residency Status. (1) A member, spouse, or dependent of a member whose domicile and residency was Kentucky at the time of induction into the Armed Forces of the United States, and who maintains Kentucky as his or her home of record and permanent address, shall be entitled to Kentucky residency status:

(a) During the time of active service; or

(b) If the member, spouse, or dependent returns to this state within six (6) months of the date of the member's discharge from active duty.

(2)(a) A member, spouse or dependent of a member of the Armed Forces of the United States stationed in Kentucky on active military orders shall be considered a Kentucky resident while the member is on active duty in this state pursuant to those orders if the member is not:

1. Stationed in Kentucky for the purpose of enrollment at an institution; or

2. On temporary assignment of less than one (1) year.

(b) A member, spouse or dependent of a member, shall not lose Kentucky residency status if the member is thereafter transferred on military orders while the member, spouse or dependent requesting the status is in continuous enrollment at the degree level in which currently enrolled.

(c) Membership in the National Guard or civilian employment at a military base alone shall not qualify a person for Kentucky residency status under the provisions of subsections (1) and (2) of this section.

(d) A person's residency status established pursuant to this section shall be reassessed if the qualifying condition is terminated.

Section 8. Status of Nonresident Aliens; Visas and Immigration. (1)(a) A person holding a permanent residency visa or classified as a political refugee shall establish domicile and residency in the same manner as another person.

(b) Time spent in Kentucky and progress made in fulfilling the conditions of domicile and residency prior to obtaining permanent residency status shall be considered in establishing Kentucky domicile and residency.

(2) A person holding a nonimmigrant visa with designation A, E, G, H-1, H-4 if accompanying a person with an H-1 visa, J, K, L, N, O, P, R, S, TD or TN or Q shall be considered to be a resident of Kentucky, and the person shall be classified as resident of Kentucky.

(3)(a) An independent person holding a nonimmigrant visa with designation B, C, D, F, H-2, H-3, H-4 if accompanying a person with an H-2 or H-3 visa, J, K, M, O, P, Q, S, or TD or TN or Q shall not be classified as a resident of Kentucky, and the person shall be considered a nonresident of Kentucky.

(b) A dependent person holding a visa as described in paragraph (a) of this subsection, but who is a dependent of a parent holding a visa as described in subsection (2) of this section shall be considered as holding the visa of the parent.

(c) A dependent person holding a visa described in subsection (2) of this section or paragraph (a) of this subsection, if a parent is a citizen of the United States and is a resident of and domiciled in Kentucky, shall be considered for purposes of this administrative regulation.

(4) Provided however, that a dependent or independent person who graduates from a Kentucky high school and who is an undocumented alien, who holds a visa listed in subsection (2) or (3) of this section, or, who is a dependent of a person who holds a visa listed in subsection (2) or (3) of this section shall be considered as a resident of Kentucky for purposes of this administrative regulation.

(5)(a) A person who has petitioned the federal government to reclassify visa status shall continue to be ineligible until the petition has been decided by the federal government.

(b) Provided however, a person who has petitioned the federal government to reclassify visa status based on a marriage to a Kentucky resident and who can demonstrate that the petition has been filed and acknowledged by the federal government, may establish Kentucky domicile and residency at that time.

Section 9. Beneficiaries of a Kentucky Educational Savings Plan Trust. A beneficiary of a Kentucky Educational Savings Plan Trust shall be granted residency status if the beneficiary meets the requirements of KRS 164A.330(3).

Section 10. Criteria Used in a Determination of Residency Status. (1) A determination of Kentucky domicile and residency shall be based upon verifiable circumstances or actions. A single fact shall not be paramount, and each situation shall be evaluated to identify those facts essential to the determination of domicile and residency.

The following facts, although not conclusive, shall have probative value in their entirety and shall be individually weighted, appropriate to the facts and circumstances in each determination of residency:

(a) Acceptance of an offer of full-time employment or transfer to an employer in Kentucky or contiguous area while maintaining resi-
(b) Continuous physical presence in Kentucky while in a nonstudent status for the twelve (12) months immediately preceding the start of the academic term for which a classification of Kentucky residency is sought;

(c) Filing of Kentucky resident income tax return for the calendar year preceding the date of application for a change in residency status; or

(2) Payment of Kentucky withholding taxes while employed during the calendar year for which a change in classification is sought;

(d) Full-time employment of at least one (1) year while living in Kentucky;

(e) Attendance as a full-time, nonresident student at an out-of-state institution based on a determination by that school that the person is a resident of Kentucky;

(f) Abandonment of a former domicile or residence and establishing domicile and residency in Kentucky with application to or attendance at an institution following and incidental to the change in domicile and residency;

(g) Obtaining licensing or certification for a professional and occupational purpose in Kentucky;

(h) Payment of real property taxes in Kentucky;

(i) Ownership of real property in Kentucky, if the property was used by the student as a residence preceding the date of application for a determination of residency status;

(j) Long-term lease of at least twelve (12) consecutive months of noncollegiate housing;

(k) Marriage of an independent student to a person who was domiciled in and a resident of Kentucky prior to the marriage [as defined];

(l) Continued presence in Kentucky during academic breaks; and

(m) The extent to which a student is dependent on student financial aid in order to provide basic sustenance.

(3) Except as provided in subsection (4) of this section, the following facts, because of the ease and convenience in completing them, shall have limited probative value in a determination that a person is domiciled in and is a resident of Kentucky:

(a) Kentucky automobile registration;

(b) Kentucky driver’s license; and

(c) Registration as a Kentucky voter.

(4) The absence of a fact contained in subsection (3) of this section shall have significant probative value in determining that a student is not domiciled in or is not a resident of Kentucky.

Section 11. Effect of a Change in Circumstances on Residency Status. (1) If a person becomes independent or if the residency status of a parent or parents of a dependent person changes, an institution shall reassess residency either upon a request by the student or a review initiated by an institution.

(2) Upon transfer to a Kentucky institution, a student’s residency status shall be assessed [reassessed] by the receiving institution.

(3) A reconsideration of a determination of residency status for a dependent person shall be subject to the provisions for continuous enrollment, if applicable.

Section 12. Student Responsibilities. (1) A student shall report [reclassify] under the proper residency classification which includes the following actions:

(a) Raising a question in a timely manner concerning residency classification;

(b) Making application for change of residency classification in a timely manner with the designated office or person at the institution; and

(c) Notifying the designated office or person at the institution immediately upon a change in residency.

(2) If a student fails to notify an institutional official of a change in residency, an institutional official may investigate and evaluate the student’s [current] residency status.

(3)(a) If a student fails to provide, by the date specified by the institution, information required by an institution in a determination of residency status, the student shall be notified by the institution that the review has been canceled and that a determination has been made.

(b) Notification shall be made by registered mail, return receipt requested.

(c) Notification shall be made within ten (10) calendar days after the deadline for receipt of materials has passed.

(4) A student shall not be entitled to appeal a determination of residency status if the determination made by an institution is because a student has failed to meet published deadlines for the submission of information as set forth in subsection (3) of this section. A student may request a review of a determination of residency status in a subsequent academic term.

Section 13. Institutional Responsibilities. Each institution shall:

(1) Provide for an administrative appeals process that includes a residency appeals officer to consider student appeals of an initial residency determination and which shall include a provision of fourteen (14) days for the student to appeal the residency appeals officer’s determination.

(2) Establish a residency review committee to consider appeals of residency determinations by the residency appeals officer. The residency review committee shall make a determination of student residency status and notify the student in writing within forty-five (45) days after receipt of the student appeal.

(3) Establish a formal hearing process as described in Section 14 of this administrative regulation.

(4) Establish written policies and procedures for administering the responsibilities established in subsections (1), (2), and (3) of this section and that are:

(a) Approved by the institution’s governing board;

(b) Made available to all students; and

(c) Filed with the council.

Section 14. Formal Institutional Hearing. (1) A student who appeals a determination of residency by a residency review committee shall be granted a formal hearing by an institution if the request is made by a student in writing within fourteen (14) calendar days after notification of a determination by a residency review committee.

(2) If a request for a formal hearing is received, an institution shall appoint a hearing officer to conduct a formal hearing. The hearing officer:

(a) Shall be a person not involved in determinations of residency at an institution except for formal hearings; and

(b) Shall not be an employee in the same organizational unit as the residency appeals officer.

(3) An institution shall have written procedures for the conduct of a formal hearing that have been adopted by the board of trustees or regents, as appropriate, and that provide for:

(a) A hearing officer to make a recommendation on a residency appeal;

(b) Guarantees of due process to a student that include:

1. The right of a student to be represented by legal counsel; and

2. The right of a student to present testimony and to present testimony and information in support of a claim of Kentucky residency.

(c) A recommendation to be issued by the hearing officer.

(4) An institution’s formal hearing procedures shall be filed with the Council on Postsecondary Education and shall be available to a student requesting a formal hearing.

Section 15. Cost of Formal Hearings. (1) An institution shall pay the cost for all residency determinations including the cost of a formal hearing.

(2) A student shall pay for the cost of all legal representation in support of the student’s claim of residency.

SUE HODGES MOORE, Interim President
DENNIS L. Taulbee, General Counsel
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

APPROVED BY AGENCY: August 1, 2002
FILED WITH LRC: August 9, 2002 at 3 p.m.
PUBLIC HEARING: A public hearing on 13 KAR 2:045, Determination of residency status for admission and tuition purposes, shall be held on September 24, 2002, at 10 a.m. at the Council on Postsecondary Education, Conference Room B. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five days prior to the hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If 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: Dennis L. Taubee, Associate Vice President/General Counsel, Council on Postsecondary Education, Suite 320, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Phone (502) 573-1555, Fax (502) 573-1535, email dennis.taubee@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Taubee, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: Because there is a differential in the rates between in-state and out-of-state tuition, there needs to be a mechanism for determining who is or is not a Kentucky resident. This regulation provides the criteria for making such determinations and lays out the process by which the determinations are to be made.
(b) The necessity of this administrative regulation: KRS 164.020(8) gives the council the authority to determine tuition.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statutes. This regulation expands on the general powers of the council to determine tuition.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The criteria for evaluating foreign students is changed in view of federal requirements for issuing visas; further, institutional reviews of students resulted in the need to clarify different criteria for evaluating students.
(b) The necessity of the amendment to this administrative regulation: The amendments are required because of changed circumstances.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms explicitly to the authorizing statutes. The amendment expands on the general powers granted in the statute.
(d) How the amendment will assist in the effective administration of the statute: The changes make the administrative regulation easier to administer.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The primary organizations affected by this regulation are postsecondary education institutions, KHEAA, and the Council on Postsecondary Education. Students, parents, and prospective students will benefit from this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Institutions and other state agencies should find it easier to work with the regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No cost.
(b) On a continuing basis: No cost.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.

(8) State whether or not this administrative regulation establishes any fees or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? Tiering is not appropriate under these circumstances.

COUNCIL ON POSTSECONDARY EDUCATION

(Amendment)

13 KAR 2:100. Campus security, public institutions.


STATUTORY AUTHORITY: KRS 164.020(28), (34)

NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, KRS 164.948 to 164.9489, requires public postsecondary education institutions and those private postsecondary education institutions licensed by the Council on Postsecondary Education to report campus crimes to employees, students, and the public and to report annually to the Council on Postsecondary Education. KRS 164.9481(1)(a) requires the council to approve a form for the daily security log maintained by each institution. KRS 164.9487(2) requires the council to specify uniform reporting formats for each institution's annual report to the council, in compliance with KRS 164.9485. KRS 164.9483(1) and (2), and 227.220(3)(b), authorize the State Fire Marshal to enter in or upon the property of a postsecondary education institution licensed by the council. This administrative regulation addresses the responsibilities of public postsecondary education institutions.

Section 1. Definitions. (1) "Annual report" means the report submitted by an institution to the council that satisfies the requirements of KRS 164.9485.

(2) "Campus" is defined in KRS 164.948(1).

(3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of KRS 164.9481(1).

(4) "Campus security authority" is defined in KRS 164.948(2).

(5) "Clery Act" means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Acts, 20 USC 1092(f) and as implemented in 34 CFR 668.46.

(6) "Council" means the Council on Postsecondary Education as established by KRS 164.011.

(7) "Crime" is defined in KRS 164.948(3).

(8) "Fire scene" means the immediate area necessary for a local fire department or the State Fire Marshal's Office to investigate an actual fire.

(9) "Immediately" is defined in KRS 164.948(4).

(10) "Institution" means a public postsecondary education institution as defined in KRS 164.948(4).

(11) "[99] "State Fire Marshal" means the officer described in KRS 227.220.

Section 2. Property Subject to Reporting. (1) An institution shall establish a list of all property the institution:

(a) Owns; or

(b) Manages or controls.

(2) The list of property shall include the areas described in KRS 164.948(1) and in 34 CFR 668.46(a). "Campus:" (1) and (2) and "Noncampus Building or Property:" (1) and (2).

(3) The list shall be updated as necessary but not less than annually.

(4) An institution shall provide the property list to the council upon the council's request.

Section 3. Campus Crime Log. (1) An institution shall maintain a
campus crime log as required by KRS 164.9481(1).

(2) The campus crime log shall include each data element required by KRS 164.9481(1).

(3) An institution shall develop and maintain a written policy that:
(a) Ensures crime log information is available to the public as soon as possible, but no later than the time frame specified in KRS 164.9481(1)(b), and
(b) is subject to the limitations established in KRS 164.9481(1).

(4) The policy shall state that the institution shall not withhold information except as provided in KRS 164.9481(1).

(5)(a) An institution may archive campus crime log entries after sixty (60) days have elapsed from the date when an incident was reported.

(b) An institution that elects to archive campus crime log entries shall respond, within two (2) business days, to a request for material that has been archived.

Section 4. Special Reports. An institution shall report, in writing, to the council on how it shall comply with the provisions of KRS 164.9481(2).

Section 5. Crime. The meaning of a crime listed in KRS 164.948(3) shall be consistent, to the extent possible, with the definitions and standards established in the Uniform Crime Reporting System of the federal government, and with the Kentucky Revised Statutes, where appropriate.

Section 6. State Fire Marshal and Threat of Fire. (1) A threat of fire includes:
(a) A fire alarm, except as provided in subsection (2) of this section; and
(b) An expression of an intention by a person to engage in destructive burning or explosion.

(2) A threat of fire does not include an alarm triggered for the purpose of:
(a) Maintenance testing; or
(b) Fire drill.

(3) A threat of fire or fire [actual alarm] shall be reported immediately by the campus authority designated pursuant to KRS 164.9483(4):
(a) The State Fire Marshal;
(b) The local fire department;
(c) An institution shall maintain a fire scene until cleared by the State Fire Marshal's Office in accordance with KRS 164.9483(4).

Section 7. Annual Report. Each institution shall file an annual report, as required by KRS 164.9485, using the format described in this section.

(1) A heading that shall appear at the top of each page, as follows:

(Name of Institution)
The Michael Minger Act Report for Activity Reported for Calendar Year
(Calendar Year in Which Crime Reported)

(2) Each institution shall submit to the council, in accordance with KRS 164.9485, an annual report using Form MMA1, incorporated by reference.

Section 8. Enforcement. (1) KRS 164.993 provides civil and criminal penalties for a violation of KRS 164.9481 and 164.9483.

(2)(a) A person, including campus personnel who has reason to believe that any person has violated, or knowingly induced another person, directly or indirectly, to violate KRS 164.9481 and 164.9483 may register a complaint with the State Fire Marshal's Office.

(b) A person who has reason to believe that any person has violated KRS 164.9481 or 164.9483 may register a complaint with the county attorney in the county where the institution is located.

(3) The State Fire Marshal has the authority to assess and collect civil fines pursuant to KRS 164.993 which are to be paid into the state treasury and retained in an account titled "The Michael Minger/Purdy Fire Prevention Fund pursuant to HB 829 (2002 Regular Session)."

Section 9. Incorporation by Reference. (1) "MMA1, 1/2001" is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SUE J. HODGES MOORE, Interim President
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: August 1, 2002
FILED WITH LRC: August 9, 2002 at 3 p.m.

PUBLIC HEARING: A public hearing on 13 KAR 2:100, Campus security, public institutions. shall be held on September 26, 2002, at 10 a.m. at the Council on Postsecondary Education, Conference Room A. Individuals interested in being heard at this hearing shall notify this agency in writing by September 19, 2002, five days prior to the hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Anyone 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: Dennis L. Taulbee, Associate Vice President/General Counsel, Council on Postsecondary Education, Suite 320, 1024 Capital Center Drive, Frankfort, Kentucky 40601, Phone: (502) 573-1555, Fax: (502) 573-1535, Email: dennis.taulbee@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. Taulbee, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation mandates that the Council on Postsecondary requires institutions to maintain a daily crime log, specifies uniform reporting formats for each institution's annual report to the council, to clarify issues surrounding notification of the State Fire Marshal for fires and threats of fire. This administrative regulation addresses the responsibilities of public postsecondary education institutions. The 2002 General Assembly is required to amend the administrative regulation addressing the subject matter listed above.
(b) The necessity of this administrative regulation: The necessity of this administrative regulation: The Michael Minger Act, KRS 164.948 to 164.9489, 164.9481(1)(a), 164.9487(2), 164.9485, 164.9483(1) and (2), and 227.220(3)(b). KRS 164.9485, 164.9483(1) and (2), HB 829 (2002 GA), and KRS 227.220(3)(b).
(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statutes.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation requires public postsecondary institutions to report campus crimes to employees, students and the public, clarifies procedures for making special reports of crimes on campus, and reporting fires and threat of fires to the fire marshal's office.
(e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to the administrative regulation clearly defines the actions to be taken on the part of public postsecondary institutions to report fires and threats of fires.
(b) The necessity of the amendment to this administrative regulation: To define the word immediately, and the phrase "fire scene".
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms explicitly to the authorizing statutes.
(d) How the amendment will assist in the effective administration of the statutes: The amendment provides conformity in reporting to
the State Fire Marshal and reporting statistics to the council.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The primary organizations affected by this regulation are public postsecondary education institutions, the State Fire Marshall, and the Council on Postsecondary Education. Students, parents, and prospective students will benefit from this regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation provides explicit guidance to the institutions in how to meet the requirements of the Michael Minger Act.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: The cost of the changes is minimal.
   (b) On a continuing basis: The cost of the changes is minimal.
   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: State funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No

(9) TIERING: Is tiering applied? Tiering is not appropriate under these circumstances.

KENTUCKY RETIREMENT SYSTEMS
   (Amendment)

105 KAR 1:020. Reciprocal program between CERS, KERS, SPRS, TRS, JRP, and LRP.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.680 provides for the combining of retirement accounts [was amended by the 1977 and 1982 General Assembly to provide for an entirely new method of determining retirement benefits] for public employees having a retirement account in more than one (1) of the following state administered retirement systems: County Employees Retirement System, Kentucky Employees Retirement System, Judicial Retirement Plan, Legislators Retirement Plan, State Police Retirement System and Teachers' Retirement System. An administrative regulation adopted by the Board of Trustees implements [a new] Kentucky Retirement Systems is necessary to implement [this new] legislation.

Section 1. Upon death, disability or service retirement the following procedure shall be applicable in order to determine benefits for a member having an account in more than one (1) retirement system:

(1) Combine the members' service in all systems.
(2) Determine eligibility in each system based on combined service.
(3) If eligible in any system, determine benefits.
(4) Check for specific exceptions as prior service, request for separate account or special death or disability exception.
(5) Each system shall pay the applicable percentage of total benefit unless a specific exception exists.

Section 2. (1) A member eligible to retire who elects service retirement from one (1) system, shall be paid from all systems in which he has an account unless he requests that his accounts be separated.

(2) The "final compensation" will be calculated by using the five (5) highest, or three (3) highest when eligible, fiscal years creditable compensation regardless of the system under which the service was earned.

(3) Each system will determine benefit payments on the basis of the final compensation but using only the service earned in that system. Payments shall be made by each system in accordance with its usual procedures. If a member is not eligible for an unreduced benefit [an age requirement has not been met], benefits shall be actuarially reduced based on factors adopted by the respective retirement boards.

(4) The retiring member or beneficiary shall be required to elect the same payment option in each system administered by the Kentucky Retirement Systems except that a state policeman or a member with hazardous service may select the "Ten (10) Year for Certain" option set forth in KRS 16.576(5) irrespective of the option chosen for nonhazardous service.

(5) A retiring member may elect to have each system treat his service credit in that system without regard to any other service credit, by requesting that his accounts be separated by filing a Form 2022, Separation of Accounts, with the Form 6000, Notification of Retirement. In such case, "final compensation" shall be based on the creditable compensation earned under each system separately.

Section 3. (1)(a) If a contributing member of one (1) of the six (6) [five (5)] systems qualifies for disability benefits, all systems under which the combined service meets service requirements shall participate in benefit payments unless accounts are separated by provisions of KRS 61.680(2)(b).

(b) Each system shall calculate benefits using the formula in effect in that system.

(c) Service added to County Employees Retirement System, Kentucky Employees Retirement System and State Police Retirement System accounts in accordance with the appropriate disability formula shall be prorated between system accounts based on a percentage of actual earned service in each system unless such proration conflicts with maximum added service permitted by law governing each system.

(2) If the combined service of a member meets service requirements in more than one (1) system then that system shall pay benefits under the disability formula and the other system shall pay as follows:

(a) Benefits based on separate accounts if the member elects to maintain separate accounts; or
(b) An actuarial accrued benefit based on the member's age, service and final compensation; or
(c) A refund if requested by the member.

(3) The medical requirements for disability benefits shall be those of the system to which the member last contributed if combined service meets service requirements of that system. If service requirements are met in only one (1) system, the medical requirements of that system shall prevail.

Section 4. A member contributing to any of the six (6) [five (5)] retirement systems who has combined service sufficient to qualify for a death benefit shall have his County Employees Retirement System, Kentucky Employees Retirement System or State Police Retirement System benefits computed under the regular death formula based on his service in each of the three (3) systems.

Section 5. [44] A member having valid service credit in more than one (1) of the retirement systems may elect to purchase retirement credit for active duty time in one (1) system; or he may divide the service credit between the systems permitting purchase. If service is to be divided, the following additional requirements shall be met:

(1) [a] The total service credit in all systems shall not exceed six (6) years. Within County Employees Retirement System, Kentucky Employees Retirement System and State Police Retirement System a member shall not purchase more than four (4) years active duty military service.

[b] The same years of active duty shall not be used in more than one (1) system.

(2) [b] Each system shall calculate the costs of the retirement credit in keeping with the statutes and administrative regulations of that retirement system.

[c] A contributing member of the Kentucky Employees Retirement System, County Employees Retirement System or State Police Retirement System who has service in any or all of those systems or previous service under the Teachers Retirement System may purchase military service under KRS 61.555(4), in the system under
which he is working, either Kentucky Employee Retirement System, County Employees Retirement System or State Policy Retirement System provided his total service is sufficient to meet the statutory requirement.

(3) An employee participating in one or more of the state administered retirement systems may purchase military service credit under KRS 61.675(3)(a) (2) the Kentucky Employees Retirement System, County, Employees Retirement System or State Police Retirement System if he has service in the system.

(4) A retired recipient who is reemployed under the system from which he retired and is making contributions to the system is eligible to purchase military service.

Section 6. (1) A retiring member with service in the Kentucky Teachers' Retirement System and one (1) or more of the three (3) systems administered by Kentucky Retirement Systems shall have his total service in all four (4) systems combined to determine his eligibility for medical insurance benefits. The systems shall share the cost of the member's premium under this section based on his combined service.

(2) If the member meets the minimum eligibility requirements, the member may elect to participate in the insurance plans established under KRS 61.702 or 161.675. The premium paid from the insurance funds shall not be more than 100 percent of the single premium amount adopted by the respective boards of trustees or more than the maximum percentage payable under the program established under KRS 61.702 or 161.675.

(3) (a) If the member elects to participate in the program under KRS 61.702, the member's service in the systems shall be combined to determine the applicable percentage that shall be paid toward his individual coverage under KRS 61.702(3).

(b) The systems shall pay a pro rata share of the member's premium based on the service in each system expressed as a percentage of total service credit earned in all systems not to exceed the amount of the single premium cost adopted by the Board of Trustees of Kentucky Teacher's Retirement System.

1. The amount paid by the Kentucky Teachers' Retirement System shall not exceed the amount of the single premium cost adopted by the Board of Trustees of the Kentucky Teachers' Retirement System.

2. The Kentucky Teachers' Retirement System shall not pay a percentage of the premium for the spouse and dependents.

(4) (a) If the member elects to participate in the program under KRS 161.675, the member's service in the systems shall be combined to determine the applicable percentage that shall be paid under KRS 161.675(3).

(b) The systems shall pay a pro rata share of the member's premium based on the service in each system expressed as a percentage of total service credit earned in all systems, including service in the Kentucky Teachers' Retirement Plan and Judicial Retirement Plan, not to exceed the amount paid toward the single premium cost adopted by the Board of Trustees of Kentucky Teachers' Retirement System.

1. The amount paid by the Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System shall not exceed the amount of the single premium cost adopted by the Board of Trustees of the Kentucky Retirement System.

2. The Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System shall not pay a percentage of the premium for the spouse or dependents.

(5) Premiums payable under KRS 61.702 shall be paid by the Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System and the Kentucky Teachers' Retirement System shall reimburse the systems for the portion of the premium attributable to service in that system. Premiums payable under KRS 161.675 shall be paid by the Kentucky Teachers' Retirement System and the Kentucky Employees Retirement System, County Employees Retirement System and State Police Retirement System shall reimburse the system for the portion of the premium attributable to service in those systems.

Section 7. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Form 2022, Separation of Accounts, August 2002", Kentucky Retirement Systems; and

(b) "Form 6000, Notification of Retirement, August 2002", Kentucky Retirement Systems.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-8124, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chairman
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for determining retirement benefits for public employees having a retirement account in more than one of the state administered retirement systems.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the procedures for determining retirement benefits under reciprocal agreement from the various state retirement systems for a member who has more than one retirement account in the state administered retirement systems.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides for the Judicial Retirement Plan in the reciprocal program between the other state administered retirement systems; this administrative regulation conforms to state law allowing for the purchase of active military service credit in a state retirement system.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes clear procedures for a member to elect to keep retirement accounts separated for a member who has more than one retirement account in a state administered system by filing a form for separation of accounts with the notification of retirement; this administrative regulation conforms to state law allowing for the purchase of active military service credit in a state retirement system.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides for inclusion of the Judicial Retirement Plan for reciprocity with the other state administered retirement plans; the amendment requires the member to file notification with the retirement system to keep multiple retirement plans separate; the amendment changes prior language on purchase of active military service credit to comply with law changes.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include participants in the
Judicial Retirement Plan for reciprocity procedures; for a member to keep accounts separated at retirement otherwise the accounts will be combined; and to conform to law KRS 61.555 concerning the purchase of active military service credit. 

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide for reciprocity in determining retirement benefits for members who have multiple accounts in the various state administered retirement plans including the Judicial Retirement Plan; the authorizing statutes require multiple accounts to be combined upon retirement unless the member advises to keep accounts separated and the amendment provides for a form notifying to keep accounts separated; changes in KRS 61.555 for active military service that can be purchased in a state administered retirement plan and the administrative changes reflect recent changes in the law.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will include Judicial Retirement Plan in the procedures to determine retirement benefits under reciprocity; the amendment will require a member to affirmatively declare on a form to keep retirement accounts separated for effective management of account; the amendment on military service purchase conforms to law and will assist in proper calculation of cost to purchase active military service.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Members of Judicial Retirement Plan with accounts administered by Kentucky Retirement Systems is approximately 100; only retirees with more than one state administered retirement account who desire to keep accounts separated, typically a very small number, at the time of retirement would be required to file the notice of separation form; and only members of the retirement system who have been called into active military service and return to work with a state sponsored administrative retirement plan could purchase the active military service as service in the retirement system.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The separation of retirement accounts for a member with multiple state administered retirement accounts is a discretionary choice of the individual member; a member with active military service will be able to purchase the military service.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.
(b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(a) All or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(b) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS

(Statutory)

105 KAR 1:120. Participation of agencies.

RELATES TO: KRS 78.510(3), 78.530, 78.532, 78.535, 78.780
STATEMENT: KRS 61.645(9)(b) (4), KRS 78.510(3), 78.780
NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapters 61 and 78 provide for participation of local government entities in the County Employees Retirement System (CERS). This administrative regulation sets out the procedures and requirements for participation.

Section 1. Definitions. (1) "Alternate plan" means the plan under which an employer purchases service credit for its employees by paying an actuarial cost of the service in a lump sum or by annual installments.

(2) "Board" is defined by KRS 78.510(2).

(3) "CERS" is defined by KRS 78.510(1).

(4) "Standard plan" means the plan under which the employer does not purchase service credit for its employees.

Section 2. (1) An agency may participate in CERS if the board determines that the agency:

(a) Meets the definition of county in KRS 78.510;
(b) Is qualified to establish and maintain a governmental plan as defined in 26 USC 414(d) and 92 USC 1002(32);
(c) Satisfactorily completes the trial period established by the provisions of this administrative regulation; and
(d) Submits all forms and documents necessary for participation in CERS by day fifteen (15) of the month prior to the effective date of participation; and
(e) Complies with the provisions of applicable statutes and administrative regulations.

(2) Prior to board approval of an agency that has elected to participate in CERS, the agency shall serve a three (3) month trial period, during which it shall:

(a) Report contributions; and
(b) Comply with the provisions of applicable statutes and administrative regulations governing:

1. Employee participation; and
2. Reporting of contributions.

(3) The board may deny participation if it determines that:

(a) An agency has failed to comply with the provisions of subsection (1) of this section;
(b) Its participation will have:

1. An adverse impact on the tax qualification of CERS, pursuant to applicable federal law and regulation; or
2. A significant adverse impact on the actuarial soundness of CERS.

(4) If the board denies an agency's request to participate in CERS, it shall refund to the agency and its employees the contributions paid by them to CERS during the agency's trial period.

Section 3. The effective date of participation shall be the first day of:

(1) The month during which the order required by KRS 78.530(1) is adopted; or
(2) Any month subsequent to the month during which the order required by KRS 78.530(1) was adopted.

Section 4. If an agency wishes to participate under the alternate participation plan, it shall request the Kentucky Retirement Systems to conduct an actuarial study to determine the cost of purchasing past service for eligible employees prior to adoption of an order to participate.

Section 5. An agency shall designate a person to be responsible for compliance with applicable statutes and the reporting requirements established in:

(a) KRS 105 KAR 1:130;
(b) KRS 105 KAR 1:140;
(c) KRS 105 KAR 1:150;
(d) KRS 105 KAR 1:160;
(e) KRS 105 KAR 1:170;
(f) KRS 105 KAR 1:210; and
(g) KRS 105 KAR 1:250.

Section 6. The annual installment to amortize the cost of the employees' service under the alternate plan shall not be less than ten (10) percent of the total annual payroll for nonhazardous employees and fifteen (15) percent of the total annual payroll for hazardous employees included in the alternate plan. The payment shall be due each year on the first day of the month in which participation began.

Randy Overstreet, Chair
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides for participation of local government entities in the Kentucky Employee Retirement System (CERS).
(b) The necessity of this administrative regulation: This administrative regulation sets out procedures and requirements for participation of local government entities in the CERS.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes provide for participation of local governments to participate in CERS and this administrative regulation establishes the documents, procedures, and timelines for establishing membership in CERS.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes clear procedures for an agency wanting membership in CERS to have all documentation required for participation into the office of the retirement system no later than day fifteen of the month before participation is to begin.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment provides for clear date timeline in which an agency must submit all materials to be considered before participation in CERS is to begin.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to ensure that all necessary documentation from an agency desiring participation in CERS is on file at the retirement system in a timely manner for proper consideration.
(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide for the participation and means of local governments to participate in CERS, and this regulation amendment sets forth a clear timeline in which all necessary documentation must be submitted before a local government agency can be considered for participation.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will set forth a clear date in which documentation needs to be filed at the retirement system for consideration of an agency to join CERS and this will make for more efficient means of administering the laws governing CERS participation.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 100 local government entities make application annually to participate in CERS.
(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Local governments applying for participation in CERS will be required to submit all documentation by day 15 of the month before participation is effective.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is no cost to implement this regulation.
(b) On a continuing basis: There is no continuing cost.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.
(9) TIERING: Is tiering applied? Tiering is not applied. Requirements would be the same for all local governments making CERS application.

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? Yes
2. State what unit, part or division of local government this administrative regulation will affect: This administrative regulation will affect the management or administrative offices of local governments.
3. State the aspect or service of local government this administrative regulation will affect: This administrative regulation will affect the management or administrative offices of local governments.
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: The regulation which requires local governments making application for CERS participation to timely file documents before participation begins would have no fiscal impact.

KENTUCKY RETIREMENT SYSTEMS
(Replacement)

105 KAR 1:150. Installment purchase procedures.

RELATES TO: KRS 16.645(20), 61.373, 61.377, 61.552(16), 78.545(35), 26 USC 415, 29 JSC 28, 38 USC 43

STATEMENT OF AUTHORITY: KRS 61.545(8)(g)(1)(a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.552(16) permits an employee participating in the Kentucky Retirement Systems to purchase service credit by payroll deducted installments. This administrative regulation establishes the process and forms related to this option, and provides for the preservation of installment purchases for military personnel called into service.

Section 1. Installment payment plans shall be allowed for the employees of an agency that has certified its agreement to deduct and remit installment payments on all employees participating in the Kentucky Retirement Systems. The certification shall be made on the "Form 7280, Employer Certification Form", provided by the retirement system.

Section 2. (1) The retirement system shall calculate the monthly payment necessary to pay the cost of the service being purchased.
(2) The employee may select a payment period of not less than one (1) year and not more than five (5) years in accordance with the statutory requirement.
(3) The retirement system shall provide to the employee a "Form 5710, Installment Service Purchase Agreement".
(4) The agreement shall contain a space for selecting the pay-
ment option and an authorization for withholding the installment payments.

(5) The agreement shall provide a space for the employee to indicate the amount of any down payment to be made by the employee, whether by personal check or transfer of funds from a qualified retirement plan or deferred compensation arrangement.

(6) The monthly payment options offered to the employee shall not exceed the limitations for annual additional contributions in 26 USC 415.

Section 3. (1) Upon receipt of the completed Installment Service Purchase Agreement, the retirement system shall notify the employee and employer of the amount of the installment payment, the date the payments shall begin, the date the payments shall end, and the total payments.

(2) If the employee is making a down payment by transfer or rollover from a qualified retirement plan or deferred compensation arrangement, the retirement system shall notify the employee and employer of the amount of the installment payments following receipt of the transferred or rolled over funds.

(3) An amortization schedule shall be sent to the employee.

(4) The Installment Service Purchase Agreement shall be voided and a new calculation of the cost of the purchase shall be performed if:

(a) The Installment Service Purchase Agreement is not filed at the retirement office by the deadline for purchase of the service credit;

(b) The Installment Service Purchase Agreement is not filed at least sixty (60) days prior to the employee's last day of paid employment, except the sixty (60) days shall be waived if the employee dies;

(c) The employee fails to complete the Form 5710, Installment Service Purchase Agreement;

(d) The employee indicates that a down payment is to be made, but the employee does not include the check or proof of eligibility to rollover or transfer funds from a qualified retirement plan or deferred compensation arrangement with the Installment Service Purchase Agreement by the deadline for purchase of the service credit;

(e) The employee fails to file a corrected Installment Service Purchase Agreement within thirty (30) days of a recalculation of the cost to purchase.

(5) If the Installment Service Purchase Agreement is voided under subsection (4) of this section, any down payment shall be refunded to the member or, in the case of rollover or transfer, returned to the qualified retirement plan or deferred compensation arrangement.

Section 4. (1) The employer shall remit the installments to the retirement system as required by the agreement, but shall be solely responsible for withholding sufficient amounts from the employee to allow the payment of the installments.

(2) The installments shall be remitted to the retirement systems only with the employer's contribution report. If the employee is not employed twelve (12) months in each year, the agency shall withhold sufficient funds to allow the agency to remit the required deductions with the contribution reports during any months in which the employee is not paid.

(3) The retirement system shall not accept personal checks from the employee as payment for these deductions.

Section 5. (1) The amount required to purchase one (1) month of service credit shall be calculated by dividing the total of the installment payments due under the agreement by the number of months of service credit being purchased.

(2) Upon receipt of installment payments equal to this amount, the retirement system shall credit one (1) month of service credit to the member's account.

Section 6. (1) The employee shall notify the retirement system in writing if he desires to terminate the installment agreement. (2) Upon receipt of the notice from the employee, the retirement system shall notify the employee and his employer of the date to stop deductions.

(2) The employee may request a payoff amount for an install-

ment agreement. The employee shall have sixty (60) days from the payoff date to pay the installment agreement in full. At the end of the due date of the contract, the contract will be terminated and any payment received will be credited for service, and any payment amount remaining that will not purchase the next month of service will be refunded.

Section 7. The retirement system may refuse to allow new installment agreements for employees of an agency which fails to deduct and remit the installment payments in accordance with the terms of this administrative regulation.

Section 8. (1) If an employee leaves a position to perform military duty as provided in KRS 61.377, the employer shall advise the retirement system in writing or by appropriate personnel action that the employee is on active military duty, and the employee's installment purchase agreement shall be suspended during the period of military duty for which the employee does not receive creditable compensation from the employer.

(2) Upon return to employment as provided in KRS 61.373, the employee's installment purchase agreement shall not be recalculated and the employer shall resume remitting the remaining deductions unless the employee terminates the installment agreement as provided in Section 6 of this administrative regulation.

Section 9. Sick Leave Without Pay. (1) The employer shall advise the retirement system in writing or by appropriate personnel action that the employee is on sick leave without pay, and the installment purchase agreement of an employee placed on sick leave without pay shall be suspended during the period of sick leave without pay.

(2) Upon return to the employer from the period of sick leave without pay, the employee's installment purchase agreement shall not be recalculated. The employer shall resume remitting the remaining deductions until the employee terminates the installment agreement as provided in Section 6 of this administrative regulation.

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

(a) "Form 7280, Employer Certification Form (Rev. 7/00)", Kentucky Retirement Systems;

(b) "Form 5710, Installment Service Purchase Agreement (Rev. 7/00)", Kentucky Retirement Systems.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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, and 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 584-5566.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides for an employee participating in the Kentucky Retirement Systems to purchase service credit by payroll deducted installments.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the process and forms for purchase of service credit by payroll deducted installments, and the preservation of installment purchases for military personnel called into active service or an employee who goes on sick leave without pay.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides that the monthly payment options not exceed federal statute 26 USC 415 limitations for annual additional contributions; provides an employee who does not timely return a corrected installment agreement; and the installment agreement becomes void; allows for the employee to request a payoff amount for an installment agreement; and requires the employer to advise the retirement system in writing if an employee is called into active military service or if an employee goes on sick leave without pay.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes federal limitations on annual additional contributions for service; establishes that an installment contract becomes void if the employee fails to timely submit a corrected contract which alleviates administrative burden when employees fail to submit corrected contracts; establishes that an employee may obtain a payoff amount and date for payment of the installment contract to stop payroll deducted payments; and provides that the employee shall notify the retirement system in writing if an employee goes on active military duty or sick leave without pay so the retirement system can be properly notified and advise those employees who have suspended the retirement system.
(e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment adds language noting the service purchase limitations imposed by 26 USC 415; the regulation also provides that an installment purchase contract becomes void if an employee fails to timely return a corrected contract and allows for an employee to request a payoff amount to pay the installment agreement in full; the amendment also requires the employer to notify the retirement system if an employee with an installment contract goes into active military service or goes on medical leave without pay.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to conform with limitations on annual additional contributions in 26 USC 415; the amendment is necessary to give direction in administrative installment agreements where an employee fails to return a corrected contract and where an employee makes a request for a payoff of an installment agreement; and the amendment is necessary so the retirement system can get notice of employees with installment agreements going into active military duty or on unpaid medical leave to suspend, not terminate, the installment agreement during the period while the employee is on leave from the employer.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to federal law which places a limitation on the annual additional contributions allowed by an employee; the amendment also conforms to the statutory requirements allowing for the purchase of service credit by an installment agreement; and the amendment conforms to federal law which allows for suspension of installment agreements while an employee is on leave when called to active military duty or on unpaid sick leave. The agreement is resumed upon the employee's return to employment without a recalculation of service cost. This preserves the employee's cost and prevents any financial harm from the employee's period of leave.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by giving direction to the retirement system on voiding contracts that are not timely returned to the retirement system and for offering the payroll of an existing contract; the amendment will bring the procedures into compliance with federal laws governing additional annual service limits, military leave and family medical leave.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation applies to the 4,000 to 5,000 individuals who purchase service by installment purchase each year.
(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Under KRS 61.552(16), if no installment payments are deducted for 60 days, an installment agreement is terminated. If the employee wants to continue the purchase at a later date, he must have the service cost recalculated at the higher rate based on his salary, age and service at the time. For those individuals who are on military leave or sick leave without pay, the installment agreement will be terminated after 60 days, but only suspended so that the individual may resume the original purchase agreement at the original cost upon return to employment.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is no cost to implement this regulation.
(b) On a continuing basis: There is no continuing cost.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.
(9) TIERING: Is tiering applied? Tiering is applied. Those individuals called into military service by the present emergency will not suffer any financial hardships as a result of this regulation. The same applies to those individuals who are placed on sick leave without pay due to personal or family medical problems. These individuals, upon their return to work with state or county government, can resume their installment service purchase agreement without having to have the payments recalculated at a higher cost.

FEDERAL MANDATE ANALYSIS COMPARISON

1. 29 USC Chapter 28, 38 USC Chapter 43, 26 USC 415
2. This administrative regulation limits the annual additional contributions to comply with federal law. This administrative regulation provides for the suspension of installment purchases during periods when employees are called into military service or on family medical leave.
3. The federal statute requires that there be limitations on annual additional contributions and no discrimination against employees on military leave or during family medical leave.
4. This administrative regulation provides for compliance with annual additional contributions and the suspension, rather than the termination of payroll deducted installment service purchases when the employee is on leave for more than 60 days. The suspension preserves the employee’s right to resume the purchase upon return to employment with no increase in the original cost of the service. This conforms to federal law by treating the affected employee essentially the same as if the employee had remained on the payroll for the period of military leave or sick leave.

KENTUCKY RETIREMENT SYSTEMS

(Amendment)

105 KAR 1:60. Sick leave plans.

RELATES TO: KRS 61.546, 61.5525, 78.016, 161.155
STATUTORY AUTHORITY: KRS 61.645(9)(g) (h)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.546

- 760 -
provides for retirement service credit for unused sick leave for members of the Kentucky Employees Retirement System and the State Police Retirement System. KRS 78.616 provides for retirement service credit for the retirement system of the Kentucky Employees Retirement System. This administrative regulation establishes the requirements for participation in the program by individual county agencies, calculation of the service credit, and payment of the employer's cost of the credit. This administrative regulation also establishes the formula for prorating sick leave when it is earned by a member partly under SPRS, partly under KRS hazardous duty coverage, and partly under the Kentucky Employees Retirement System nonhazardous coverage.

Section 1. Definitions. (1) "Alternate plan" means the sick leave program described in KRS 78.616(6).
(2) "Standard plan" means the sick leave program described in KRS 61.546 or 78.616(1), (3) and (4).

Section 2. An agency participating in the County Employees Retirement System may provide a sick leave program under KRS 78.616 by adopting an order appropriate to the agency.
(1) Only one (1) sick leave program under KRS 78.616 shall be offered to the employees of an agency.
(2) The agency shall certify to the retirement system that the program shall be universally administered.
(3) The agency shall pay all costs of the program.
(4) The agency shall certify to the retirement system the number of hours that constitutes a regular working day for employees of the agency.
(5)(a) If an agency participating in the County Employees Retirement System has no retirement sick leave program, it may choose the standard plan or it may choose the alternate plan.
1. An agency adopting the standard plan may elect:
   a. To purchase credit only for the first six (6) months of accrued sick leave;
   b. To purchase credit for the first six (6) months and to pay fifty (50) percent of the cost of the service above six (6) months;
   c. To purchase credit for all accumulated sick leave.
2. An agency which elects to pay only for the first six (6) months of accumulated sick leave may at a later date elect to pay fifty (50) percent or all of the cost of service above six (6) months. An agency which elects to pay for the first six (6) months and fifty (50) percent of the cost for service above six (6) months, may at a later date elect to pay for all accrued sick leave.
3. If the agency adopted the standard plan prior to July 1988, it may choose to adopt the alternate plan.
4. Within thirty (30) days of adoption of a sick leave plan, the agency shall file at the retirement office a description of the agency's sick leave policy which shall specify:
   a. The maximum sick leave that may be accrued;
   b. Whether the policy applies to sick leave accrued prior to the adoption of the sick leave plan; and
   c. Whether the policy applies to current and former employees or only to employees who retire from the agency.
(b) Agencies participating in the Kentucky Employees Retirement System or the State Police Retirement System shall provide sick leave credit for all accrued sick leave.
(c) Once a sick leave program is adopted, the agency shall continue to offer a sick leave program to its employees.

Section 3. If the agency adopts the standard plan, upon a member's retirement:
(1) Each agency participating in the Kentucky Employees Retirement System, County Employees Retirement System or State Police Retirement System with which the member has accrued sick leave credit or to which his accrued sick leave transferred, shall certify, the unused sick leave credit which the member has accrued on Sick Leave Authorization, Form 5500.
(2) The retirement system shall determine the number of days of credit and divide the number of days by twenty-one (21), the average number of working days in a month. If the remainder is equal to or greater than eleven (11), the member shall receive credit for an additional month.
(b) For each agency participating in the Kentucky Employees Retirement System or County Employees Retirement System with which the member accrued sick leave credit, the cost of the credit, determined by utilizing the member's final compensation with the formula described in KRS 61.5525, shall be paid by the agency within thirty (30) days of notification by the retirement system.
(c) If the member accrued sick leave credit in the Kentucky Employees Retirement System, the last agency with which the member was employed shall pay the cost of sick leave credit in excess of six (6) months, if any.
(3)(a) If the total sick leave accrued at a County Employees Retirement System agency is greater than six (6) months and the agency does not pay for service greater than six (6) months, the employee may purchase some or all of the additional months by paying the cost, determined by utilizing the member's final compensation with the formula described in KRS 61.5525, to the retirement system before his termination, but no earlier than three (3) months from his effective retirement date.
(b) If the total sick leave accrued at a County Employees Retirement System agency is greater than six (6) months and the agency pays fifty (50) percent of the cost of additional months, the employee shall receive credit for all or some of the additional months if the employee pays fifty (50) percent of the cost determined in KRS 61.5525, to the retirement system before his termination, but no earlier than three (3) months from his effective retirement date, and the employer pays the remaining fifty (50) percent.

Section 4. An agency adopting the alternate plan shall also certify the maximum number of sick leave days that an employee may accumulate prior to termination.
(2) The agency shall compensate the member for all accrued sick leave up to the maximum allowed, upon termination. If the employee is a classified employee of a school board, the agency shall compensate the employee for accrued sick leave, upon the employee's retirement or death, pursuant to KRS 161.155. The rate of compensation for each day shall be based on the employee's current rate of pay.
(3) Each month, the agency shall withhold employer and employee contributions from the sick leave compensation of employees who terminate, and shall remit the contributions along with the Form 6501 for each employee. The forms and contributions deducted during the month shall be sent to the retirement office within ten (10) days following the end of the month. The contributions and compensation shall not be reported with the regular payment until the member has paid or the months of service credit as determined in Section 3 of this administrative regulation, the service shall be added to the member's total service credit.
(4) Compensations shall be included in the member's final compensation as follows:
(a) The member's sick leave credit expressed in months and the compensation for those months shall be included in the fiscal year with the highest average monthly salary used in his final compensation until the service credit in the fiscal year has reached twelve (12) months.
(b) When service credit in the fiscal year with the highest average monthly salary has reached twelve (12) months, the remaining months of service and compensation shall be included in the fiscal year with the lowest average monthly salary used in his final compensation until service credit in the fiscal year has reached twelve (12) months.
(c) When service credit in the two (2) fiscal years with the highest and lowest average monthly salary used in his final compensation have reached twelve (12) months, the remaining months and compensation shall be included in lieu of the member's service and salary in the fiscal year with the lowest average monthly salary of the member's final compensation. The salary used shall be the monthly average of the member's actual salary in the fiscal year.

Section 5. An employee who has service credit in the Kentucky Employees Retirement System as hazardous and nonhazardous, or who has service credit in both the Kentucky Employees Retirement System and the State Police Retirement System, shall have accrued sick leave prorated between the systems and between the hazard-
ous and nonhazardous accounts based on the ratio of service in each account, including purchased service, and to the total service credit.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) Form 6500, Sick Leave Authorization (rev. 11/00); and
(b) Form 6501, Alternate Sick Leave Authorization (rev. 11/00).
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the retirement office at Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If notification of intent to attend 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5956.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for employers participating in the County Employees Retirement System to participate in the sick leave programs created by KRS 78.616, as well as the formulas used to determine the amount of sick leave credit given to retiring members.
(b) The necessity of this administrative regulation: This regulation is necessary to administer sick leave credit pursuant to KRS 78.616.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 78.616 provide for members to receive credit for unused sick leave in accordance with their retirement. This administrative regulation establishes the formula for converting sick leave balances to months and the method for adding payments for sick leave into the member’s final compensation under the alternate sick leave plan.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes clear methods for determining retirement service credit for unused sick leave in compliance with KRS 78.616.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment requires that the employee’s final compensation be used in determining the value of the sick leave in accordance with KRS 78.616(3)(a).
(b) The necessity of the amendment to this administrative regulation: The amendment will conform with KRS 78.616(3)(a) which requires retirement credit for the unused sick leave be based upon the value of additional service credit. The value is represented by the member’s final compensation.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to KRS 78.616(3)(e) which requires the pay the value of the additional service for converting unused sick leave to service credit.
(d) How the amendment will assist in the effective administration of the statutes: The amendment enables the retirement system to determine the value of the total sick leave credit to which the employee is entitled by utilizing the employee’s final compensation.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment affects employees whose employers elect to provide sick leave credit in the County Employees Retirement System.
(f) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation if new, or by the change if it is an amendment: This amendment affects employees in this state and local governments who have elected to provide sick leave in their retirement system. By utilizing the employee’s final compensation, the employee may experience a lower cost calculation than by utilizing the formula that requires the use of the higher of the final compensation, current rate of pay, or final compensation, and this would be representative of the real value of the additional service credit.
(g) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no cost to implement this administrative regulation.
(b) On a continuing basis: There is no continuing cost.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are required by this amendment.
(e) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required by this amendment.
(f) TIERING: Is tiering applied? Tiering was not applied. Sick leave credit in the retirement system is administered in the same manner for all employees.

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? Yes
2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation establishes the formula utilizing an employee’s final compensation in determining the cost of service for unused sick leave. A local government unit participating in the County Employees Retirement System can, if not already, adopt a sick leave program.
3. State the aspect or service of local government this administrative regulation will affect. Providing sick leave credit at the time of retirement can provide an additional benefit which would be useful in recruitment and retention of employees.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): Expenditures (+/-): Other Explanation: There are no costs associated with this administrative regulation.

KENTUCKY RETIREMENT SYSTEM
(Amendment)

105 KAR 1:170. Membership form requirements.

RELATES TO: KRS 16.530, 61.525, 61.526, 61.540, 61.542, 61.545, 61.525, 78.540, 105 KAR 1:135, sec. 11
STATUTORY AUTHORITY: KRS 61.545(5)(g) (4), 26 CFR - 762 -
NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.530, 61.526 and 61.540 require a member of the Kentucky Employees Retirement System, County Employees Retirement System or State Police Retirement System to file information with the Board of Trustees as a condition of membership. KRS 61.542 requires a member to file a designation of beneficiary. KRS 61.625 establishes the conditions under which a member may apply for a refund. 26 USC 401(a) provides that a qualified pension plan cannot make distributions prior to normal retirement age if a separation from service has not occurred. This administrative regulation establishes the information required for membership and establishes that the member shall not receive a refund unless the member has terminated employment.

Section 1. An employee eligible for participation on the date his agency first participates shall complete a "Form 2010, Election or Rejection of Participation", designating his desire to participate in or waive participation and benefits in the retirement system. The original form shall be kept on file in the retirement office.

Section 2. Within thirty (30) days of participation, an employee who is required to participate or who elects to participate shall complete a "Form 2001, Membership Information". The membership form shall be kept on file in the retirement office.

Section 3. An employee may also complete a "Form 2035, Beneficiary Designation" which shall be sent to the retirement office.

Section 4. (1) If an employee is simultaneously eligible to participate in more than one (1) of the Kentucky Retirement Systems, the employee may elect to participate in only one (1) system and waive participation in and any rights to benefits from the employment in the other system during the period of simultaneous employment.

(2) The employee shall notify the retirement system in writing of his intent to exercise this right under KRS 61.545(3). Upon receipt of the notification, the retirement system shall provide the employee with an estimate of the benefits that may be forfeited by the employee and the "Form 2026, Simultaneous Employment Choice of Systems", necessary for making an election.

(3) If the employee does not complete and return the form, the employee shall participate in both systems simultaneously and his service shall be prorated between the systems based on his ratio of his creditable compensation in each system to his total creditable compensation from all systems.

(4) If the employee informs the retirement system that he wishes to participate in both systems, the retirement system shall issue a refund to a member unless the member has terminated employment with his employer.

Section 5. Pursuant to KRS 61.625, an employee who is not vested for monthly benefits may request a refund of his account by completing and returning a "Form 4525, Application for Refund [of Member Contributions] and Direct Rollover/Direct Payment Selection". The Kentucky Retirement Systems shall not issue a refund to a member unless the member has terminated employment with his employer.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Form 2010, Election or Rejection of Participation (Rev. 5/98)");

(b) "Form 2001, Membership Information (Rev. 2/02 [5/03])";

(c) "Form 2035, Beneficiary Designation (Rev. 3/02 [5/03])";

(d) "Form 2026, Simultaneous Employment Choice of Systems (Rev. 5/98)"); and

(e) "Form 4525 [4/02], Application for Refund [of Member Contributions] and Direct Rollover/Direct Payment Selection (Rev. 6/02 [3/02])".

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, from the Kentucky Retirement Systems office at Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky between the hours of 8 a.m. and 4:30 p.m. Monday through Friday.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, for voting days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for a member of the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System to file information with the Board of Trustees as a condition of membership.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the information required for membership.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 16.530, 61.526, and 61.540 require a member of KERS, CERS, and SPRS to file information with the Board for membership.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the forms necessary for a member to complete and file with the Board to participate in KERS, CERS, and SPRS.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides for the updating of the revised forms required to be filed with the Board for a member to participate in KERS, CERS, and SPRS.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the revised forms required to be filed with the Board for a member to participate in KERS, CERS, and SPRS.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes KRS 16.530, 61.526, and 61.540 require a member of KERS, CERS, and SPRS to file information with the Board for membership. The amendment merely updates the revised membership forms.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by updating the revised forms requesting certain information of the member need for participation in KERS, CERS, and SPRS.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All agencies and members participating in KERS,
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CERS, and SPRS will be affected.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be no additional impact on the agencies and members participating in KERS, CERS, and SPRS who are already required to file membership participation forms with the Board. The amendment merely updates the forms to be used.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

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? Yes

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will impact the management or administrative offices of local governments.

3. State the aspect or service of local government this administrative regulation will affect. This administrative regulation will impact the management or administrative offices of local governments that distribute membership forms to its employees for participation in CERS.

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: The regulation would have no fiscal impact.

KENTUCKY RETIREMENT SYSTEMS

(Amendment)

105 KAR 1:180. Death before retirement procedures.

RELATES TO: KRS 16.578, 16.601, 61.640, 78.545
STATUTORY AUTHORITY: KRS 61.043(3)(c)(e)(d)
NECESSITY: FUNCTION, AND CONFORMITY: KRS 16.578, 16.601 and 61.640 provide for the payment of certain benefits upon the death of a member prior to retirement. This administrative regulation sets out the procedures for issuance of benefits where death occurs prior to retirement.

Section 1. After learning of the death of a member prior to retirement, the retirement system shall contact the named beneficiary or estate of the deceased member. The retirement system shall require a Form 6810, Certification of Beneficiary, if the beneficiary is eligible for monthly payments, or Form 6825, Refund of Deceased Member's Account, if the beneficiary is eligible only for a refund of the member's account [from the beneficiary named by the member].

Section 2. The following information shall be required before benefits shall be paid:

(1) A copy of the death certificate for the member.

(2) If a beneficiary is deceased, a copy of the death certificate for the beneficiary.

(3)(a) If a beneficiary or dependent child is a minor, a copy of the minor's birth verification, and a Form 6110, Affidavit of Authorization to Receive Funds on behalf of Minor.

(b) If dependent children are eligible for payments, a Form 6456, Designation of Dependent Child, for each dependent and verification of the dependent child's status at the time of the child's birth.

(c) The parent or guardian shall notify the system of the death or marriage of a dependent child or if the dependent child ceases to be a full-time student. Upon request, the parent or guardian shall provide verification of the child's status as a full-time student.

(4) If a beneficiary or dependent child is a minor child of divorce, a court order of appointment of permanent guardian, conservator or trustee.

(5) If a beneficiary is divorced from the member, a copy of the divorce decree.

(6) If monthly benefits are available to the beneficiary, copies of the birth certificates of the member and the beneficiary.

(7) If an estate is beneficiary, a copy of the court order appointing the executor, administrator or personal representative of the estate, or the court order dispensing with formal administration of the estate [verification of the name of the individual authorized to manage the financial affairs of the deceased].

Section 3. If the death certificate shows the cause of death to be homicide or the subject of a pending investigation, the retirement office may require additional evidence relating to the cause of death or investigations and arrests by law enforcement agencies and may delay benefits until it deems the cause of death to be fully explained.

Section 4. (1) Upon receipt of the death certificate and other necessary beneficiary documents, the retirement office shall provide to the beneficiary the monthly payment options available on the Form 6010, Estimated Retirement Allowance.

If multiple beneficiaries are named, the retirement system shall provide the Form 6010, Estimated Retirement Allowance, to first named beneficiary on the member’s beneficiary designation form. The additional beneficiaries shall be provided a Form 6011, Retirement Monthly Payment Options. The multiple beneficiaries shall return all necessary documents, shall select the same payment option, and sign and return the Form 6010, Estimated Retirement Allowance. The Form 6010, Estimated Retirement Allowance, shall be returned to the retirement system before benefit payments will commence.

(3) Upon receipt of Form 6825, Refund of Deceased Member's Account, and other applicable beneficiary documents, the retirement system shall process a refund to the beneficiary the member's accumulated contributions and interest.

(4) If the member died in the same month as his effective retirement but prior to the drawing of the first check, the beneficiary shall also be offered the benefits payable to a beneficiary under the option the member selected. [If a refund of the account is to be made, the beneficiary shall complete a Form 6825, "Refund of Deceased Member's Account".]

Section 5. No payment shall be made until all information, documents and forms required by the retirement system are received.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Form 6810, Certification of Beneficiary (Rev. 7/00)", Kentucky Retirement Systems;

(b) "Form 6010, Estimated Retirement Allowance (Rev. 7/02 [2000]), Kentucky Retirement Systems;

(c) "Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor (Rev. 7/00), Kentucky Retirement Systems;

(d) "Form 6456, Designation of Dependent Child (Rev. 7/00), Kentucky Retirement Systems; and

(e) "Form 6825, "Refund of Deceased Member's Account (Rev. 7/00)”, Kentucky Retirement Systems; and

(f) "Form 6011, Retirement Monthly Payment Options (Rev.
7(02)*, Kentucky Retirement Systems.

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RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides for procedures for payment of death benefits from the member account upon death of a member prior to retirement.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the procedures for payment of death benefits from the member account upon death of a member prior to retirement.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 16.576, 16.601, 61.640, and 78.545 provide for payment of death benefits from the member account in KERS, CERS, and SPRS upon death of a member prior to retirement.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by providing the procedures for a beneficiary to collect benefits from a member account where there is the death of a member prior to retirement.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment provides for the procedure of the payment of a refund of the deceased member account where the beneficiary is only eligible for a refund of the account; the amendment will no longer require the divorced parents of a minor dependent child to produce a court order of guardianship to receive funds on behalf of the child; the amendment requires an executor or other personal representative of the estate to produce to the retirement system court order of appoint or order to dispense with administration; the amendment provides for procedures and payment of benefits where a member named multiple beneficiaries of the member account.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to provide for the procedure of the payment of death benefits from the member account upon death of a member prior to retirement where the beneficiary is only entitled to a refund of the member account and where the member named multiple beneficiaries. The amendment also provides that an executor or other personal representative present the court order of appointment or order to dispense with administration before payment of the deceased member account can be made to an estate.
(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes KRS 16.576, 16.601, 61.640, and 78.545 provide for payment of death benefits from the member account in KERS, CERS, and SPRS upon death of a member prior to retirement. The amendment provides procedures for refund of accounts and procedures for payments made to multiple beneficiaries.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by providing procedures for payment where the beneficiary is only eligible for the refund of the member account; and where there are multiple beneficiaries named on a member account, the amendment provides procedures for payment of benefits to multiple beneficiaries.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those individuals or entities affected by this administrative regulation are those beneficiaries named on a member account where the member dies before retirement.
(f) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation if new, or by the change if it is an amendment: There will be no additional impact on the beneficiaries of members where the member dies before retirement. Procedures will be put in place at the retirement systems for processing claims by beneficiaries for payment of death benefits from the member account upon death of a member prior to retirement.
(g) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is no cost to implement this regulation.
(b) On a continuing basis: There is no continuing cost.
(h) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).
(i) Provide an assessment of whether any increase in fees or funds will be necessary to implement this administrative regulation:
(a) Whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.
(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS
(AMENDMENT)

105 KAR 1:200. Retirement procedures and forms.


STATUTORY AUTHORITY: KRS 61.590(1), 61.645(9)(e)(c)

NECESSITY, FUNCTION AND CONFORMITY: KRS 61.590(1) requires that a member or beneficiary eligible to receive retirement benefits have on file at the retirement office each form required by the Board. [KRS 61.645(9)(e)(c)] requires the Board to promulgate administrative regulations. This administrative regulation sets out the procedures and forms for application for and receipt of retirement benefits by members of the Kentucky Retirement Systems.

Section 1. (1) The member shall submit a Notification of Retirement, Form 8000, to the retirement systems no earlier than six (6) months prior to his desired effective retirement date to ensure receipt of payment of death benefits from the member account upon death of a member prior to retirement where the beneficiary is only entitled to a refund of the member account and where the member named multiple beneficiaries. The amendment also provides that an executor or other personal representative present the court order of appointment or order to dispense with administration before payment of the deceased member account can be made to an estate.

The member shall designate the beneficiary of his retirement allowance on the form.

(3) The form shall be dated and the employee’s signature shall be witnessed.

Section 2. (1) The retirement system shall estimate the mem-
ber's retirement allowance based on the salary reported to the system and information that may be supplied by the member or his employer.

The payment options and amounts available to the member shall be printed on the Estimated Retirement Allowance, Form 6010, and provided to the member with a place to designate his choice of payment options.

Section 3. (1) The member shall designate a desired payment option and sign and date the form Estimated Retirement Allowance, Form 6010. The member's signature shall be witnessed and the form returned to the retirement office.

(2) The retirement office shall process the first payment in the month following the month in which the form is filed. The retirement office assuming the member's employment has been terminated.

(3) If the member is retiring under early retirement provisions, the member shall return the form within six (6) months of his retirement date to retain the effective date of retirement shown on the form.

(4) If the member fails to return the form within six (6) months of his retirement date, the member's notification of retirement shall be considered void and he shall be required to submit a new notification of retirement.

Section 4. (1) The member shall provide the retirement system a copy of his birth certificate or hospital record and, if a survivorship payment option is selected, a copy of the birth certificate or hospital record of the beneficiary named on his notification of retirement.

(2) If a birth certificate or hospital record is not available, the retirement system may accept other proof of age accompanied by a letter from the office responsible for birth records in the state of the individual's birth stating that a birth certificate is not available.

(3) The retirement system may accept one (1) or more of the following as proof of age of the member or his beneficiary:

(a) Age record of the Social Security Administration;
(b) Immigration and naturalization service records;
(c) Baptismal record;
(d) Marriage license;
(e) School record;
(f) Birth certificate of child; or
(g) Military discharge.

Section 5. (1) A recipient shall complete an Authorization for Deposit of Retirement Payment, Form 6130, to have the monthly retirement allowance deposited to an account in a financial institution.

The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the state treasurer's office to the designated financial institution.

(3)(a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Form 6130, Authorization for Deposit of Retirement Payment and filing the form at the retirement office in Frankfort.

(b) The last Form 6130, Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

The recipient may complete a Form 6135, Request for Payment by Check.

(5) The retirement office will not process the retirement allowance until the recipient has filed a completed Form 6130, Authorization for Deposit of Retirement Payment or filed a completed Form 6135, Request for Payment by Check on which the recipient has shown proof of hardship as determined by the retirement system.

Any delay in release of the retirement allowance under this subsection shall not alter the effective date of medical insurance coverage.

Section 6. (1) The retirement office shall provide a Certification of Service, Form 6120, to the member to certify service with another agency participating in the Kentucky Retirement Systems for which he may be eligible to purchase credit prior to retirement.

(2) The retirement office shall, upon request, provide the mem-ber with the cost of purchasing the service and an estimate of the benefits attributable to the additional service credit.

Section 7. (1)(a) The retirement office shall provide forms for the selection or waiver of medical insurance coverage for the member, his spouse and dependents under the group insurance plan at the time of retirement.

(b) The recipient shall complete the Commonwealth of Kentucky Retiree Health Insurance Application, or [the forms shall be] the Kentucky Retirement Systems High and Low Option Coverage, Form 6200, or [and] the Waiver of Insurance Coverage, Form 6210.

(2)(a) If the insurance form is received by the last day of the month prior to the month [date] the initial retirement allowance is processed, the insurance coverage shall be effective the first day of the month the recipient becomes eligible for insurance coverage in which the initial allowance is processed.

(b) If the form is received or any changes made within thirty (30) days following the first day of the month in which [after the date] the initial retirement allowance is processed, coverage shall be effective the first day of the month following the month in which the initial retirement allowance is processed.

The recipient who fails to submit a form selecting medical insurance coverage within thirty (30) days following the first day of the month in which the initial retirement allowance is processed shall not be eligible for benefits under the insurance plan until the following open enrollment period.

Section 8. (1) The retirement office shall provide an Income Tax Withholding Preference, Form 6017, to the member to request that federal income taxes be withheld or not withheld from his retirement allowance.

(2) If the member is eligible for benefits from the excess benefit plan, the retirement office shall provide an Income Tax Withholding Preference Excess Benefit Plan, Form 6019.

Section 9. The retirement office shall provide a Death Benefit Designation, Form 6030, to the member to designate a beneficiary for the death benefit provided by the Kentucky Retirement Systems.

If the member does not file, or completes incorrectly, a Form 6030, Death Benefit Designation, the member's estate shall become the default beneficiary.

Section 10. (1) The retirement office shall not process a monthly retirement allowance until the member has filed at the retirement office a Form 2001, Membership Information Form, a properly signed, witnessed, and dated Form 6010, [the] Estimated Retirement Allowance and a copy of the member's birth verification, and a copy of the birth verification 'or the beneficiary if selecting a survivorship option.

(2) The retirement office shall not process a lump sum retirement benefit until:

(a) The member has filed at the retirement office a Form 2001, Membership Information Form, a properly signed, witnessed, and dated Form 6010, [the] Estimated Retirement Allowance, the form required by 105 KAR 1:270, and a copy of the member's birth verification; and

(b) The member's employer has filed at the retirement office the member's termination and reported all creditable compensation and accumulated sick leave.

Section 11. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Notification of Retirement", Form 6000, August 2002 [July 2000], Kentucky Retirement Systems;
(b) "Estimated Retirement Allowance", Form 6010, July 2002 [July 2000], Kentucky Retirement Systems;
(c) "Authorization for Deposit of Retirement Payment", Form 6130, May 2002 [July 2000], Kentucky Retirement Systems;
(d) "Certification of Service", Form 6120, July 2000, Kentucky Retirement Systems;
(e) "Kentucky Retirement Systems High and Low Option Coverage", Form 6200, November 2001 [July 2000], Kentucky Retirement Systems;
(f) "Waiver of Insurance Coverage", Form 6210, January 2002.
default beneficiary of the death benefit if the retiree fails to designate a beneficiary. The amendment also updates the forms required to process retirement.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update procedures to ensure the recipient receives health insurance coverage by timely filing the insurance application and to revise forms required to be filed for retirement.

(c) Whether the amendment conforms to the content of the authorizing statutes: The authorizing statutes KRS 61.590(1) require a member or beneficiary eligible to receive a benefit have on file the retirement office each form required by the board.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by updating the procedures and revise forms necessary to receive retirement benefits.

(3) List the type and name of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All members who are retiring from KERS, CERS, and SPRS will be affected by requiring the retirees to submit all necessary forms and documents before the member can receive retirement benefits from the Kentucky Retirement Systems.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be no additional impact on the members participating in KERS, CERS, and SPRS who are already required to file retirement forms with the Board. The amendment merely updates procedures and the forms to be used.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS (Amendment)


RELATES TO: KRS 18.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852, 344.030, 29 CFR Part 1630, 42 USC 12111(9)

STATUTORY AUTHORITY: KRS 61.845(9)(g) [es]

NECESSITY, FUNCTION, AND CONFORMITY: The statutes provide for disability benefits to members of the retirement systems and for a process of appealing a denial of disability benefits. This administrative regulation establishes disability procedures.

Section 1. (1) Application for disability benefits shall be made on "Form 6000, Notification of Retirement".

(2) The application shall be received in the retirement office within twenty-four (24) months, which is 730 calendar days, of the applicant's last day of paid employment in a regular full-time position.

(c) The period shall begin on the day after the applicant's last day of paid employment in the regular full-time position and shall end at close of business on the following 730th day.

(C) If the last day of the period is a Saturday, Sunday or state or federal holiday, then the application shall be valid if received in the retirement office by the close of the next business day following the weekend or holiday.
(d) The employer shall certify the applicant's last day of paid employment.
(e) The application may be submitted prior to the applicant's last day of paid employment.

Section 2. (1) If the applicant is eligible to begin drawing early retirement benefits, the applicant shall be notified of the right to receive a retirement allowance while the disability application is being processed.
(2) Election of early retirement by the applicant shall not affect the application for disability retirement.

Section 3. (1) "Form 8035, Employee's Job Description", shall be completed by the applicant and submitted to the retirement office. The employer shall complete "Form 8030, Employer's Job Description", and submit it to the retirement office.
(2) The retirement office may require additional details from the applicant and the employer regarding the member's job duties, if necessary.

Section 4. (1) The applicant shall request his medical records from the physicians or medical facilities who have treated or evaluated the applicant [named on the application]. Payment for copies of medical records shall be the responsibility of the applicant.
(2) The applicant's physicians or medical facilities shall submit copies of all medical records, test results or other information concerning the applicant to the retirement office.
(3) The applicant or his physicians may submit a current listing of the applicant's prescription medications.
(4) Statements by the physicians shall not be considered medical evidence unless accompanied by documented medical records or test results.
(5) The retirement office shall pay a reasonable fee, not to exceed fifty (50) dollars, for a "Physician's Summary Report, Form 8045", to be completed by the applicant's physician. The applicant shall be responsible for any amount in excess of fifty (50) dollars.

Section 5. The applicant shall provide to the retirement system information concerning his continuing status with regard to receipt of Workers' Compensation and Social Security disability benefits.

Section 6. When both Forms 8030, Employer's Job Description, and 8035, Employee's Job Description, and medical information from all, but at least two (2), physicians or medical facilities that have treated or examined the applicant have been received, the information shall be submitted to the medical examiner.

Section 7. (1) The medical examiner's determination shall be based upon medical evidence contained in the applicant's retirement file and the applicant's residual functional capacity and exertional requirements.
(2) The medical examiner may contact the applicant or the applicant's physicians to request additional medical evidence as necessary.

Section 8. (1) The time limits in KRS 61.605 for the applicant's actions in response to a denial, reduction or discontinuance of benefits shall be counted beginning on the day following receipt of notice by the applicant from the retirement office.
(2) The time limits shall continue until the close of business on the day the applicant files the necessary action with the retirement office or the day the time period ends.
(3) The period shall continue until the applicant receives written notice from the retirement office of further denial.
(4) The period to request a formal hearing shall not exceed the cumulative extension of time specified in KRS 61.665(2)(g).
(5) When the periods allowed under the statute have been exhausted, the applicant shall have no further right to appeal to the hearing officer.

Section 9. (1) The applicant shall make a request for a formal hearing in writing.
(2) If the applicant is unable to attend or desires to reschedule a formal hearing:

(a) The applicant shall send the retirement office a request in writing prior to the date of the hearing; and
(b) The hearing officer may reschedule the hearing upon a finding of good cause.

Section 10. (1) The hearing officer may allow the applicant to introduce, among other evidence, the determination of Workers' Compensation or the Social Security Administration awarding disability benefits to the applicant.
(2) The hearing officer shall consider only objective medical records contained within the determination and shall not consider vocational factors or be bound by factual or legal findings of other state or federal agencies.

Section 11. (1)(a) The hearing officer may request a prehearing conference or may consider new medical evidence not already part of the applicant's retirement file.
(b) The prehearing conference shall be an informal procedure, presided over by the hearing officer.
(c) Every effort shall be made by the parties to dispose of controversies, to narrow and define issues and to facilitate prompt resolution of the claim.
(2) If, at the conclusion of the prehearing conference, the parties have not reached an agreement on the issues, the hearing officer shall schedule a hearing to be held within sixty (60) days after the date of the prehearing conference, unless the applicant agrees to a longer period of time.
(3)(a) If the parties agree upon a resolution after the prehearing conference but before the hearing, the resolution agreement shall be filed with the hearing officer.
(b) The hearing shall be cancelled and notice of the cancellation shall be served on the parties.

Section 12. (1)(a) If an application for disability is approved, the applicant's disability benefit shall be paid retroactive to the month following the month of the applicant's last day of paid employment.
(b) The service added under determining the disability retirement allowance shall be determined under KRS 10.502 if the applicant's last day of paid employment was in a hazardous position, or under KRS 61.605 if the applicant's last day of paid employment was in a nonhazardous position.
(c) If the applicant has both hazardous and nonhazardous service in the same system, the added service shall be prorated between hazardous and nonhazardous service based on the proportion of service in each position to the whole, except that all of the added service shall be applied toward the nonhazardous retirement allowance if:
1. The applicant is disabled from a hazardous position as a result of an act in line of duty; and
2. Twenty-five (25) percent of the applicant's final rate of pay is greater than the hazardous disability retirement allowance determined using the prorated added service.
(d) If the applicant has service in more than one (1) system administered by the Kentucky Retirement Systems, the added service shall be prorated between the systems based on the proportion of service in each system to the whole, except if the applicant is disabled from a hazardous position in one (1) system as a result of an act in line of duty and twenty-five (25) percent of the applicant's final rate of pay is greater than the hazardous disability retirement allowance determined using the prorated added service.
1. All of the added service shall be applied toward the nonhazardous retirement system if the applicant is vested for disability benefits from the nonhazardous system.
2. All of the added service shall be applied toward the hazardous retirement system if the applicant is not vested for disability benefits from the nonhazardous system.
(2) If the applicant did not receive early retirement benefits, upon the applicant's selection of a payment option, the retirement office shall pay the applicant the total monthly retirement allowances payable from the effective date of disability retirement.
(3)(a) If the applicant received early retirement benefits, the retirement office shall calculate and pay to the applicant the difference between the early retirement benefit which was paid to the applicant and the disability benefit.
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(b) The applicant shall not change his payment option.
(4) If benefits are payable to dependent children, as defined in KRS 16.505(17), the parent or guardian shall provide:
(a) A completed Form 6466, Designation of Dependent Child;
(b) A verification of full-time student status of a child of age eighteen (18) or over; and
(c) A copy of the birth certificate of each dependent child;
(d) If a dependent child is a minor, a Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor;
(e) If a dependent child is a minor child of divorced parents, a copy of the court appointment of permanent guardianship, conservatorship, or custody;
(f) Notice of the death or marriage of a dependent child, or if the dependent child ceases to be a full-time student;
(g) A copy of the dependent child's verification of full-time student status shall be filed with the retirement system for each semester of study within thirty (30) days following the start and within thirty (30) days following the end of each semester - annually.

(5) An increase provided to recipients under KRS 61.691 shall be applied to the applicant's disability benefit and payments to dependent children in determining the total retroactive payments owed to the applicant and dependent children.

Section 13. If an applicant whose application for disability benefits has been previously denied subsequently submits a disability application accompanied by medical evidence pursuant to KRS 16.582(2)(e) or 61.600(1)(e), a medical examiner shall review the application as provided in Section 7 of this administrative regulation.

Section 14. (1) The applicant shall notify the retirement system of his intent to apply for workers' compensation or benefits from the Social Security Administration. Upon receipt of approval for workers' compensation or benefits from the Social Security Administration, the applicant shall file at the retirement office a copy of the approval noticing containing the amount of the award.

(2) To determine the maximum benefit under KRS 61.607, the following shall be added together:
(a) The applicant's gross monthly disability retirement allowance determined in accordance with KRS 61.605 or 16.582, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or 16.576, converted to an annual amount.
(b) The applicant's total gross annual benefit from workers' compensation. If the applicant's benefit includes a lump sum payment, payment for a period less than the applicant's lifetime or attorney fees, then an annualized benefit shall be determined as follows:
1. The gross amount of any lump sum payment shall be divided by the applicant's life expectancy, expressed in years, from the effective date of the award.
2. The total gross amount of all payments paid for any period other than the applicant's lifetime shall be divided by the applicant's life expectancy, expressed in years, from the effective date of the award.
3. The total determined in subparagraphs 1 and 2 of this paragraph shall be combined and added to the total gross annual amount of the applicant's lifetime benefit, if any.
(c) The applicant's gross monthly disability benefit from the Social Security Administration, excluding spouse or dependent benefits converted to an annual amount.
(d) If the projected combined monthly benefit exceeds 100 percent of the disabled employee's final rate of pay or final compensation, whichever is greater, the disability retirement allowance from the retirement system shall be reduced as follows:
(a) The difference shall be divided by twelve (12) and subtracted from the applicant's monthly retirement allowance determined in accordance with KRS 61.605 or 16.582, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or 16.576.
(b) The reduction shall be made and the final total plan under KRS 61.635 or 16.576 shall be applied to determine the applicant's monthly retirement allowance. The reduction shall apply to all retirement allowances received since the date the combined benefits exceeded 100 percent of the higher of the applicant's final compensa-

section or final rate of pay based on the effective dates of the individual benefits.
(4) The disability retirement allowance payable shall not be reduced below the amount which would result from a computation of retirement allowance under early retirement or the disability retirement allowance from the retirement system using the disabled employee's actual total service, whichever is greater.

Section 15. (1) A recipient shall complete an Authorization for Deposit of Retirement Payment, Form 6130, to have the monthly retirement allowance deposited to an account in a financial institution of the recipient's choice.

(2) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the state treasurer's office to the designated financial institution.

(3)(a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment and filing the form at the retirement office in Frankfort.

(b) The last Form 6130, Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(4) The recipient may complete a Form 6135, Request for Payment by Check.

The retirement office will not process the retirement allowance until the recipient has filed a completed Form 6130, Authorization for Deposit of Retirement Payment or filed a completed Form 6135, Request for Payment by Check on which the recipient has shown proof of hardship as determined by the retirement system.

Section 16. Incorporation by Reference. (1) The following materials are incorporated by reference:
(a) "Form 6000, Notification of Retirement (Rev. 8/02 [6041]), Kentucky Retirement Systems;
(b) "Form 8030, Employer's Job Description (Rev. 6/01)", Kentucky Retirement Systems;
(c) "Form 8045, Physician's Summary Report (Rev. 6/01)", Kentucky Retirement Systems;
(d) "Form 8039, Employee's Job Description (Rev. 6/01)," Kentucky Retirement Systems;
(e) "Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor (Rev. 7/00)"; Kentucky Retirement Systems; and
(f) "Form 6456, Designation of Dependent Child (Rev. 7/00)", Kentucky Retirement Systems;
(g) "Form 6130, Authorization for Deposit of Retirement Payment (Rev. 5/02);" Kentucky Retirement Systems; and
(h) "Form 6135, Request for Payment by Check, (Rev. 2/02)" Kentucky Retirement Systems.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retire-
ment Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5666.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation sets out the application procedure for disability benefits through the Kentucky Retirement Systems.
   (b) The necessity of this administrative regulation: This administrative regulation is necessary to provide applicants with the forms and procedures for obtaining disability benefits.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes application procedures consistent with KRS 61.600 and 61.665 and an appeals process consistent with KRS Chapter 13B.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides applicants with the information necessary to make electronic transfer of funds to a financial institution.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: The amendment will no longer require the divorced parent of a minor dependent child to produce a court order of guardianship to receive funds on behalf of the child; require a dependent child over the age of 18 to produce a verification of full-time student status at the start and end of each semester of study; require a recipient of a monthly retirement allowance to submit a form for electronic transfer of funds to an account at a financial institution or demonstrate hardship.
   (b) The necessity of the amendment to this administrative regulation: The amendment is needed to establish procedures for making payments of a monthly retirement allowance to dependent children; and require recipients to conform with legislative requirements that recipient's of a monthly retirement allowance receive funds by electronic transfer to an account at a financial institution.
   (c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide in certain instances that dependent children receive a monthly retirement allowance; and KRS 61.623 requires the payment of a monthly retirement allowance be done by electronic transfer to a financial institution.
   (d) How the amendment will assist in the effective administration of the statutes: The amendment provides procedures that will result in timely and consistent treatment of processing benefit payments to dependent children; and provides a means for establishing the payment of benefits by electronic transfer as required by statute.

(3) List the type and number of individuals, businesses, organizations, state and local government affected by this administrative regulation: Dependent children, approximately 200 cases, and recipients of disability retirement, approximately 4500 individuals.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Dependent children over age 18 and full-time students will need to provide verification of full-time student status two per semester of study; and recipients of disability retirement benefits will be required to complete an authorization for receipt of benefits by electronic transfer.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: There is no cost associated with implementing this administrative regulation.
   (b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses are paid from the Retirement Allowance Account.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are created by this administrative regulation.

(9) TIERING: Is tiering applied? Tiering was not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS
(Amendment)


RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

STATUTORY AUTHORITY: KRS 61.645(9)(c) 140

NECESSITY, FUNCTION, AND CONFORMITY: The statutes provide that an affected person may be approved by a decision of the system, which is not a determination related to disability retirement benefits, may have the right to request an administrative hearing prior to the filing of an appeal in court. This administrative regulation establishes the administrative appeal procedures.

Section 1. Definition. "Affected person" means a member, retired member or recipient as defined in KRS 16.505, 61.510 and 78.510.

Section 2. When the system takes action which substantially impairs an affected person's benefits or rights under KRS 16.505 to 16.652, 61.510 to 61.705 or 78.510 to 78.852, except action which relates to entitlement to disability benefits, the system shall notify the affected person of the opportunity to request a hearing. The notification shall be contained in the notice of action. An affected person may request a hearing by submitting such request in writing within thirty (30) days after the date of the notice of the opportunity to request a hearing. The request for hearing shall be filed with the executive director [general manager] of the system at its office in Frankfort. The request for hearing shall contain a short and plain statement of the basis for request.

Section 3. Failure of the affected person to request a formal hearing within the period of time specified shall preclude the affected person from requesting a hearing at a later time.

Section 4. (1) The system may, either through review of its records or conference with the affected person, recommend a favorable determination prior to scheduling a hearing. Upon notification of a favorable determination, the affected person may withdraw the hearing request or request that the hearing be scheduled.

(2) The hearing officer may request a prehearing conference or may consider new evidence not already part of the affected person's file. The prehearing conference is an informal procedure, presided over by the hearing officer. Every effort shall be made by all parties to dispose of controversies, to narrow and define issues and to facilitate prompt settlement of the claim.

(3) If at the conclusion of the prehearing conference the parties have not reached an agreement on all the issues, the hearing officer shall schedule a hearing to be held within a reasonable time.

(4) If the parties agree upon a settlement after the prehearing conference but before the hearing, the settlement agreement shall be filed with the hearing officer. The hearing shall be cancelled and notice of the cancellation shall be served on all parties.

Section 5. The hearing officer shall make a report and a recommended order to the board. The report and recommended order shall contain the appropriate findings of fact and conclusions of law. The hearing officer shall mail postage prepaid, a copy of his report and recommended order to all parties. The parties may file exceptions to the report and recommended order. There shall be no other or further submissions.

Section 6. The board shall consider the report and recommended order and any exceptions filed and pass upon the case within a reasonable time. The board may remand the matter to the hearing officer, adopt the report and recommended order of the hearing officer as the board's final order, or issue its own final order.
Section 7. The system shall mail the final decision of the board to the affected person or his legal representative. If any extension of time is granted by the board for a hearing officer to complete his report, the system shall notify the affected person or his legal representative at the time of the granting of the extension.

Section 8. A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

Section 9. Formal hearings shall be held at the system's office in Frankfort unless another location is determined by the hearing officer.

Section 10. All requests for a hearing pursuant to this section shall be made in writing.

Section 11. The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

Section 12. Any affected person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing suit in the Franklin Circuit Court within the time period prescribed in KRS Chapter 13B.

Section 13. Any proposed order or order shall be served by one (1) of the following methods:

(1) The system may place a copy of the document to be served in an envelope, and address the envelope to the affected person to be served at the address of the affected person existing in the system files or at the address set forth in written instructions furnished by the affected person or his legal representative. The system shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return receipt requested. The system shall forthwith enter the fact of mailing in the record and make entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, that fact shall be entered in the record. The system shall file the return receipt or returned envelope in the record. Service by certified mail is complete upon delivery of the envelope. The return receipt shall be proof of the time, place, and manner of service.

(2) The system may cause the document, with necessary copies, to be transferred for service to any person authorized by the board or by any statute or rule to deliver them, who shall serve the documents; and the return endorsed thereon shall be proof of the time and manner of service.

(3) The methods of service specified herein shall be supplemental to and shall be accepted as an alternative to any other method of service specified by other applicable law.

Randy Overstreet, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH I.R.C: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5856.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact: William P. Hanes, Esq.
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes procedures for an administrative appeals procedure, not a determination related to disability retirement benefits.
(b) The necessity of this administrative regulation: This administrative regulation sets out procedures for an administrative appeal.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation establishes appeal procedures consistent with KRS Chapter 13B.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides applicants with the information necessary for administrative appeal procedures for any affected person aggrieved by a decision of the retirement system.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment requires the written request for hearing be filed with the executive director, and not general manager, consistent with recent statutory changes.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to ensure that written requests for administrative hearings are directed to the proper authority at the retirement system.
(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide that a request for an administrative hearing be directed to the agency head, and pursuant to recent statutory change, the agency head is now the executive director, and no longer titled general manager.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will make clear that written requests for administrative hearings be addressed to the agency head Executive Director, and not the general manager.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All persons who believe that they have been aggrieved by a decision of the retirement system who want to pursue an administrative appeal will address the request for an administrative hearing to the Executive Director.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be no impact, previously persons requesting an administrative hearing made the request to the general manager, now the request will be directed to the Executive Director.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There is no cost to implement this regulation.
(b) On a continuing basis: There is no continuing cost.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid out of the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering was not applied. Procedures are the same for all affected individuals.
105 KAR 2:240. Death after retirement procedures.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

STATUTORY AUTHORITY: KRS 61.645(3)(g) [4][5]

NECESSITY, FUNCTION, AND CONFORMITY: Certain benefits are payable upon the death of a recipient. This administrative regulation sets out the information required before benefits are paid.

Section 1. After learning of the death of a recipient, the retirement system shall contact the named beneficiary or estate of the deceased.

Section 2. The retirement system shall require the following information:

(1) A copy of the recipient's death certificate. If the death certificate shows the cause of death to be homicide or the subject of a pending investigation, the retirement office may also require additional evidence relating to the cause of death or investigations and arrests by enforcement agencies and may delay benefits until it deems the cause of death to be fully explained.

(2) If there is a benefit payable to a beneficiary and the beneficiary is deceased, a copy of the beneficiary's death certificate.

(3) If the beneficiary is a minor child, a copy of the child's birth certificate and an Affidavit of Authorization to Receive Funds on Behalf of Minor, Form 6110 (dated August 1994).

(4) If the beneficiary is divorced from the recipient, a copy of the divorce decree.

Section 3. If the payments are due an estate, the retirement system shall also require verification of the name of the individual authorized to manage the financial affairs of the deceased.

Section 4. The beneficiary or authorized individual shall sign an Affidavit for Recipient of Death Benefits, Form 6800, dated August 1994, provided by the retirement system and shall select a payment option, if a choice is available.

Section 5. Payments shall not be made until the affidavit has been completed and all verification submitted.

Section 6. If other evidence of death is submitted, the retirement system may pay the death benefit provided by KRS 61.705 prior to receipt of the death certificate of the member.

Section 7. (1) A recipient shall complete an Authorization for Deposit of Retirement Payment, Form 6130, to have the monthly retirement allowance deposited to an account in a financial institution.

(2) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution.

(3)(e) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment and filing the form at the retirement office in Frankfort.

(b) The last Form 6130, Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(4) The recipient may complete a Form 6135, Request for Payment by Check.

(5) The retirement office will not process the retirement allowance until the recipient has filed a completed Form 6130, Authorization for Deposit of Retirement Payment or filed a completed Form 6135, Request for Payment by Check on which the recipient has shown proof of hardship as determined by the retirement system.

Section 8. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor, July 2002", Kentucky Retirement Systems;
(b) "Form 6800, Affidavit for Recipient of Death Benefits, July 2002", Kentucky Retirement Systems;
(c) "Form 6130, Authorization for Deposit of Retirement Payment, May 2002", Kentucky Retirement Systems; and
(d) "Form 6135, Request for Payment by Check, February 2002", Kentucky Retirement Systems.

(2) This material (the form) required by this administrative regulation are incorporated by reference. The forms may be inspected, copied, or obtained, subject to applicable copyright law, from Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, between 8 a.m. and 4:30 p.m. Monday through Friday.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing by September 17, 2002.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides for procedures for payment of death benefits from the member account upon death of a recipient after retirement.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the procedures for payment of benefits from the recipient account upon death after retirement.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The statutes provide for payment of benefits from the recipient account in KERS, CERS, and SPRS upon death of a recipient after retirement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment provides for the incorporating of forms required to be completed by the beneficiary to receive the benefits of a recipient account in death after retirement; require a recipient of a monthly retirement allowance to submit form for electronic transfer of funds to an account at a financial institution or demonstrate hardship.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to incorporate the forms required to be completed by the beneficiary to receive the benefits of a recipient account in death after retirement; the amendment is necessary to conform to recent statutory changes that require the payment of a benefit be made by electronic transfer into an account at a
financial institution unless the recipient can demonstrate hardship for not having an account.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes require procedures and boards to be implemented for the payment of a beneficiary where the recipient has died after retirement; the statutes also require retirement benefits be paid by electronic transfer into an account at a financial institution.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by providing procedures for payment to a beneficiary where the recipient has died after retirement; the statutes also require retirement benefits be paid by electronic transfer into an account at a financial institution.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Those individuals or entities affected by this administrative regulation are those beneficiaries named on a retirement account where the recipient dies after retirement.

(4) Comment on the extent to which the regulations in this section would impact the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: There will be no additional impact on the beneficiaries of recipients where the recipient dies after retirement. Procedures will be put in place at the retirement systems for processing claims by beneficiaries for payment of retirement benefits from the account recipient upon death of a recipient after retirement.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The costs of implementing the retirement system are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS (Amendment)

105 KAR 1:270. Special Federal income tax withholding.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.705, 78.510 to 78.852

STATUTORY AUTHORITY: KRS 61.645(9)(g) [22]

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation is necessary to conform to the provisions of PL 102-318 regarding direct rollovers of [available] distributions and the withholding of federal income tax. This administrative regulation establishes the procedure for informing affected members of their rights with regard to federal taxation rules and provides forms for members to indicate their preference for federal tax withholding or direct rollover of funds. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relation order if the alternate payee does not return the form required for Federal Income tax purposes within a reasonable time.

Section 1. (1) Upon receipt of a request for refund of member contributions from the member or beneficiary who is the spouse, the retirement office shall mail the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection [22] to the individual requesting payment.

(2) The member or beneficiary who is the spouse shall complete the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection [22] and return it to the retirement office. If the member or beneficiary intends to have the [available portion] funds rolled over directly into an IRA or other plan, the member or beneficiary shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The refund of contributions shall not be processed until the completed Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection [22] is returned by the member or beneficiary to the retirement office.

Section 2. (1) Upon receipt of the Form 6010, Estimated Retirement Allowance, [22] on which the member or beneficiary who is the spouse has selected the actuarial refund or a payment option payable for a period of less than ten (10) years, the retirement office shall mail to the member or beneficiary who is the spouse the Form 6025 [22], Direct Rollover/Direct Payment Election Form for Lump Sum (Actuarial Refund) and Monthly Payments, [dated August 30, 2004], along with the Special Tax Notice Regarding Payments, [dated December 1992].

(2) The member or beneficiary who is the spouse shall complete the Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22] and return it to the retirement office. If the member or beneficiary who is the spouse intends to have the [available portion] funds rolled over directly into an IRA or other plan, the member or beneficiary shall have the trustee or institution complete the back of the form certifying that the rollover will be accepted.

(3) The payment options selected by the member or beneficiary who is the spouse shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22] is returned to the retirement office.

Section 3. (1) If the alternate payee is eligible for a lump sum portion of the member's contribution account under a qualified domestic relations order, the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection, [22] along with the [a] Special Tax Notice Regarding Payments shall be mailed to the alternate payee. If the alternate payee selects an actuarial refund or payment option payable for a period of less than ten (10) years, a Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22] along with the [a] Special Tax Notice Regarding Payments shall be mailed to the alternate payee. If the alternate payee shall complete the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection, [22] or Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22] and return it to the retirement office. If the alternate payee intends to have the [available portion] funds rolled over directly into an IRA or other plan, the alternate payee shall have the trustee or institution complete the back of the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection, [22] or Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22], certifying that the rollover will be accepted.

(2) The payment of an actuarial refund or a payment option of less than ten (10) years under the qualified domestic relations order shall not be processed until the completed Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, [22] is returned to the retirement office. If the payment is a portion of the member's contribution account and the alternate payee does not return the Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection, [22] within thirty (30) days of receipt of the form, the payment shall be processed and the alternate payee's portion of the refund shall be treated for federal income tax purposes as if the alternate payee had made an election to receive the funds.

Section 4. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Form 4525, Application for Refund and Direct Rollover/Direct Payment Selection, June 2002", Kentucky Retirement Systems,

(b) "Special Tax Notice Regarding Payments, January 2002", - 773 -
Kentucky Retirement Systems:

(c) "Form 6010, Estimated Retirement Allowance, July 2002".

Kentucky Retirement Systems:

(d) "Form 6025, Direct Rollover/Direct Payment Election Form for Lump Sum and Monthly Payments, June 2002". Kentucky Retirement Systems.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the forms required by the administrative regulation are incorporated by reference and may be obtained from the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, from 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall register in writing by September 17, 2002, five working days prior to the hearing, or their representatives. 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for informing affected members of their right to federal taxation rules and provides forms for members to indicate their preference for federal tax withheld or direct rollover of funds. This administrative regulation also establishes a procedure to issue a check to an alternate payee of a qualified domestic relations order if the alternate payee does not return the form required for federal income tax purposes within a reasonable time.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out treatment of accounts with regards to federal taxation rules.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the requirements of federal taxation rules.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation details the procedures and forms necessary for determining federal tax withholding under federal taxation rules.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides for the updating of the revised forms required to be filed with the retirement system for federal tax withholding consideration.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update the revised forms required to be filed with the retirement system for federal tax withholding consideration.

(c) How the amendment conforms to the content of the authorizing statutes: The federal taxation rules provide for the recipient to indicate federal tax withholding or direct rollover of funds. The amendment updates the revised forms.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by updating the revised forms for federal income tax considerations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Recipients receiving a retirement benefit from KERS, CERS, and SPRS will need to identify a federal tax withholding preference, and will be affected by the implementation of this administrative regulation, if new, or by the change if it is an amendment. There will be no additional impact on the recipients receiving a retirement benefit from KERS, CERS, and SPRS who are already required to file a federal tax withholding preference with the retirement system. The amendment merely updates the forms to be used.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(c) Provide an estimate of what benefits are derived:

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account and any additional funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY RETIREMENT SYSTEMS

(AMENDMENT)

105 KAR 1:290. Medical insurance reimbursement plan.

RELATES TO: KRS 61.732, 26 USC 105(b), 213(d)

STATUTORY AUTHORITY: KRS 61.645(9)(a) (b), 61.702(7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.702(7) requires the Board of Trustees of the Kentucky Retirement Systems to regulate an administrative regulation to establish a medical insurance reimbursement plan to reimburse hospital and medical insurance premiums of retirement allowance recipients living outside of Kentucky, who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. This administrative regulation establishes eligibility requirements, necessary documentation for proof of insurance, deadlines for filing for reimbursement, and forms.

Section 1. (1) The medical insurance reimbursement plan shall be available to a recipient who is:

(a) Residing in another state; and

(b) A retired member of the:

1. Kentucky Employees Retirement System;

2. County Employees Retirement System;

3. State Police Retirement System; or

(c) The beneficiary of a retired member of the:

1. State Police Retirement System;

2. Kentucky Employees Retirement System hazardous member;

3. County Employees Retirement System hazardous member; or

4. General Assembly who had General Assembly service in a retirement system at Kentucky Retirement Systems; and

(d) Not covered by a medical insurance for Medicare-eligible individuals while Kentucky Retirement Systems offers coverage for Medicare-eligible individuals with the same benefits as for those retired members living in Kentucky.

(2) The reimbursement plan shall be available in any month the recipient is not eligible for.
Section 2. (1) The maximum monthly reimbursement rates for the following coverages shall be set by the board in accordance with KRS 61.702:

(a) Coverage for one (1) individual;
(b) Coverage for the recipient and one (1) or more dependents;
(c) Coverage for the recipient and spouse; or
(d) Coverage for the recipient, spouse and dependents.

(2) The monthly reimbursement rate shall be reduced by the amount contributed by an employer or agency toward the recipient's medical insurance premium.

Section 3. The retirement system shall notify recipients of their eligibility to participate in the medical insurance reimbursement plan:

(1) Prior to initial payment of the retirement allowance;
(2) When notified of a change of residence to another state in an area not covered by the state group medical insurance administered by the Commonwealth of Kentucky; and
(3) Each open enrollment period for medical insurance coverage effective the following calendar year.

Section 4. An eligible recipient shall file [at the retirement office] an Application for Medical Insurance Reimbursement, Form 6240, at the retirement office at least annually and when changing medical insurance company along with one (1) or more of the following as proof of payment for hospital and medical insurance premiums:

(1) A copy of the invoice from the insurance company and copy of the receipt for payment;
(2) A copy of the invoice from the insurance company and copy of the front and back of the cancelled check made out to the insurance company;
(3) A copy of a pay stub if the pay stub clearly shows a deduction for hospital and medical insurance;
(4) A statement from the employer listing dates and amounts of premiums deducted from wages;
(5) A copy of a bank statement showing deductions for hospital and medical insurance if the statement clearly indicates payment to a company that provides only hospital and medical insurance;
(6) A copy of a bank statement showing deductions to an insurance company along with a statement from the insurance company listing dates and amounts of premiums; or
(7) Other documentation which the retirement system determines is sufficient to prove payment for hospital or medical insurance.

Section 5. (1) Medical insurance premiums eligible for reimbursement shall be the premiums for hospital and medical coverage paid for by the eligible recipient;

(a) For calendar year 2000, premiums paid on or after July 14, 2000;
(b) For calendar years 2001 and later, those premiums paid for hospital and medical insurance coverage in the calendar year.

(2) The retirement office shall reimburse eligible recipients once each calendar year quarter. Eligible recipients shall submit proof of payment for hospital and medical insurance by the following dates for payment in the following month:

(a) By April 20, for reimbursement in May;
(b) By July 20, for reimbursement in August;
(c) By October 20, for reimbursement in November; or
(d) By January 20, for reimbursement in February.

(3) The retirement system shall not reimburse eligible recipients for premiums paid in a calendar year if the Form 6240, Application for Medical Insurance Reimbursement and proof of payment for hospital and medical insurance premiums is received in the retire-
clearly sets out the types of documentation that retirees need to submit in order to establish eligibility for reimbursement.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment includes for reimbursement beneficiaries of a member of the General Assembly who also had an account at Kentucky Retirement Systems; the amendment includes for reimbursement Medicare-eligible individuals not covered by medical insurance while Kentucky Retirement Systems offers coverage for Medicare-eligible individuals with the same benefits as for those retired members living in Kentucky; the amendment requires the application for Medical Reimbursement, Form 6240, be filed once annually and when changing medical insurance company; the amendment removes explicit reimbursement dates for calendar years 2000 and 2001 which are no longer applicable.

(b) The necessity of the amendment to this administrative regulation: The medical insurance reimbursement program was created in July 2000 and the retirement systems continue to make improvements to the program to enhance service.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 61.702(7) provides for establishment of a program to reimburse out-of-state retirees for medical insurance premiums. This amendment establishes those persons eligible for out of state medical reimbursement to be consistent with similarly situated persons living in state who are eligible for health insurance through the Kentucky Retirement Systems.

(d) How the amendment will assist in the effective administration of the statutes: KRS 61.702(7) provides for establishment of a program to reimburse out-of-state retirees for medical insurance premiums. This amendment ensures that persons who should be eligible for health insurance premiums are properly identified in the administrative regulation; the amendment requires that the application for Medical Reimbursement, Form 6240, is only filed once a year and when changing insurance company; the amendment also removes outdated language for explicit filing requirements for calendar years 2000 and 2001.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 800 retirees and beneficiaries living outside Kentucky.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The retirees and beneficiaries living outside Kentucky will have access to medical insurance reimbursement through the Kentucky Retirement Systems; the retirees and beneficiaries will not have to submit multiple applications for reimbursement by only filing the application for Medical Reimbursement, Form 6240, once annually and when changing insurance company.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implementing this amendment.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the trust fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no fees or funding increases created by this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fees.

(9) TIERNIG: Is tiering applied? Tiering was not applied. The amendments will be administered the same for all eligible applicants.

105 KAR 1:300. Determination of service credit for classified employees.

RELATES TO: KRS 61.545, 61.552, 78.615
STATUTORY AUTHORITY: KRS 61.545(9)(g)(1)(e), 70.015(1)c
NECESSITY, FUNCTION, AND CONFORMITY: KRS 78.615 establishes the calculation for determination of retirement service credit for classified employees of local school boards. KRS 78.615(1)(c) requires the Board of Trustees of the Kentucky Retirement Systems to promulgate an administrative regulation to allow classified employees of local school boards who work less than a complete school year to purchase service credit for the fiscal year. This administrative regulation establishes the formulas to be used to determine the number of months of service credit earned and for the purchase of service credit.

**Section 1.** For school years beginning July 1, 2000 and after, upon the employee’s completion of the school year, termination, or death, whichever occurs first, the retirement system shall determine each employee’s fiscal year service credit as follows:

(1)(a) The employee’s actual days worked, as reported by the school board, shall be divided by twenty (20) to determine the number of months and fractional months worked during the fiscal year.

(b) The employee’s total wages shall be divided by the hourly rate reported by the school board to determine the total number of hours worked during the fiscal year.

(c) The employee’s total number of hours worked shall be divided by the employee’s months and fractional months worked to determine if the employee worked an average of at least eighty (80) hours per month.

(2) If the employee does not work an average at least eighty (80) hours per month, the service credit shall be disqualified and all employer and employee contributions shall be refunded. Individual months in which the employee worked eighty (80) or more hours during the fiscal year may be purchased as provided in KRS 81.552.

Section 2. Each school board employee whose employment averages eighty (80) or more hours per month over their actual days worked as determined in Section 1 of this administrative regulation, shall be credited with total service credit for the school year determined as follows:

(1) If the employee worked at least 180 days, the employee shall be credited with twelve (12) months of service credit.

(2) If the employee worked fewer than 180 days, the employee shall receive the number of months of service credit determined by dividing the actual number of days worked by 180 and multiplying the resulting ratio by twelve (12) months. The number of months of service shall be rounded to the nearest whole month, except that the employee shall not receive twelve (12) months of service credit unless the employee worked 180 or more days during the school year.

Section 3. For school years beginning July 1, 1996 through June 30, 2000, each school board employee whose employment averages eighty (80) or more hours per month over their actual days worked as determined in Section 1 of this administrative regulation, shall be credited with total service credit for the school year determined as follows:

(1) If the employee worked an average of at least eighty (80) hours per month over the number of actual days worked, as reported by the school board, the employee shall be credited with service based on the number of months and fractional months rounded to the next whole month.

(2) If the employee does not work an average of at least eighty (80) hours per month over the number of actual days worked, the employee’s contract days, as reported by the school board, shall be divided by twenty (20) to determine the number of months and fractional months worked during the fiscal year;

(b) The employee’s total wages shall be divided by the hourly rate reported by the school board to determine the total number of hours worked during the fiscal year;

(c) The employee’s total number of hours worked shall be di-
vided by the employee’s months and fractional months worked to determine if the employee worked an average of at least eighty (80) hours per month, and
(b) The school board employee who worked an average of at least eighty (80) hours per month over the number of contract days, shall be credited with service based on the number of months and fractional months rounded to the next whole month.
(3) If the employee does not work an average of at least eighty (80) hours per month over the number of actual days worked or contract days, the member is allowed to retain credit for individual months representing at least eighty (80) hours of employment. Contributions and interest, if any, for months not representing eighty (80) hours of employment shall be refunded to the employee and employer.

Section 4. For school years prior to July 1, 1996, the retirement system shall determine each employee’s fiscal year service credit as follows:
(a) The employee’s total fiscal year wages shall be divided by the hourly rate, as reported by the school board, to determine the total number of hours worked during the fiscal year;
(b) The employee’s total number of hours worked during the fiscal year shall be divided by the employee’s number of actual months reported by the school board to determine if the employee worked an average of at least eighty (80) hours per month over the number of actual months as reported by the school board, the employee shall be credited with service based on the number of actual months reported.
(c) If the employee worked an average of at least eighty (80) hours per month over the number of calendar months as reported by the school board, the employee shall be credited with service based on the number of calendar months reported.

(3)(a) If the employee does not work at least an average of eighty (80) hours per month over the number of months reported for each fiscal year, the employee’s total calendar wages shall be divided by the hourly rate reported by the school board to determine the number of hours worked during the calendar year;
(b) The employee’s total number of hours worked during the calendar year shall be divided by the number of calendar months reported by the school board to determine if the employee worked an average of at least eighty (80) hours per month; and
(c) If the employee worked an average of at least eighty (80) hours per month over the number of calendar months as reported by the school board, the employee shall be credited with service based on the number of calendar months reported.

(3)(a) If the employee does not work at least an average of eighty (80) hours per month over the number of months reported for each fiscal year, the employee’s contract days, as reported by the school board, shall be divided by twenty (20) to determine the number of months and fractional months worked during the fiscal year;
(b) The employee’s total wages shall be divided by the hourly rate reported by the school board to determine the total number of hours worked during the fiscal year;
(c) The employee’s total number of hours worked shall be divided by the employee’s months and fractional months worked to determine if the employee worked an average of at least eighty (80) hours per month; and
(d) If the employee worked an average of at least eighty (80) hours per month over the number of actual days worked, as reported by the school board, the employee shall be credited with service based on the number of months and fractional months rounded to the nearest whole month.

(5) If the employee does not work an average of at least eighty (80) hours per month over the number of reported months for each fiscal or calendar year, contract days, or actual days worked, the member is allowed to retain credit for individual months representing at least eighty (80) hours of employment. Contributions and interest, if any, for months not representing eighty (80) hours of employment shall be refunded to the employee and employer. If the employee worked fewer than 180 days, the employee may purchase the number of months needed to complete the fiscal year by paying 100 percent of the actuarial cost of the service as provided under KRS 61.545.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002. For working days prior to September 17, 2002, at least 10 business days prior to the hearing date. No notification of intent to attend the hearing is required by this date. 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 584-4646, fax (502) 584-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation provides for determination of retirement service credit for classified employees of local school boards.
(b) The necessity of this administrative regulation: The administrative regulation establishes the calculation for determination of retirement service credit for classified employees of local school boards.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.545, 61.552, and 78.615 provide for the determination of service credit for classified employees of school boards. This regulation establishes the calculation for determination of retirement service credit for classified employees of school boards.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists in the calculation of service credit for classified employees of school boards.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment provides for the calculation methods for determining service credit for classified employees of school boards for the school years July 1, 1996 through June 30, 2000, and the calculation methods for determining service credit for classified employees of school boards for the school years prior to July 1, 1996.
(b) The necessity of the amendment to this administrative regulation: The administrative regulation contained the method for calculating the service credit of classified employees of school boards for the school years beginning July 1, 2000 and after; the amendment to the administrative regulation provides for the method for calculating the service credit of classified employees of school boards.
board for the school years July 1, 1996 through June 30, 2000 and the calculation methods for the school years prior to July 1, 1996.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment changes are consistent with the statutory schemes for determining service credit for classified employee on school boards for the years July 1, 1996 through June 30, 2000, and years prior to July 1, 1996.

(d) How the amendment will assist in the effective administration of the statutes: The formula for determining service credit in the administrative regulation will conform to the statutory requirement.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 45,000 classified employees of local school districts.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The methods of calculating service credit of the classified employees of school boards will be consistent with the statutory scheme in effect at the time the service credit was earned.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation. There are no additional forms or program changes required.

(b) On a continuing basis: There are no continuing costs to implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation of this administrative regulation?

(a) Direct funding: The administrative expenses of the retirement system is paid from the Retirement Allowance Account.

(b) Any other source of funding: provide a detailed explanation of how the funding will be allocated.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no fees associated with this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established.

(9) TIERING: Is tiering applied? Tiering was not applied. Procedures are the same for all affected individuals.

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? Yes

2. State what unit, part or division of local government this administrative regulation will affect: This administrative regulation affects the 45,000 classified employees of local school boards.

3. State the aspect or service of local government this administrative regulation will affect: This administrative regulation relates to the calculation retirement service credit of classified employees of school boards.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Expenditures (+/-): Other Explanation: This regulation does not affect the expenditures of local school boards.

KENTUCKY RETIREMENT SYSTEMS

(Amendment)


RELATES TO: KRS 16.505 to 16.852, 61.510 to 61.705, 78.510 to 78.852

STATUTORY AUTHORITY: KRS 61.645(9)(c) (a)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.621.

The Fred Capps Memorial Act, enables an employee of a state-administered retirement system who is killed or disabled from a duty-related injury to receive death or disability benefits equal to those received by hazardous employees under KRS 16.582. This administrative regulation establishes the application and appeal procedure for duty-related death or injury benefits for nonhazardous employees.

Section 1. Application of Duty-Related Injury Death Benefits.
(1)(a) A written request [as a] duty-related injury death benefits may be made by the surviving spouse, or dependent child or parent or guardian of dependent child [made on behalf of a surviving spouse or dependent child shall be filed by the employer] at the Frankfort office of the Kentucky Retirement Systems.

(b) A claim [An application] for duty-related injury death benefits shall be verified [filed] by the deceased employee's immediate supervisor and agency head [employer] on the "Form 6800, Application for Death Benefits Duty Related/Lines of Duty".

(c) The application shall be certified by the deceased employee's immediate supervisor and agency head.

(2)(a) The employer, surviving spouse, or dependent child shall submit the following documents:
1. A copy of the death certificate;
2. The employer death investigation report; and
3. An employee job description;
4. Emergency room, hospital, and other related medical records; and
5. Police or other crime report, if applicable.

(b) The retirement system may request additional information or medical records, including hospital, emergency room, autopsy, or other related records, and police or other crime report, if necessary, from the employer, surviving spouse, or dependent child.

(3) The application for duty-related injury death benefits shall be reviewed by the board's medical examiner and administrated in the same manner as provided in KRS 16.582 and 61.665.

(1)(a) A claim for duty-related injury disability benefits shall be filed by the employee at the Frankfort office of the Kentucky Retirement Systems.

(b) An application for duty-related injury disability benefits shall be made by the employee on "Form 6000, Notification of Retirement".

(2) The application for duty-related injury disability benefits shall be reviewed by the board's medical examiner and administrated in the same manner as provided in KRS 16.582 and 61.665.

Section 3. Time Period for Filing. (1)(a) The application for duty-related injury death or duty-related injury disability benefits shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

(b) The filing period shall begin on the day after the last day of paid employment in a regular full-time position and shall end at close of business on the following 730th calendar day.

(c) If the last day of the filing period is a Saturday, Sunday, or a state or federal holiday, then the application shall be timely filed if received in the retirement office by the close of the next business day following the weekend or holiday.

(2) If rejected, an employee's application for duty-related injury disability benefits based on the same claim of incapacity shall be reconsidered for disability if accompanied by new objective medical evidence. The application shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

Section 4. Benefit Payment Procedures. (1) If the employee's application for duty-related injury disability benefits is approved, the employee's disability benefit shall be paid retroactive to the month following the month of the employee's last day of paid employment in a regular full-time position.

(2) If the employee did not receive early retirement benefits or disability retirement benefits under KRS 61.600, upon the employee's selection of a payment option, the retirement office shall pay the employee the total monthly retirement allowances owed.

(3)(a) If the employee did receive early retirement benefits or
disability retirement benefits under KRS 61.600, the retirement office shall calculate and pay to the employee the difference between the early retirement benefit or disability retirement benefit which was paid to the employee and the duty-related disability benefit.

(b) The employee shall not change his payment option.

(4) If benefits are payable to a dependent child, the child's parent or guardian shall submit the following documents:

(a) A "Form 6455, Designation of Dependent Child";

(b) If the child is under eighteen (18) or over, verification of full-time student status;

(c) A copy of the birth certificate of each dependent child; and

(d) If a dependent child is a minor, a "Form 6110, Affidavit of Authorization to Receive Funds on behalf of Minor Child"; and if a dependent child is a minor child of divorced parents, a copy of the court-appointed permanent guardianship, conservatorship or trust.

(e) [Refers to the parent or guardian]

1. Notify the retirement system of the death or marriage of a dependent child or if the dependent child ceases to be a full-time student;

2. Submit a copy of the dependent child's verification of full-time student status with the retirement system for each semester of study within thirty (30) days following the end of each semester (summer); and

3. Any increases provided to recipients under KRS 61.691 shall be applied to the employee's disability benefit and payments to a dependent child in determining the total retroactive payments owed to the employee and dependent child.

4. If upon review in accordance with KRS 61.610 or other applicable statute, the board determines that an employee receiving duty-related injury disability benefits no longer meets eligibility requirements, then the board shall determine if the employee is eligible for disability benefits under KRS 61.600.

Section 5. (1) A recipient shall complete an Authorization for Deposit of Retirement Payment, Form 6130, to have the monthly retirement allowance deposited to an account in a financial institution.

(2) The recipient and the financial institution shall provide the financial institution with the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution.

(a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment and filing the form at the retirement office in Frankfort.

(b) The last Form 6130, Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(4) The recipient may complete a Form 6135, Request for Payment by Check.

(5) During the retirement allowance period, the recipient may have filed a completed Form 6130, Authorization for Deposit of Retirement Payment or filled a completed Form 6135, Request for Payment by Check on which the recipient has shown proof of hardship as determined by the retirement system.

Section 6. Incorporation by Reference. (1) The following materials are incorporated by reference:

(a) "Form 6300, Application for Death Benefits Due to Duty-Related Illness or Injury in Line of Duty (Rev. 6/01)", Kentucky Retirement System;

(b) "Form 6000, Notification of Retirement (Rev. 8/02 [6/04])", Kentucky Retirement System;

(c) "Form 6110, Affidavit of Authorization to Receive Funds on behalf of Minor Child (Rev. 7/00)", Kentucky Retirement System; and

(d) "Form 6455, Designation of Dependent Child (Rev. 7/00)", Kentucky Retirement System;

(e) "Form 6130, Authorization for Deposit of Retirement Payment (Rev. 5/02)", Kentucky Retirement System; and

(f) "Form 6135, Request for Payment by Check, (Rev. 2/02)", Kentucky Retirement System.

2. This material may be inspected, copied, obtained, subject to applicable copyright laws, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m.

Randy Overstreet, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their interest 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-6464, fax (502) 564-6556.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation implements the provisions of KRS 61.621, the Fred Capps Memorial Act, for duty-related injury benefits.

(b) The necessity of this administrative regulation: This administrative regulation is needed to establish the application procedure for duty-related injury death and disability benefits for employees in non-hazardous status.

(2) How this administrative regulation conforms to the content of the authorizing statutes: This regulation establishes the application procedure for the special duty-related death and injury provisions.

(3) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets out the deadlines for application, the procedures and forms for application and provides for appeals in accordance with the uniform appeal process in KRS Chapter 13B.

(4) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will provide that the surviving spouse or dependent child can make a claim and submit necessary documentation for a duty-related injury death benefit; the amendment will provide that a dependent child who is a full-time student will have to verify eligibility as a full-time student twice a semester; and a recipient of a duty-related injury benefit will be required to have the benefit electronically transferred on an account at a financial institution as evidence that this would cause hardship.

(b) The necessity of the amendment to this administrative regulation: By allowing the surviving spouse and dependent child to make a claim and submit documentation for duty-related injury death benefits, the time frame for processing a duty-related injury death benefit will be expedited; the amendment will require dependent full-time students to verify twice a semester, at the beginning and end, that the dependent child remained in full-time student status so prevent dependent child payments be made in error; and the amendment conforms to recent statutory requirements that recipients of retirement benefits receive the payments by means of electronic transfer to an account at a financial institution unless the recipient demonstrates hardship.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide for payment of benefits to spouses and dependent children in a case of duty-related injury death, and by allowing the spouse or dependent child, instead of the employer, to make claim or submit proof for the benefits, the time frame for processing these claims should improve; the statutes also provide that unmarried dependent children over age 18 but
full-time student status to receive benefits, and by requiring the dependent child to timely verify full-time student status twice a semester would help insure that dependent child payments are being made to worthy dependent children who remain full-time student status; the statutes require recipients to receive benefits by means of an electronic transfer of funds to an account at a financial institution. 

3) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes in a case of duty-related injury death by allowing the spouse or dependent child, instead of just the employer, to make claim or submit proof for the benefits; a dependent child will need to timely verify full-time student status twice a semester to insure that payments are being made to dependent children who remain full-time student status; the statutes require recipients to receive benefits by means of an electronic transfer of funds to an account at a financial institution unless hardship is demonstrated.

3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects the 1,400 state and local government agencies and their employees who are participating in the Kentucky Retirement Systems.

4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation sets out the procedure for obtaining duty-related benefits.

5) Provide an estimate of how much it will cost to implement this administrative regulation.

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account.

7) Provide an assessment of whether an increase in fees or funding is necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No funds in funding is necessary to implement this administrative regulation.

8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

9) TIERING: Is tiering applied? Tiering was not applied. The application procedure for duty-related injury benefits is the same for all nonhazardous employees participating in the systems.

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? Yes

2. State what unit, part or division of local government this administrative regulation will affect: This administrative regulation affects employees participating in the County Employees Retirement System.

3. State the aspect or service of local government this administrative regulation will affect: This administrative regulation establishes an application procedure for employees who die or become disabled as a result of a duty-related injury.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: This regulation does not impact the revenues or expenditures of local governments.

105 KAR 1:330. Purchase of service credit.

RELATES TO: KRS 16.537, 61.543, 61.552, 61.5525, 61.555, 61.558, 61.592, 78.605, 26 USC 415

STATUTORY AUTHORITY: KRS 61.645(9) (4)(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.537, 61.543, 61.552, 61.555, 61.558, 61.592 and 78.605 provide for the purchase of service credit. This administrative regulation establishes the documentation required from the employee as proof of eligibility for purchase of service credit, the filing deadlines on which the cost calculation will be made, and the procedures for purchase of service credit.

Section 1. (1) The cost calculation date for determining the cost of the service to be purchased shall be the later of:

(a) The last day of the month in which the request for the cost of the service is received at the retirement office;

(b) The last day of the month the employee designates as the intended purchase date;

(c) The last day of the month in which documentation of the service is filed at the retirement office if the documentation is not filed within forty-five (45) days of the date the retirement office notifies the employee of the type of documentation required for the purchase;

(d) The last day of the month in which the member attains sufficient service credit to be eligible to make the purchase.

(2) The purchase deadline date shall be the later of the cost calculation date or thirty (30) days from the date the purchase cost is mailed to the employee, unless day thirty (30) is a weekend or federal or state holiday, then the purchase deadline date shall be the next business day.

(3) An employee may not make a new request for cost calculation for purchase of service previously requested until the purchase deadline date has passed.

(4) Except as provided in KRS 61.552(16), payment for purchase of service credit shall be filed at the retirement office while the employee is participating in an eligible retirement system and prior to the employee’s termination date.

Section 2. The employees shall have forty-five (45) days from notification to file the documentation at the retirement office.

Section 3. (1) The employee shall provide documentation necessary for the retirement system to determine that the service meets the eligibility requirements for purchase of service. The documentation may be in the form of:

(a) A statement or letter signed by the reporting official, personnel director or agency head, or if the service is with the university, federal government or military, a statement or letter signed by an authorized employee of the university, federal government or military, except that no employee shall certify his own service. The retirement system may require that the statement be made under oath;

(b) Copies of personnel and wage records supplied by the agency.

(2) If the retirement system determines that the agency records are not sufficient, the retirement system may require the employee to supplement the agency records with copies of check stubs, personnel action forms or payroll records in the employee’s possession.

(3) If the employee does not have additional documentation of the service, the employee may submit a report of detailed earnings from the Social Security Administration for the period of service, along with two (2) affidavits completed by individuals who earned, or were eligible for, service for the same period in a state administered retirement system with the same employer. Each affidavit shall detail the employee’s employment status and length of service.

(4) The retirement office shall determine if all or part of the service is eligible for purchase and shall notify the employee in writing of its determination.

Section 4. (1) For service with a public agency, other than a
school board, participating in one (1) of the systems administered by the Kentucky Retirement Systems or with a participating agency whose service is authorized by statute, the employee shall submit the following documentation and may be required by the system to provide additional information, if necessary for determination:

(a) The beginning and ending dates of the service and any breaks which may have occurred during the service, listed by fiscal year;
(b) The number of calendar months worked;
(c) The position title and status, including full time, part time, probationary, emergency, seasonal, temporary or interim; and
(d) If the employee participated in a retirement plan, and if so, if the plan was a defined contribution or defined benefit plan, and if the employee has taken a refund of contributions to the plan.

(2) For service with a school board, the employee shall provide the following documentation and may be required by the system to provide additional information, if necessary for determination:
(a) The beginning and ending dates of the service and any breaks which may have occurred during the service, listed by fiscal year;
(b) The number of calendar months worked;
(c) The number of days in the employee's employment contract and the actual number of days worked;
(d) The hours worked per day;
(e) The position title and status, including full time, part time, probationary, emergency, seasonal, temporary or interim; and
(f) If the employee participated in a retirement plan, and if so, if the plan was a defined contribution or defined benefit plan, and if the employee has taken a refund of contributions to the plan.

(3) For active duty service in the Armed Forces of the United States, the employee shall provide a copy of the federal form DD-214 or other official military documents clearly indicating:
(a) The date of entry into active duty service;
(b) The date of discharge from active duty service; and
(c) The type of discharge.

(4) For service in the reserve forces, including periods of active duty training, or for service in the National Guard, the employee shall provide copies of official military documents clearly indicating the date of entry into and date of discharge.

(5) For service with the federal government, the employee shall provide the following documentation:
(a) The name of the federal agency where the employee worked;
(b) The beginning and ending dates of the service and any breaks which may have occurred during the service;
(c) The job title;
(d) If the individual worked an average of 100 or more hours per month and if the position was temporary, seasonal or regular full time.
(e) If the employee participated in a retirement plan and if the employee has taken a refund of contributions to the plan.

(6) For a period when the member was on leave, including educational, maternity and sick leave without pay, the member shall submit documentation of the beginning and ending dates of the period of leave and the type of leave designated by the employer.

(7) For service with one (1) of the state universities in Kentucky, the employee shall provide the following documentation:
(a) The name of the university where the employee worked;
(b) The beginning and ending dates of the service and any breaks which may have occurred during the service;
(c) The job title;
(d) If the individual worked an average of 100 or more hours per month and if the position was temporary, seasonal or regular full time.
(e) If the employee participated in a public defined benefit plan during the period of employment and if the employee has taken a refund of contributions to the plan.

(8) An employee wishing to purchase service credit for out-of-state public service under KRS 61.552(17) and (18) shall request a copy of Form 4140, Certification of Out-of-State Service.
(a) The employee shall mail the Form 4140 to his former employer and retirement plan for completion, and if the employee wishes to purchase hazardous service in KERS, CERS, or SPRS he shall also obtain a copy of the description of his duties in the out-of-state position from his former employer. Service credit shall be eligible for purchase as hazardous duty if the position is the same as or substantially similar to positions for which hazardous duty credit has been approved under KRS 61.592;
(b) The employee shall be responsible for obtaining the information requested regarding the period of out-of-state service, and the completed Form 4140 and job description shall be submitted to the retirement office;
(c) The retirement system shall determine how much service is eligible for purchase under the statute and shall notify the employee of the full actuarial cost of the service which qualifies for purchase;
(d) If the retirement system determines that the service is not eligible for purchase, the retirement system shall notify the employee of the reasons; and
(e) If additional information is needed to make the determination, the employee shall be responsible for obtaining the additional information.

Section 5. For a purchase based on the actuarial cost, in accordance with KRS 61.5525, the higher of the current rate of pay, final rate of pay, or final compensation times the actuarial age factor shall be determined as follows, except that for an employee of a local school board paid under an employment contract, the current rate of pay shall equal to the final compensation as of the cost calculation date:

(1) Except for a clarificer employee of a local school board, current rate of pay shall be determined as follows:
(a) For an hourly employee paid on a seven and one-half (7 1/2) hour day, the hourly rate times 1,950;
(b) For an hourly employee paid on an eight (8) hour day, the hourly rate times 2,060;
(c) For an employee paid by the day, the daily rate times 260;
(d) For an employee paid by the week, the weekly rate times fifty-two (52);
(e) For an employee paid by the month, the monthly rate times twelve (12);
(f) For a part-time employee who averages 100 or more hours per month, the hourly rate times hours per day times 260. If the number of hours worked per day is not fixed by the employer, seven and one-half (7 1/2) hours shall be used;
(g) For an employee who receives a fixed amount in addition to an hourly, daily, weekly, monthly, or annual rate, the current rate shall include all fixed amounts, averaged into the same period;
(h) For an employee simultaneously employed in more than one (1) retirement system administered by the Kentucky Retirement Systems, the higher of the combined current rate of pay, combined final rate of pay, or combined final compensation shall be used as of the cost calculation date.

(2) Final compensation shall be determined as of the cost calculation date, except that the final compensation of nonhazardous members of the County Employees Retirement System or Kentucky Employees Retirement System shall be based on the three (3) fiscal years with the highest average monthly earnings if the sum of the employee's service when added to his age would equal at least seventy-five (75) assuming the employee's service includes:
(a) All service remaining on an active installment purchase agreement;
(b) All service for which the employee has a pending request for purchase and is eligible to purchase; and
(c) All service the employee would accrue if employment continued through December 31, 2008.

(3) The employee's age rounded to the nearest year as of the cost calculation date shall be used.

(4) The benefit factor used to determine the actuarial cost, in accordance with KRS 61.5525, shall be the benefit factor to which the employee is entitled on the first day of the month following the cost calculation date, except that the benefit factor for nonhazardous employees of the County Employees Retirement System and the Kentucky Employees Retirement System shall be the highest benefit factor to which the employee would be entitled, assuming:
(a) An effective retirement date no later than January 1, 2009; and
(b) Total service as determined in subsection (2) of this section.
Section 6. (1) After the employee has purchased service, the retirement system may recalculate the cost of the service if, upon audit, the actual current rate of pay or actual reported creditable compensation is greater than reported by the employee or employer when the original calculation was made.

(2) If the recalculation results in an increase in the cost of $100 or more, the employee shall have thirty (30) days to pay the additional amount.

(3) If the employee fails to pay the additional amount, the employee’s service shall be reduced to the next lower increment or number of months for which the employee is eligible based on the original payment, and the difference shall be refunded to the employee.

Section 7. (1) The wages associated with service purchased under the provisions of KRS 61.552(1) to (5)(a) and (24), which would have qualified as creditable compensation, shall be added to the employee’s account and shall be used in determining the employee’s final compensation.

(2) An employee purchasing service under the preceding paragraph by increments or by installment purchase agreement shall have the service credited in chronological order beginning with the earliest service.


(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4846, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the documentation required for proving eligibility to purchase service credit in the Kentucky Retirement Systems. This regulation also establishes deadlines for purchasing service once a cost has been determined.

(b) The necessity of this administrative regulation: This administrative regulation is needed to provide participating employees with the documentation requirements and to establish deadlines in order to assure the actuarial accuracy of service purchase costs.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18.537, 61.543, 61.552, 61.555, 61.558, 61.592 and 78.655 provide for purchase of service. This administrative regulation requires members to submit sufficient documentation to prove eligibility to make the purchases.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the deadlines for making service purchases which will assure that purchase costs accurately reflect the member’s age and benefit eligibility at the time of purchase, which in turn assures that member’s pay the full cost of service.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment sets forth the procedures and forms for an employee to make a service credit purchase for out-of-state public service; the amendment sets forth the cost for calculating the service credit purchase for an employee simultaneously employed in more than one retirement system administered by the Kentucky Retirement Systems to use the combined current rate of pay, combined final rate of pay, or combined final compensation to determine service cost.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to include service cost calculation for out-of-state public service; and the amendment is necessary to ensure that an employee working simultaneously in more than one retirement system administered by the Kentucky Retirement Systems pays the actuarial cost to purchase service.

(c) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes provide for the service credit purchase of out-of-state public service; the authorizing statutes require the employee making the service credit purchase bear the true cost of the service.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by adopting a procedure and forms for calculating the cost to purchase service credit for out-of-state public service; the amendment will provide that an employee working in multiple retirement systems pays the correct cost to purchase service credit.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation affects the participating employees who purchase service credit, approximately 10,000 each year.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Employees will be able to determine exactly what documentation is required for a particular type of service and what factors will be used in determining the cost.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There are no continuing costs to implementing this administrative regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no fees associated with this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are established.

(9) TIERING: Is tiering applied? Tiering is applied. Factors used in determining actuarial costs reflect the individual’s eligibility for benefits. Thus, an employee with more service credit and higher salary will pay a higher cost than an employee with lower salary and less service credit.

KENTUCKY RETIREMENT SYSTEMS

(Amendment)

105 KAR 1:340. Rollovers and transfers of contributions in other plans.

RELATES TO: KRS 16.510 to 16.652, 61.515 to 61.705, 78.520 to 78.852, 26 USC secs. 401(a)(31), 402(c), 408(d)(3)
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

STATUTORY AUTHORITY: KRS 61.645(9)(g) [44]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.552(16)(h) authorizes an employee to purchase service credit in the Kentucky Retirement Systems by rollover or transfer of funds from a retirement plan or deferred compensation arrangement, to the extent allowed under the Internal Revenue Code. This administrative regulation establishes the procedures and forms for making purchases by rollover or transfer.

Section 1. (1)(a) An employee eligible to purchase service credit under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 may purchase the service by transferring funds through a direct trustee-to-trustee transfer, as permitted under applicable sections of the Internal Revenue Code and associated regulations or rulings. (b) Service credit may also be purchased through a direct rollover, as contemplated by and permitted under 26 USC sec. 401(a)(31) and associated regulations or rulings.

(c) Service credit may also be purchased by a rollover of funds pursuant to and permitted under 26 USC sec. 402(c) or 408(d)(3).

(d) The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted by law, as specified in the applicable provisions of the Internal Revenue Code and associated regulations and rulings.

(2) The retirement system shall not accept a rollover or transfer of funds from a retirement plan or deferred compensation arrangement unless the employee has obtained a calculation of the cost of the service from the retirement system.

Section 2. (1) An employee who intends to rollover or transfer eligible funds from a retirement plan or deferred compensation arrangement shall complete Section 1 of "Form 4170, Direct Transfer/Rollover Authorization [Acknowledgement]". (2) The financial institution or plan administrator responsible for the employee’s account in the retirement plan or deferred compensation arrangement shall complete Section 2 of "Form 4170, Direct Transfer/Rollover Authorization [Acknowledgement]".

(3) The completed "Form 4170, Direct Transfer/Rollover Authorization [Acknowledgement]" Form, shall be filed at the retirement system by the payment due date. A completed form not filed by the payment due date shall be void.

(4) The financial institution shall complete the rollover or transfer within sixty (60) days from the payment due date.

Section 3. If the employee is making a lump sum purchase by rollover or transfer from a retirement plan or deferred compensation arrangement and the total distribution amount at the time of transfer or rollover by the financial institution or plan administrator responsible for the employee’s account in the retirement plan or deferred compensation arrangement is less than the total cost of the service:

(1) Upon notification, the employee shall pay the additional cost by the purchase due date.

(2) If the transfer or rollover amount is not known until after the date the purchase was due, the employee shall have ten (10) [See (5)] working days from the date of notification to submit the additional cost due.

(3) If the employee does not file the payment in the retirement officer by the date the purchase is due, the retirement system shall credit the employee’s account with the maximum service credit that may be purchased under the applicable statute for the type of service, whether in months or increments, by an amount equal to or less than the total distribution. The retirement system shall return any excess amount to the retirement plan or deferred compensation arrangement.

Section 4. If the total distribution amount at the time of transfer or rollover by the financial institution or plan administrator responsible for the employee’s account in the retirement plan or deferred compensation arrangement is less than total cost of the service, and the employee is paying the remaining principal of an installment purchase agreement under KRS 61.552(16):

(1) The employee shall pay the additional cost due within sixty (60) days of termination of the installment purchase agreement.

(2) If the employee does not file the payment in the retirement office by the date the purchase is due or within sixty (60) days of termination of the installment purchase agreement, the retirement system shall return the total distribution to the retirement plan or deferred compensation arrangement.

Section 5. If the actual total distribution at the time of transfer by the financial institution responsible for the employee’s account in the retirement plan or deferred compensation arrangement is greater than the amount certified on Form 4170, Direct Transfer/Rollover Authorization Form, the amount in excess of the cost of the service shall be returned:

(1) First, to the employee from funds, if any, paid by the employee toward the service purchase; or

(2) Second, to the financial institution responsible for the employee’s account in the retirement plan or deferred compensation arrangement.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes procedures for the acceptance and processing of trustee to trustee transfers and rollovers.

(b) The necessity of this administrative regulation: This regulation is necessary to administer rollovers pursuant to KRS 61.552, 26 USC sec. 401(a)(31), sec. 402(c), as amended by the federal Economic Growth and Tax Relief Reconciliation Act of 2001.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides for rollovers and transfers consistent with the Internal Revenue Code.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will permit the Kentucky Retirement Systems to accept funds from 457 and 403(b) plans after the December 31, 2001 effective date of those provisions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment will give the employee ten days to pay the balance for the purchase of service credit made by the rollover of funds where the rollover did not cover the full cost to purchase the service. Prior to the amendment, the employee had only five days to
pay the balance for service credit purchase.

(c) The necessity of the amendment to this administrative regulation: The amendment was necessary to alleviate an undue burden on the employee to make payment on the balance for service credit purchase made by rollover in five days.

(d) How the amendment conforms to the content of the authorizing statutes: The authorizing statutes allow for the payment of service credit by rollover, and by allowing the employee an additional five days to make the payment for any balance of service purchase, the regulation encourages the purchase of service credit by means of rollover.

(e) How the amendment will assist in the effective administration of the statute: The amendment will ease undue hardship on employees to pay the balance in ten days, instead of five days, and this will cause the employee to be able to purchase all eligible service credit and will also lessen an administrative burden on the retirement systems to not have to recalculate service credit for employees who could not meet the restrictive five day deadline for paying the balance of service credit purchase.

(f) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Employees with funds in 457 or 403(b) plans will be able to use those funds to purchase service credit.

(g) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The employees with funds in 457 or 403(b) plans will be able to use those funds to purchase service credit, and will be able to pay the balance for any unfunded service purchase within ten days, instead of the more restrictive five days.

(h) Provide an estimate of how much it will cost to implement this administrative regulation:

- (a) Initially: There is no initial cost to implement this regulation.
- (b) On a continuing basis: There is no continuing cost.

(i) What is the source of the funding to be used for the implementation and enforcement of the administrative regulation: The administrative expenses of the Kentucky Retirement Systems are paid from the retirement allowance account and funded through employee contributions.

(j) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No fees are required by this amendment.

(k) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees are required by this amendment.

(l) TIERING: Is tiering applied: Tiering was not applied. Rollover and transfer provisions are administered in the same manner for all participating employees.

**TOURISM DEVELOPMENT CABINET**

**Department of Fish and Wildlife Resources**

**(Amendment)**

**301 KAR 1:015. Boats and motor restrictions.**

RELATES TO: KRS 150.010, 150.090, 150.620, 150.625, 150.990, 235.280, 235.990

STATUTORY AUTHORITY: KRS 235.280

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable and safe use of all waters of this state. KRS 150.620 and 150.625 authorize the department to promulgate administrative regulations governing lands and waters it has acquired. This administrative regulation is necessary to limit the size of boats and motors on small lakes for safety reasons and to minimize interference with other users.

Section 1. (1) Except as otherwise specified in this section, a person shall not operate on the lakes listed in this administrative regulation:

- (A) A houseboat;
- (B) A monohull boat, with a centerline length exceeding eighteen (18) feet, six (6) inches;
- (C) A pontoon boat with a float or deck exceeding twenty-two (22) feet;
- (D) A boat motor without an underwater exhaust; or
- (E) Except in a designated skiing zone, a boat faster than idle speed when passing a boat with an occupant actively engaged in fishing.

- (2) A person shall not operate:
- (a) A monohull boat with a centerline length exceeding twenty-two (22) feet on:
  1. Guist Creek Lake;
  2. Lake Malone; or
  3. Cedar Creek Lake.
- (b) A pontoon boat with a float or deck exceeding thirty (30) feet on:
  1. Lake Malone;
  2. Lake Beasheer; or
  3. Cedar Creek Lake.

- (3) Length restrictions in this section shall not apply to a canoe.
- (4) No person shall operate a personal water craft as defined in KRS 253.010 on Cedar Creek Lake.

Section 2. A person shall not operate an electric or an internal combustion boat motor on:

- (1) Lake Chumley, Lincoln County;
- (2) Dennie Gooch Lake, Pulaski County;
- (3) Martin County Lake, Martin County; and
- (4) Kingdom Come Lake, Harlan County.

Section 3. A person shall not operate an internal combustion boat motor on:

- (1) Carter Caves Lake, Carter County;
- (2) Spurlington Lake, Taylor County;
- (3) Marion County Lake, Marion County;
- (4) Lake Washburn, Ohio County;
- (5) Bert Combs Lake, Clay County;
- (6) McKeeley Lake, Jefferson County;
- (7) Lake Mauzy, Union County;
- (8) Carpenter Lake and Kingfisher Lakes, Daviess County;
- (9) Metcalfe County Lake, Metcalfe County;
- (10) Briggs Lake, Logan County;
- (11) Big Turner Lake, Ballard County;
- (12) Little Turner Lake, Ballard County;
- (13) Shelby Lake, Ballard County;
- (14) Mitchell Lake, Ballard County;
- (15) Happy Hollow Lake, Ballard County;
- (16) Burnt Slough, Ballard County;
- (17) Butler, Ballard County;
- (18) Sandy Slough, Ballard County;
- (19) Long Pond, Ballard County;
- (20) Cross Slough, Ballard County;
- (21) Little Green Sea, Ballard County;
- (22) Burnt Pond, Ballard County;
- (23) Arrowhead Slough, Ballard County;
- (24) Deep Slough, Ballard County;
- (25) Beaver Dam Slough, Ballard County;
- (26) Cypress Slough, Ballard County;
- (27) Twin Pockets Slough, Ballard County;
- (28) Lake Reba, Madison County;
- (29) Lincoln Homestead Lake, Washington County;
- (30) Goose, Muhlenberg County;
- (31) Island, Ohio County;
- (32) South, Ohio County;
- (33) Lebanon City Lake, Marion County; or
- (34) Mill Creek Lake, Wolfe County.

Section 4. On the following lakes, a person shall not operate a boat motor larger than ten (10) horsepower:

- (1) Shanty Hollow Lake, Warren County;
- (2) Bullock Pen Lake, Grant County;
- (3) Boltz Lake [Boltz], Grant County;
- (4) Kincaid Lake, Pendleton County;
- (5) Elmer Davis Lake, Owen County;
- (6) Beaver Creek Lake, Anderson County.
Section 5. A person shall not operate:
(1) A boat motor larger than 150 horsepower on Lake Beshear, Cedar Creek Lake, or Lake Malone.
(2) A motorboat faster than idle speed on:
   (a) Carnico Lake, Nicholas County;
   (b) Greenbo Lake, Greenup County;
   (c) [illegible] Pan Bowl Lake, Breathitt County; or
   (d) Wilgreen Lake, Madison County.

Section 6. A person operating a boat motor larger than ten (10) horsepower shall not exceed idle speed at any time on the following lakes:
(1) Herb Smith/Cranks Creek Lake; and
(2) Martins Fork Lake.

C. THOMAS BENNERT, Commissioner
DR. JAMES RICH, Chairman
ANN R. LATTA, Secretary
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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: Ellen Benzing, Attorney, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, fax (502) 564-0505.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ellen F. Benzing
(1) Provide a brief summary of:
   (a) What the administrative regulation does: Establishes the size limits of boats and motors that may be used on small lakes for safety reasons and for minimizing interference with other users.
   (b) The necessity of the administrative regulation: To ensure safe and fair use of the waters of the Commonwealth.
   (c) How does this administrative regulation conform with the authorizing statute: KRS 235.280 authorizes the department to promulgate administrative regulations necessary to carry out the purposes of KRS Chapter 235. This administrative regulation is necessary to establish the motor size limits, types of boats and types of motors on the waters of the Commonwealth.
   (d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of KRS 235.280 by limiting boat use on lakes to allow equitable use by all users including anglers and swimmers.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change the existing administrative regulation: The amendment provides that motor boats may only operate at idle speed on Carnico Lake in Nicholas county.
   (b) The necessity of the amendment to this administrative regulation: To help ensure anglers are not disturbed by motorboats on fishing lakes.
   (c) How does the amendment conform to the authorizing statutes: See (c) above.
   (d) How the amendment will assist in the effective administration of the statutes: See (d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Persons who use the waters of the Commonwealth for recreation.

(4) Provide an assessment of how the above groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The boat owners and lake users will be minimally affected. This amendment will provide for more boat usage on the lakes.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no cost associated with the implementation of this administrative regulation.

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.

(b) On a continuing basis: There will be no additional cost to the agency.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The current budget of the Department of Fish and Wildlife Resources Division of Law Enforcement already oversees the enforcement of administrative regulations including water patrol.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No fees.

(9) TIERING: Is tiering applied? Tiering was not used because all boats with 10 horsepower will be treated the same.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 1:201. Fishing limits.

RELATES TO: KRS 150.470, 150.990(2)
STATUTORY AUTHORITY: KRS 150.025(1), 150.470
NEECESSITY: FUNCTION AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to protect fish species from overharvest, allocate their harvest, maintain ecological balance and improve fishing. This administrative regulation establishes fish limit size limit, daily catch limit, and field possession limit for fishing.

Section 1. Definitions. (1) "Artificial bait" means a lure or fly:
   (a) Made of:
      1. Wood;
      2. Metal;
      3. Plastic;
      4. Feathers;
      5. Preserved pork rind; or
      6. A similar inert material; and
   (b) Not having attached:
      1. An insect;
      2. Minnow;
      3. Fish egg;
      4. A worm;
      5. Corn;
      6. Cheese;
      7. Cut bait; or
      8. Similar organic bait substance.
   (2) "Daily limit" or "creel limit" means the maximum number of a particular species or group of species a person may legally take in one (1) day or have in possession while fishing.
   (3) "Daylight hours" are defined by KRS 150.010(5).
   (4) "Kentucky bass" means the following with a patch of teeth on its tongue:
      (a) Largemouth bass;
      (b) Kentucky bass; or
      (c) Coosa bass.
   (5) "Lake" means impounded waters from the dam upstream to the first riffle on the main stem river and tributary streams.
   (6) "Length" means the distance from the tip of a fish's lower jaw.
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to the tip of its tail, measured with the fish laid flat on a ruler and its tail lobes squeezed together.

(7) “Possession limit” means the maximum number of fish a person may hold in the field after two (2) or more days of fishing.

(8) “Release” means to return a fish:
(a) In the best possible physical condition;
(b) Immediately after removing the hook;
(c) To the water from which it was taken; and
(d) In a place where the fish's immediate escape shall not be prevented.

(9) “Single hook” means a hook with no more than one (1) point.

(10) “Size limit” means the minimum legal length of a fish.

(11) “Slot limit” means that a person:
(a) Shall release fish within a specified minimum and maximum size; and
(b) May keep fish above and below the protected size range.

Section 2. Statewide Size and Creel Limits. (1) Except as specified in Section 4 of this administrative regulation or by 301 KAR 1:180, a person fishing in public or private waters shall observe the following daily possession and size limits.

(a) Black bass: daily limit, six (6); possession limit, twelve (12).

(1) Largemouth bass and [a] smallmouth bass [or Coosa bass]: size limit, twelve (12) inches.

(2) Kentucky bass and Coosa bass: no size limit.

(b) Rock bass: daily limit, fifteen (15); possession limit, thirty (30); no size limit.

(c) Walleye and its hybrids: daily limit, ten (10); possession limit, twenty (20); size limit, fifteen (15) inches.

(d) Sauger: daily limit, ten (10); possession limit, twenty (20); no size limit.

(e) Muskellunge: daily and possession limit, two (2); size limit, thirty (30) inches.

(f) Chain pickerel: daily limit, five (5); possession limit, ten (10); no size limit.

(g) White bass and yellow bass, singly or in combination: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(h) Striped bass and its hybrids: daily and possession limit, five (5); size limit, fifteen (15) inches.

(i) Crappie: daily limit, thirty (30); possession limit, sixty (60); no size limit.

(j) Rainbow trout and brown trout, singly or in combination: daily and possession limit, eight (8), no more than three (3) of which shall be brown trout; no size limit on rainbow trout; twelve (12) inch size limit on brown trout.

(k) Brook trout: daily and possession limit, two (2); size limit, ten (10) inches.

(2) A person shall release grass carp caught from a lake owned or managed by the department.

(3) A person shall release fish:
(a) Below the minimum size limits established by this administrative regulation;
(b) Within a protected slot limit established by this administrative regulation; or
(c) Of a particular species, if a person has in his possession the daily limit for that species established by this administrative regulation.

(4) A person shall not remove any part of the head or tail of a fish for which there is a size or creel limit until he has completed fishing for the day and has left the water.

(5) A person who wishes to possess sport fish below the size limit or beyond the possession limit shall:
(a) Obtain the fish from a licensed fish propagator or other legal source; and
(b) Retain a receipt or other written proof that the fish were legally acquired.

(6) A person shall release trout unless he:
(a) Has a valid trout permit;
(b) Is exempted from trout permit requirements by KRS 150.17(3); or
(c) Is fishing in a licensed pay lake stocked with trout by the lake operator.

Section 3. Fishing Season. The fishing season shall be open year round.

Section 4. Exceptions to Statewide Administrative Regulations. A person fishing in the waters listed in this section shall observe the following special requirements. Except as specified in this section, all other provisions of this administrative regulation shall apply to these bodies of water.

(1) Bad Branch, Letcher County. A person shall not fish except with an artificial bait with a single hook.

(2) Bark Camp Creek, Breathitt County. From October 1 through March 31 a person shall:
(a) Not fish except with an artificial bait; and
(b) Release trout.

(3) Barkley Lake. A person shall:
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches;
(b) Crappie: size limit, ten (10) inches;
(c) Sauger: size limit, fourteen (14) inches.

(4) [44] Barren River Lake, including:
(a) Barren River to the Highway 100 bridge;
(b) Long Creek to the Highway 100 bridge;
(c) Beaver Creek to the Highway 1297 bridge;
(d) Skaggs Creek to the Mathews Mill Road bridge;
(e) Peter Creek to the Peter Creek Road bridge.

(5) [42] Barren River, Yellow bass, white bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit, no more than five (5) fish in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.

2. Crappie: size limit, nine (9) inches.

3. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches. Daily limit may include no more than one (1) and the possession limit no more than two (2) fish less than fifteen (15) inches.

(4) [66] Beaver Lake.
(a) Largemouth bass: size limit, fifteen (15) inches.
(b) A person shall not possess shad or use shad for bait.

(5) [66] Bert Combs Lake: a person shall not possess shad or use shad for bait.
(6) [47] Bolitz Lake: a person shall not possess shad or use shad for bait.

(7) [48] Briggs Lake: a person shall not possess shad or use shad for bait.
(8) [49] Buckhorn Lake.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(b) Muskellunge: size limit, forty (40) inches; daily and possession limit, one (1) fish.

(9) [49] Camico Lake: largemouth bass, size limit fifteen (15) inches.
(10) [44] Cane Creek in Laurel County. From October 1 through March 31, a person shall:
(a) Not fish except with an artificial bait; and
(b) Release trout.

(11) [44] Carpenter Lake: a person shall not possess shad or use shad for bait.
(12) [44] Carr Creek Lake.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(b) Crappie: size limit, nine (9) inches.
(13) [44] Carter Caves State Park Lake.
(a) Fishing shall be during daylight hours only.
(b) Largemouth bass: daily limit, three (3) fish; possession limit six (6) fish; size limit, fifteen (15) inches.
(c) A person shall not possess shad or use shad for bait.
(14) [44] Cave Run Lake.
(a) Largemouth bass: slot limit - a person may keep fish less than thirteen (13) inches or greater than sixteen (16) inches and shall release fish between thirteen (13) and sixteen (16) inches.
(b) Smallmouth bass: size limit, sixteen (16) inches.
(15) [44] Cedar Creek Lake.
(a) Largemouth bass: size limit, fifteen (15) inches; daily limit: three (3) fish.
(b) Crappie: size limit, nine (9) inches; daily limit: fifteen (15) fish.
(c) Bluegill and Redear sunfish (shellcracker): daily limit: thirty (30) fish, singly or combined.
(d) Channel catfish: daily limit: four (4) fish.
(e) A person shall not possess shad or use shad for bait.
(15) [440] Corinth Lake: a person shall not possess shad or use shad for bait.
(16) [442] Cumberland Lake.
(a) Largemouth: size limit, fifteen (15) inches.
(b) Smallmouth bass: size limit shall be eighteen (18) inches.
(c) Striped bass: size limit, twenty-four (24) inches; daily and possession limit, two (2) fish.
(d) Crappie: size limit, ten (10) inches.
(17) [446] Cumberland River downstream from Barkley Lake Dam.
(a) Striped bass: daily and possession limit, three (3).
(b) Sauger: size limit, fourteen (14) inches.
(18) [449] Cumberland River from Wolfe Creek Dam downstream to the Kentucky-Tennessee state line and tributaries. Brown trout: size limit, twenty (20) inches; creel limit, one (1).
(19) [450] Cypress AMAX (currently owned by Addington Enterprises) and Robinson Forest Wildlife Management Areas. On impounded waters of the areas:
(a) Largemouth bass: size limit, fifteen (15) inches; daily limit three (3); possession limit, six (6).
(b) Sunfish: daily limit, fifteen (15); possession limit, thirty (30).
(c) Channel catfish: daily and possession limit, four (4).
(d) A person shall not fish: 1. Except during daylight hours; or 2. On Starfire Lake between January 1 and May 31.
(20) [451] Dale Hollow Lake.
(a) Smallmouth bass: slot limit - a person shall release fish between sixteen (16) and twenty-one (21) inches. The daily limits shall not include more than one (1) fish less than sixteen (16) inches long and one (1) fish greater than twenty-one (21) inches long.
(b) Walleye and its hybrids: daily limit, five (5); size limit, sixteen (16) inches.
(c) Sauger: daily limit, ten (10); size limit, fourteen (14) inches.
(d) Muskelunge: daily limit, one (1).
(e) Rainbow trout and lake trout.
1. Daily limit, April 1 - October 31: seven (7), no more than two (2) of which may be lake trout. No size limit.
2. Daily limit, November 1 - March 31: two (2); size limit, twenty-two (22) inches.
(f) Largemouth bass: size limit, fifteen (15) inches;
(g) Black bass: aggregate daily limit, five (5), no more than two (2) of which shall be smallmouth bass.
(h) Crappie: Size limit, ten (10) inches; daily limit, fifteen (15).
(21) [452] Dewey Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(22) [454] Dix River for two (2) miles downstream from Harrington Lake Dam.
(a) A person shall not fish except with an artificial bait.
(b) Brown trout: size limit, fifteen (15) inches.
(23) [455] Dix River upstream from Harrington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
(24) [456] Dog Fork, Wolfe County. A person shall:
(a) Not fish except with an artificial bait with a single hook; and
(b) Release brook trout.
(25) [457] East Fork Indian Creek in Menifee County. From October 1 through March 31, a person shall:
(a) Not fish except with an artificial bait; and
(b) Release trout.
(26) [458] Elkhorn Creek downstream from the confluence of the North and South forks. Largemouth bass and smallmouth bass: slot limit - a person shall release fish between twelve (12) and sixteen (16) inches. The daily limit shall not include more than two (2) fish greater than sixteen (16) inches long.
(27) [459] Elmer Davis Lake.
(a) Largemouth bass: slot limit - a person shall release fish between twelve (12) and fifteen (15) inches.
(b) A person shall not possess shad or use shad for bait.
(28) [460] Fishtrap Lake.
(a) Largemouth bass or smallmouth bass: size limit, fifteen (15) inches.
(b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5); size limit, fifteen (15) inches.
(29) [461] Game Farm Lakes.
(a) A person shall not possess shad or use shad for bait.
(b) Upper Game Farm Lake:
1. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches; daily limit, three (3); possession limit, six (6); and
2. Channel catfish: daily limit, four (4); possession limit, eight (8).
(c) Lower Game Farm Lake:
1. A person thirteen (13) years or older shall not fish; and
2. Daily limit, three (3) fish of any species.
(30) [462] Golden Pond at the Visitors' Center at [ia] Land Between the Lakes. Channel catfish: daily limit, five (5) fish; possession limit, ten (10); size limit, fifteen (15) inches.
(32) [467] Grayson Lake.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(b) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, fifteen (15) inches, daily and possession limit, five (5) fish.
(33) [464] Greenbo Lake. A person shall not possess shad or use shad for bait.
(35) [466] Guist Creek Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily and possession limit, five (5), size limit, fifteen (15) inches.
(36) [467] Hennington Lake. White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, twenty (20); possession limit, forty (40); size limit: no more than five (5) in a daily limit or ten (10) fish in a possession limit shall be fifteen (15) inches or longer.
(38) [469] Kentucky Lake and the canal connecting Kentucky and Barkley lakes.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(b) Crappie: size limit, ten (10) inches.
(c) Sauger: size limit, fourteen (14) inches.
(d) Laurel River Lake.
(a) Largemouth bass: size limit, fifteen (15) inches.
(b) Smallmouth bass: size limit shall be eighteen (18) inches.
(39) [470] Lebanon City Lake (Fagan Branch). Largemouth bass and smallmouth bass: slot limit - a person shall release fish between twelve (12) and fifteen (15) inches.
(40) [471] Leary Lake.
(a) A person shall not fish except during daylight hours.
(b) Largemouth bass: daily limit, three (3); possession limit, six (6).
(c) Bluegill: daily limit, fifteen (15), possession limit, thirty (30).
(d) Channel catfish: daily limit, four (4); possession limit, eight (8).
(41) [472] Lincoln Homestead Lake.
(a) A person shall not fish except during daylight hours.
(b) Largemouth bass: daily limit, three (3); size limit, fifteen (15) inches.
(c) Channel catfish: daily limit, four (4); possession limit, eight (8).
(d) A person shall not possess shad or use shad for bait.
(42) [473] Lake Malone. Largemouth bass: slot limit - a person shall release fish between twelve (12) and fifteen (15) inches.
(43) [474] Marion County Lake.
(a) Largemouth bass: size limit, fifteen (15) inches.
(b) A person shall not possess shad or use shad for bait.
(44) [475] Maury Lake. Largemouth bass: no size limit.
(45) [476] McNeely Lake. A person shall not possess shad or use shad for bait.
(46) [477] Mill Creek Lake, in Powell County.
(a) Largemouth bass, size limit, fifteen (15) inches; daily limit, three (3); possession limit, six (6) fish.
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(b) A person shall not possess shad or use shad for bait.
(47) [649] Nolan River Lake, whose impoundment extends up Bacon Creek to Highway 178 and to Wheelers Mill Road Bridge on the Nolan River.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.
(b) Crappie: size limit, nine (9) inches.
(48) [660] Ohio River.
(a) Walleye, sauger and their hybrids: no size limit; daily limit, ten (10) fish, singly or in combination.
(b) White bass, yellow bass, striped bass and their hybrids: daily limit, thirty (30); no more than four (4) in a daily limit shall be fifteen (15) inches long or longer.
(51) Otter Creek in Meade County on the Fort Knox Reservation and Otter Creek Park. From October 1 through March 31, a person shall:
(a) Not fish except with an artificial bait; and
(b) Release trout.
(49) [652] Paintsville Lake. Largemouth bass and smallmouth bass: slot limit, twelve (12) to fifteen (15) inches.
(50) [653] Parched Corn Creek, Wolfe County. A person shall:
(a) Not fish except with an artificial bait with a single hook;
(b) Release brook trout.
(51) [654] Peabody Wildlife Management Area, for Goose Lake, Island Lake or South Lake:
(a) Largemouth bass: Size limit, fifteen (15) inches; daily limit, three (3); possession limit, six (6).
(b) Bluegill: daily and possession limit, fifteen (15).
(c) Redbreast sunfish: daily and possession limit, fifteen (15).
(d) Channel catfish: daily limit, four (4); possession limit, eight (8).
(e) Walleye: size limit, fifteen (15) inches; daily and possession limit, one (1).
(f) A person shall not:
1. Fish.
a. Except during daylight hours; and
b. From October 15 through March 15, or
2. Take frogs.
(52) [655] Pennyville Lake. Largemouth bass, size limit, twelve (12) to fifteen (15) inch protective slot limit.
(53) [656] Poor Fork and its tributaries in Letcher County downstream to the first crossing of Highway 932. A person shall:
(a) Not fish except with an artificial bait with a single hook; and
(b) Release brook trout.
(54) [657] Lake Reba.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches; daily limit for largemouth bass, three (3).
(b) A person shall not possess shad or use shad for bait.
(58) Rock Creek from the Bell Farm Bridge to the Tennessee state line. From October 1 through March 31, a person shall:
(a) Not fish except with an artificial bait; and
(b) Release trout.
(55) [658] Rough River Lake.
(a) Crappie: size limit, nine (9) inches.
(b) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches, except that the daily limit may contain one (1) and the possession limit two (2) bass under fifteen (15) inches.
(c) White bass: for size and creel limit purposes anglers shall consider fish of the Morone family with an unseparated, U-shaped rear tooth patch on the tongue to be white bass.
(d) Hybrid striped bass: for size and creel limit purposes anglers shall consider fish of the Morone family with a separated rear tooth patch on the tongue to be hybrid striped bass.
(56) [660] Shanty Hollow Lake.
(a) Largemouth bass: size limit, fifteen (15) inches.
(b) A person shall not possess shad or use shad for bait.
(57) [661] Shawnee Creek, Bell County, outside the Cumberland Gap National Park. A person shall:
(a) Not fish except with an artificial bait with a single hook; and
(b) Release brook trout.
(58) [662] Spurlington Lake. A person shall not possess shad or use shad for bait.
(59) [663] Sympsom Lake. Largemouth bass: size limit, fifteen (15) inches.
(60) [664] Taylorsville Lake, including the impounded waters of the lake to Dry Dock Road Bridge on the Salt River.
(a) Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.
(b) Crappie: daily limit, fifteen (15); possession limit, thirty (30); size limits, nine (9) inches.
(c) White bass, yellow bass, striped bass and their hybrids, singly or in combination: daily limit, ten (10); size limit, no more than five (5) in daily limit shall be fifteen (15) inches or longer.
(61) [665] Taylorsville Lake WMA ponds (as designated).
(a) Largemouth bass: size limit, fifteen (15) inches; daily limit one (1).
(b) Channel catfish: daily limit, four (4) fish.
(62) [666] Tennessee River downstream from Kentucky Lake Dam.
(a) Striped bass: daily and possession limit, three (3).
(b) Sauger: size limit, fourteen (14) inches.
(63) [667] Wolf Creek Federal Fish Hatchery. Rainbow trout: creel limit five (5) in the developed portion of Hatchery Creek from the galvanizer culvert/tille upstream to the hatchery discharge.
(64) [668] Wood Creek Lake.
(a) Crappie: size limit, nine (9) inches.
(b) Largemouth and smallmouth bass: size limit, fifteen (15) inches.
(65) [669] Yatesville Lake. Largemouth bass and smallmouth bass: size limit, fifteen (15) inches.

Section 5. Delayed Trout Harvest. (1) There shall be a delayed trout harvest October 1 - March 31 for the following streams:
(a) Bark Camp Creek in Whitley County;
(b) Cane Creek in Laurel County;
(c) Casey Creek in Trigg County;
(d) East Fork of Indian Creek in Menifee County;
(e) Left Fork of Beaver Creek in Floyd County from Highway 122 Bridge upstream to the headwater;
(f) Lick Fork in Simpson County;
(g) Otter Creek in Meade County on the Fort Knox Reservation and Otter Creek Park;
(h) Rock Creek from the Bell Farm Bridge to the Tennessee state line in McCreary County;
(i) Swift Camp Creek in Cliffy Creek Wilderness Area in Wolf County.
(2) A person shall use artificial bait and release trout.
(3) Swift Camp Creek in Cliffy Creek Wilderness Area in Wolf County.
(4) Casey Creek in Trigg County;
(5) Lick Fork in Simpson County; and
(6) Left Fork Beaver Creek in Floyd County from Highway 122 Bridge upstream to the headwater.

C. THOMAS BENNETT, Commissioner
DR. JAMES RICH, Chairman
ANN R. LATTA, Secretary
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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: Ellen Benzing, Attorney, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, fax (502) 564-0506.
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ellen F. Benzing

(1) Provide a brief summary of:
(a) How the administrative regulation does: Establishes the size limits of and daily possession limits for fish that can be taken from Kentucky waters.
(b) The necessity of the administrative regulation: To effectively manage the fish population of Kentucky.
(c) How does this administrative regulation conform with the authorizing statute: KRS 235.025(1) authorizes the department to promulgate administrative regulations necessary to establish fishing guidelines to protect fish species from overharvest. This administrative regulation is necessary to establish the motor size limits, types of boats, and types of motors on the waters of the Commonwealth.
(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of KRS 150.025(1) by limiting the number and size of fish that may be taken from Kentucky waters. This will ensure conservation of fish species.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: The amendment establishes a delayed trout harvest.
(b) The necessity of the amendment to this administrative regulation: To create a delayed trout season.
(c) How does the amendment conform to the authorizing statutes: See (c) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Persons who fish the waters of the Commonwealth.

(4) Provide an assessment of how the above groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The people who fish will be positively affected. This amendment will implement a 15 inch size limit on largemouth bass at Canico Lake and implement a daily and possession limit of 1 muskellunge on Buckhorn Lake.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no cost associated with the implementation of this administrative regulation.

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.
(b) On a continuing basis: There will be no additional cost to the agency.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The current budget of the Department of Fish and Wildlife Resources Division of Law Enforcement already oversees the enforcement of administrative regulations including water patrol.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No fees.

(9) TIERING: Is tiering applied? Tiering was not used because all people who fish the waters of Kentucky will be treated the same.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources

(1) Provide a brief summary of:
(a) How the administrative regulation does: Establishes deer and turkey hunting season frameworks on federal areas.

Section 1. General Requirements. (1) Unless otherwise stipulated in this administrative regulation, the provisions of 301 KAR 2:172 and 301 KAR 2:140 shall apply.
(2) Except on the Daniel Boone National Forest and the Big South Fork National River and Recreation Area, on the areas listed in this administrative regulation, a hunter shall:
(a) Obtain a permit from the area before hunting;
(b) Not hunt deer or turkey except on assigned hunting dates;
(c) Remain in assigned areas;
(d) Unless otherwise specified in this administrative regulation, tag deer with area tags issued on the area;
(e) Keep the area tag attached to the deer until the carcass is processed; and
(f) Check deer at a designated check station before leaving the area.

(3) If hunting is not precluded by other priorities, Land Between the Lakes, Fort Campbell, Fort Knox, Bluegrass Ordnance Depot Activity, Reelfoot National Wildlife Refuge, Clark's River National Wildlife Refuge, Ohio River Islands National Wildlife Refuge, the Daniel Boone National Forest, the Big South Fork National River and Recreation Area, and the West Kentucky National Guard Training Site may allow firearm or archery hunting for antlerless deer from January 1 through January 31.

(4) Use of tree stands. On a federal area, a person:
(a) Shall not use a nail, spike, screw-in device, wire or tree climber for attaching a tree stand or climbing a tree;
(b) May use a portable stand or climbing device that does not injure a tree;
(c) Shall not place a portable stand in a tree more than two (2) weeks before opening day, and shall remove it within one (1) week following the last day, of each hunting period;
(d) Shall plainly mark the portable stand with his name and address; and
(e) Shall not use an existing permanent tree stand.

Section 2. Land Between the Lakes. (1) A person shall not take more than:
(a) Two (2) deer during archery hunts, as stipulated by the USDA Forest Service; and
(b) One (1) deer during quota hunts.
(2) Turkey archery hunts: one (1) turkey of either sex during deer archery hunt.

(3) Quota hunters shall:
(a) Apply in advance at Land Between the Lakes; and
(b) Check in prior to hunting, as required by the USDA Forest Service.

(4) A person harvesting deer or turkey shall:
(a) Check the carcass as required by the USDA Forest Service;
(b) Not hunt deer or turkey with crossbows; and
(c) Not use bait, feed, minerals or other attractants.

Section 3. Fort Campbell. (1) Turkey, either sex:
(a) Deer archery hunters may take turkey;
(b) Fort Campbell may permit turkey firearm hunting on assigned areas and dates between October 15 and December 31; and
(c) Turkeys taken at Fort Campbell shall be bonus birds.
(2) White turkey:
(a) A person may take one (1) white turkey of either sex during open Fort Campbell hunting seasons.
(b) Statewide and post limits and tagging requirements shall not apply to white turkey.

Section 4. Reelfoot National Wildlife Refuge. (1) Bag limits. A person shall not take more than:
(a) Four (4) deer by archery, only two (2) of which shall be antlered; and
(b) Two (2) deer by firearms, only one (1) of which shall be antlered.
(2) Tagging and checking deer:
(a) A hunter shall tag deer with a tag issued by Reelfoot National
Wildlife Refuge.
(b) Quota hunters shall comply with the check-in requirements of Reelfoot National Wildlife Refuge.
(c) An archery hunter shall check harvested deer through the state telephone check system.

Section 5. Bluegrass Ordnance Depot Activity. A person shall not take an antlered deer whose outside antler spread is less than fifteen (15) inches.

Section 6. Fort Knox. A person shall not take an antlered deer whose outside antler spread is less than twelve (12) inches.

C. THOMAS BENNETT, Commissioner
DR. JAMES RICH, Chairman
ANN R. LATTAN, Secretary
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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.

Persons 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 by sending written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ellen Benzing, Attorney, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, fax (502) 564-0506.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ellen F. Benzing
(1) Provide a brief summary of:
(a) What the administrative regulation does: establishes the deer hunting procedures, seasons and legal equipment under which deer may be taken on federal areas.
(b) The necessity of the administrative regulation: To establish deer hunting limits for controlling the deer population on federal areas and establish guidelines for orderly and safe harvesting of deer on these public areas.
(c) How does this administrative regulation conform with the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing deer. KRS 150.620 authorizes the department to manage public lands for hunting and fishing. This administrative regulation establishes hunting season dates, permitted equipment use and check-in and check-out requirements for hunting on federal areas.
(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation will assist in effectively managing the deer populations on federal areas and ensure safe and orderly hunting practices.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: The amendment prohibits the use of bait, feed, minerals or other attractants for deer and turkey on the Land Between the Lakes Forest Service Land.
(b) The necessity of the amendment to this administrative regulation: To ensure effective deer management and safe and orderly hunting seasons on the federal areas.
(c) How does the amendment conform to the authorizing statutes: See (c) above.
(d) How the amendment will assist in the effective administration of the statutes: See (d) above.
(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Persons who hunt on federal areas.
(4) Provide an assessment of how the above groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The only impacted group affected by this administrative regulation is the people who wish to use federal areas for deer and turkey hunting.
(5) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no additional cost associated with the implementation of this administrative regulation.
(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.
(b) On a continuing basis: There will be no additional cost to the agency.
(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The current budget of the Department of Fish and Wildlife Resources Division of Wildlife already oversees the deer program and the Law Enforcement Division already oversees the enforcement of administrative regulations.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: It will not be necessary to increase a fee or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No fees.
(9) TIERING: Is tiering applied? Tiering was not used because all persons who hunt deer and turkey on federal areas are treated the same.

TOURISM DEVELOPMENT CABINET
Department for Fish and Wildlife Resources
(Amendment)

301 KAR 5:050. Purchasing licenses electronically.

RELATES TO: KRS 150.195, 150.225, 150.235
STATUTORY AUTHORITY: KRS 150.025(1), 150.195(1)
NECESSITY, FUNCTION AND CONFORMITY: KRS 150.195 requires the department to provide for the issuance of all licenses and permits. This administrative regulation enhances the current license system by enabling licensees to purchase licenses over the internet or the telephone.

Section 1. A person may remotely purchase a license or permit from the department by:
(1) Connecting through the internet or by telephone; and
(2) Providing the following information at the time the license is purchased:
(a) Full name;
(b) Complete mailing address;
(c) Date of birth;
(d) Driver's license or Social Security number;
(e) Telephone number or e-mail address;
(f) A valid Visa or Mastercard number and expiration date; and
(g) Paying a processing fee [equal to six (6) percent of the total cost of the license purchased].

Section 2. (1) The department shall not complete a transaction not approved by the credit card company.
(2) Upon completion of the license transaction, the department shall issue an authorization number to the license purchaser.
(3) The authorization number shall serve in lieu of the paper license. A person, while performing an act authorized by the license, shall carry upon his person and present upon request to a law enforcement officer:
(a) The authorization number; and
(b) Identification that has a picture and date of birth.
(4) A person using an authorization number in lieu of a deer or turkey permit shall:
(a) Before hunting, write his name, address and applicable authorization number on cards corresponding to the number big game, including deer or turkey, he is allowed to take during the ap-
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appropriate season;
(2) Immediately after taking an animal, write the date the animal was taken on the card;
(c) Attach the card to the carcass while it is being transported by vehicle or is out of the hunter's possession; and
(d) Complete any check-in procedure required for that species.

C. THOMAS BENNETT, Commissioner
DR. JAMES RICH, Chairman
ANN R. LATTA, Secretary
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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: Ellen Benziger, Attorney, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, fax (502) 564-0506.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ellen F. Benziger
(1) Provide a brief summary of:
(a) What the administrative regulation does: establishes the procedures for purchasing licenses by the Internet and telephone;
(b) The necessity of the administrative regulation: To establish making licenses more convenient;
(c) How does this administrative regulation conform with the authorizing statute: KRS 150.025(1) authorizes the department to promulgate administrative regulations governing hunting and fishing. KRS 150.195 authorizes the department to control the design, issuance, distribution and other matters relating to all licenses and permits issued by the department. This administrative regulation enables persons to purchase licenses electronically.
(d) How will this administrative regulation assist in the effective administration of the statutes: This administrative regulation will assist in the sale of hunting and fishing licenses.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: The amendment deletes the requirement of showing a driver's license and the processing fee.
(b) The necessity of the amendment to this administrative regulation: To make the department's sales system compatible with other state agencies' databases.
(c) How does the amendment conform to the authorizing statutes: See (c) above.
(d) How the amendment will assist in the effective administration of the statutes: See (d) above.
(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Persons who purchase hunting and fishing licenses.
(4) Provide an assessment of how the above groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Persons will not have to give their driver's license number for purchasing a license. However, the requirement of providing their social security number remains. This amendment should have no impact upon persons applying for licenses.
(5) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no cost associated with the implementation of this administrative regulation.

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.
(b) On a continuing basis: There will be no additional cost to the agency.
(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation. The current budget of the Department of Fish and Wildlife Resources Division of Licensing already oversees the licensing program.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase a fee or funding to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No fees.
(9) TIERING: Is tiering applied? Tiering was not used because all persons apply for licenses or are license vendors are treated the same.

TOURISM DEVELOPMENT CABINET
Department of Fish and Wildlife Resources (Amendment)

301 KAR 6:040. Zoning or marking of waterways.

RELATES TO: KRS 235.285, 235.310, 235.315, [Chapter 235], 33 CFR 1, Subpart 66.10-1
STATUTORY AUTHORITY: KRS 235.280, [235.320], 33 CFR 1, Subpart 66.10

NECESSITY, FUNCTION, AND CONFORMITY: KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of Kentucky waters. This administrative regulation establishes the methods used to mark waterways in conformity with 33 CFR 1, subpart 66.10-1 and restricts certain boating activities on some Kentucky waters. He makes the marking of Kentucky waterways conform to national standards and to restrict certain boating activities on some bodies of water. This administrative regulation contains the substance of 402 KAR 4:180 and 4:190. The administrative transfer of the Division of Water Patrol necessitates that existing administrative regulations be repealed by the Department of Natural Resources and reenacted by the Department of Fish and Wildlife Resources. Changes in format and wording were made to reflect the current requirements of KRS Chapter 13A. The only substantive change reflected in this administrative regulation is to establish an idle speed zone between actual sunset and sunrise in the Ohio River adjacent to downtown Cincinnati, Ohio.

Section 1. Definition. "Recreational vessel" means a vessel that is not documented as commercial by the U.S. Coast Guard.

Section 2. Persons shall not zone, or place buoys or signs:
(1) On nonnavigable waters without first obtaining written approval from the department.
(2) On navigable waters without first obtaining written approval from the department with concurrence by:
(a) The United States Coast Guard; and
(b) The United States Army Corps of Engineers; or
(c) The Tennessee Valley Authority.

Section 2. Persons shall not moor a vessel to a buoy or navigational aid not specifically designated as a mooring device.

Section 3. Zoned Waterways. (1) On Herrington Lake, persons shall not zone, or place buoys or: (a) Ski except along the main lake channel. (b) Operate motorboats at greater than idle speed in inlets. (2) Persons shall not ski on the Big Sandy River. (3) Between the Seco Street Bridge and McAlpine Dam on the Ohio River, persons:
(a) Shall not operate recreational vessels except: 1. To look through McAlpine Dam; or 2. To dock at the Louisville Municipal Wharf.
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section 4, 33 CFR 1, Subpart 66.10-5 to 66.10-45, governing the uniform placement and characteristics of navigational and regulatory markers, is adopted without change.

C. THOMAS BENNETT, Commissioner
DR. JAMES RICH, Chairman
ANN R. LATTA, Secretary
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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 and any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless 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: Ellen Benzinger, Attorney, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601, (502) 564-3400, fax (502) 564-0508.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Ellen F. Benzinger
(1) Provide a brief summary of:
(a) What the administrative regulation does: establishes the marking of waterways and establishes idle-speed zones.
(b) The necessity of the administrative regulation: To ensure boating safety on Kentucky's waterways.
(c) How does this administrative regulation conform to the authorizing statute: KRS 235.280 authorizes the department to promulgate administrative regulations to govern the fair, reasonable, equitable, and safe use of all waters.
(d) How will this administrative regulation assist in the effective administration of the statutes: KRS Chapter 235 establishes the boating laws in Kentucky. KRS 235.285-235.330 deals with safe boating operation. This administrative regulation will further carry out the purposes of KRS Chapter 235 by establishing the procedures for marking waterways for use and creating idle-speed zones.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change the existing administrative regulation: The amendment will create an idle speed zone between the Brent Spence Bridge and the Daniel Carter Beard Bridge on the Ohio River.
(b) The necessity of the amendment to this administrative regulation: To alleviate congestion and prohibit skiing in this area where barges operate and safety is a consideration.
(c) How does the amendment conform to the authorizing statutes: See (c) and (d) above.
(d) How the amendment will assist in the effective administration of the statutes: See (d) above.

(3) List the type and number of individuals, businesses, organizations or state and local governments that will be affected: Recreational boaters who use the Ohio River between the Brent Spence Bridge and the Daniel Carter Beard Bridge.

(4) Provide an estimate of how much it will cost to implement this administrative regulation: There will be no cost associated with the implementation of this administrative regulation.

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation.
(b) On a continuing basis: There will be no additional cost to the agency.

(6) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The current budget of the Department of Fish and Wildlife Resources Division of Law Enforcement already oversees the enforcement of administrative regulations.

(7) Provide an estimate of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. It will not be necessary to increase a fee or funding to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees directly or indirectly increases any fees: No fees.

(9) TIERING: Is tiering applied? Tiering was not used. All recreational boaters who use the area between the Brent Spence Bridge and the Daniel Carter Beard Bridge on the Ohio River will be treated the same.

DEPARTMENT OF AGRICULTURE
Division of Animal Health
(Amendment)

302 KAR 20:040. Entry into Kentucky.

RELATES TO: KRS Chapter 257, 9 CFR parts 77, 78
STATUTORY AUTHORITY: KRS 257.030
NECESSITY, FUNCTION, AND CONFORMITY: To establish health requirements for entry, including entry for sales or exhibition, for livestock and animals into Kentucky.

Section 1. General Provisions. (1) All animals shall be accompanied by a Certificate of Veterinary Inspection unless otherwise provided in this administrative regulation.
(2)(a) An entry [A] permit may be obtained by calling (502) 564-3956, Monday through Friday, 8 a.m. through 4:30 p.m.
(b) Requests for entry permits made after 4:30 p.m., Monday through Friday, and on weekends and holidays shall be telephonically recorded.
(c) Entry permits requested pursuant to paragraph (b) of this subsection shall not be issued for certain species designated by the State Veterinarian, [chief livestock health official].
(d) Permit numbers obtained pursuant to this subsection shall be recorded on the Certificate of Veterinary Inspection.
(3) All required tests [testing] shall be conducted by a state-approved laboratory.
(4) A Certificate of Veterinary Inspection shall be void thirty (30) days after date of issuance for entry into Kentucky, except as noted.

Section 2. Cattle. (1) General requirements.
(a) A permit shall be required prior to entry for all cattle except
steers, [and] spayed heifers, and cattle presented for exhibition only. Permits shall be recorded on Certificate of Veterinary Inspection.

(b) Cattle moving directly from a farm of origin may enter an approved state-federal livestock market in Kentucky without an entry permit or Certificate of Veterinary Inspection as described in 302 KAR 20:070.

(c) If animals are from a tuberculosis accredited or a brucellosis certified herd, Certificate of Veterinary Inspection shall document herd accreditation and herd certification number with date of last herd test for tuberculosis and brucellosis.

(2) Specific diseases.

(a) Brucellosis. Import requirements for cattle and bison shall comply with provisions of 9 CFR Part 78, [originating in Class 3A or Class 3B free state or area.]

1. Sexually intact bulls, twelve (12) months of age or older shall be negative to an official brucellosis test within thirty (30) days prior to entry unless the cattle:

a. Originate directly from a brucellosis certified free herd;

b. Are officially certified calves of the dairy breed, less than twenty (20) months of age;

c. Are officially certified calves of the beef breed, less than twenty-four (24) months of age; or

d. Are officially certified calves of the beef breed, less than eighteen (18) months of age designated for feeding purposes.

2. Division of "feeder" heifers for use as breeding animals without meeting applicable test requirements shall be a violation of this administrative regulation.

3. Heavy springers and cows postpartum shall be test eligible regardless of age.

4. Heifers for exhibition in carcass classes shall be officially identified but not required to be brucellosis tested if accompanied by a certificate of veterinary inspection.

5. Bison shall meet the same requirements as cattle.

(b) Tuberculosis. Import requirements for cattle and bison shall comply with provisions of 9 CFR Part 77.

1. Cattle: six (6) months of age or older for dairy, breeding or exhibition purposes shall be negative to an official tuberculosis test within sixty (60) days prior to date of entry, unless exempted by one of the following:

a. The cattle originate directly from a tuberculosis accredited free herd; or

b. The cattle originate directly from a tuberculosis eradicated free state; or

c. Unweaned nursing calves accompanied by their dam shall be officially identified but shall not be required to be tuberculosis tested unless they are offered for sale individually.

2. Cattle classified as suspects or cattle originating from a quarantined herd shall not be imported.

3. Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

4. Bison: six (6) months of age or older shall be negative to an approved tuberculosis test within sixty (60) days prior to entry, unless required by the chief livestock health official.

5. Feeder cattle from a modified accredited state or area are exempt from tuberculosis testing requirements unless required by the chief livestock health official.

6. Steers and heifers for carcass classes shall be officially identified but shall not be required to be tuberculosis tested if originated from an accredited herd or from a tuberculosis free state.

(3) Other disease requirements.

(a) Scabies. [No] Cattle affected with or exposed to scabies or from an area quarantined because of scabies shall not be eligible for import to Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the State Veterinarian [chief livestock health official] or his authorized representative.

(b) Ticks. [No] Cattle infested with ticks (Margrrophus Annulatus) or exposed to tick infestation shall not be eligible for import into Kentucky for any purpose.

(c) [No] Cattle from a state-federal tie quarantined area shall not be eligible for import into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the State Veterinarian [chief livestock health official] or his authorized representative.

(d) Cattle infected with warts, ringworm, or any contagious, infectious or communicable disease are not eligible for entry.

(4) Other movements. Slaughter cattle. Cattle consigned for immediate slaughter may enter Kentucky without an official test for brucellosis or tuberculosis provided such cattle are consigned for immediate slaughter to a recognized slaughter establishment under state, federal, or municipal inspection or to an approved state-federal stockyard or federal stockyard for reconsignment to a recognized slaughter establishment. Animals diverted or route shall be in violation of this administrative regulation.

(5) Exhibition. All cattle shall be in compliance with requirements noted above and shall be accompanied with a Certificate of Veterinary Inspection issued within thirty (30) days prior to entry.

Section 3. Horses. (1) General requirements.

(a) All horses and other equidae entering Kentucky shall be accompanied by a Certificate of Veterinary Inspection except horses and other equidae purchased at an approved out-of-state horse sale. Certificate shall include all tests that have been conducted as well as all vaccinations including vaccination date and type of vaccine used.

(b) Attached to the Certificate of Veterinary Inspection shall be a copy of a certificate of report from a laboratory approved by the USDA showing the animals (animal[s]) to be negative to an AGID test or other USDA approved test for equine infectious anemia.

(c) Horses with evidence of a contagious, infectious, or communicable disease or exposure (theresa) shall not be eligible for entry.

(2) Specific diseases.

(a) Equine infectious anemia.

1. [No] All horses and other equidae, [six (6) months of age or older] except unweaned foals, accompanied by their dam, offered for sale shall be negative to an AGID test or other USDA approved test for equine infectious anemia within twelve (12) [six (6)] months prior to entry except horses and other equidae purchased at an out-of-state approved horse sale.

2. [No] Horses and other equidae purchased at an out-of-state approved horse sale and entering Kentucky:

[a] May move directly to a Kentucky approved auction market or entry into the market at a horse and other equidae shall have an EIA test conducted under the requirements of 302 KAR 2.055, Section 4(1); or

2. [e] A Kentucky licensed livestock dealer may purchase horses and other equidae and may move animals directly to his Kentucky premises. On entry into the premises animals shall be kept separate and apart from other animals on the premises. Horses may move to an approved horse sale within fourteen (14) days post entry [quarantine] or shall have an official EIA test conducted within fourteen (14) days post entry [quarantine]. The owner shall document the movement of horses (horse[s]) to an approved horse sale. If (and when) horses remain on the dealer's premises the dealer shall document that an official EIA test has been conducted within the required fourteen (14) days post entry [quarantine].

[a] An entry permit shall be required and shall be obtained prior to entry into Kentucky. The permit shall be obtained by calling (502) 564-3956, day or night.

4. [e] In lieu of a Certificate of Veterinary Inspection, a bill of laden or waybill shall accompany horses on entry. The bill of laden or waybill shall document entry permit, number of horses purchased, individual horse identification, sex, age, color, brand, tattoo (if available), market sale identification, and all other markings.

5. [f] All horses and equidae purchased from an out-of-state approved horse sale shall be inspected for entry by an agent of the Board of Agriculture.

6. [f] Horses may be placed under quarantine on entry. Quarantine shall be released when requirements of 302 KAR 20:040, Section 3(2)(a) have been met.

7. A Kentucky licensed livestock dealer, with an out-of-state...
address, shall move horses directly to a Kentucky approved horse sale. Movement to any other location within Kentucky shall require an official EIA certificate.

(b) A licensed livestock dealer may move horses that are origin out of state but movement shall be directly to a Kentucky approved horse sale.

9. (a) All horses and other equidae, [six (6) months of age or older], except unweaned foals accompanied by their dam, offered for entry for reasons other than sale (i.e., entry into fairgrounds, livestock showgrounds, public boarding stables, trail rides, racing, etc.) shall be negative to an AGID test or other USDA approved test for infectious anemia within twelve (12) months prior to entry.

10. A veterinarian's statement that inspection [examination] was made within the past thirty (30) days and [restrained] the animals did not show clinical [animals] to be free from symptoms of a contagious, infectious, or communicable disease or exposure thereto.

Section 4. Swine. (1) General requirements.

(a) An entry [A] permit shall be obtained prior to movement for all swine entering for breeding and feeding purposes.

(b) All swine shall be officially identified by a state-federal approved identification, except as noted in 302 KAR 20:220.

(c) If animals are from validated and qualified herds, the Certificate of Veterinary Inspection shall show the herd validation and qualification number with date of last herd test for brucellosis and pseudorabies.

(d) Garbage fed swine. Swine fed raw garbage shall not be imported for any purpose. Swine fed properly cooked garbage shall be eligible for import directly to a state or federal inspected slaughter establishment only.

(2) Specific diseases.

(a) [Garbage fed swine. Swine fed raw garbage shall not be imported for any purpose. Swine fed properly cooked garbage are eligible for import directly to a state or federal inspected slaughter establishment only.]

(b) Brucellosis. Import requirements for swine shall comply with provisions of 9 CFR Part 78. [All swine for breeding purposes six (6) months of age or older shall be negative to an official brucellosis test within thirty (30) days prior to entry or originate directly and immediately from a validated herd. No agglutination in dilution of 1:50 shall be accepted unless the individual or individuals to be imported are currently, or within the last six months, on an approved state quarantine plan. The entry shall be quarantined for no less than thirty (30) days and must show negative postmovement brucellosis test within thirty (30) days of entry.]

(c) [Pseudorabies. Testing is not required for [All swine imported for breeding, sale, or exhibition purposes when origin a Pseudorabies Stage 5 state or from a pseudorabies qualified free herd. Swine origin a Stage 2, 3, or 4 state, or a state with split-state status for pseudorabies shall have a negative pseudorabies test within thirty (30) days prior to entry. The Certificate of Veterinary Inspection shall document that swine did originate from a herd that has been free of pseudorabies for the past six (6) months. [shall be negative to an official blood test within thirty (30) days prior to entry or originate directly and immediately from a qualified herd, and origin of stage 5 state from a Stage 3 state shall be negative to an official blood test or a positive test is documented on Certificate."

(d) Scabies. All sheep or lambs for breeding or feeding purposes imported from a farm, ranch or premises shall be accompanied by a negative Certificate of Veterinary Inspection indicating such sheep and lambs originate directly and immediately from an official scabies eradicated free area.

(e) Sore mouth. Any sheep or lambs showing lesions of contagious erythema shall not be imported.

(f) [Sheep or lambs infected with a contagious, infectious, and communicable disease shall not be [are not] eligible for entry, sale, or exhibition purposes.

(2) Other movements. All [Healthy] sheep and lambs meeting requirements of the USDA Scrape Flock Certification Program may be imported into Kentucky for immediate slaughter when consigned directly to a recognized slaughter [slaughtering] center approved by the State Veterinarian [Chief Livestock Health Official] of Kentucky or to a public stockyard, a state-federal approved stockyard, concentration point, or public stockyard when reassignment from that point.
is to immediate slaughter.

(3) Exhibition. All sheep and lambs for exhibition shall be in compliance with requirements of this administrative regulation [noted above] as specified for sheep and in addition shall be identified individually by ear or flank tattoo, ear tag, or microchip. Such identification shall be entered on an approved Certificate of Veterinary Inspection.

Section 6. Goats. (1) Specific diseases.
(a) Scabies. All goats must originate from a scabies-free [scab-free] area.

(b) Scrapie. [Not] Goats from a herd under surveillance for scrapie or those that are known to have been exposed to or that are progeny shall not be imported.

(c) Brucellosis. Animals six (6) months of age or older shall have an official negative test within thirty (30) days prior to entry or originate directly and immediately from a brucellosis-free state or brucellosis-certified free herd.

(d) Tuberculosis. Animals six (6) months of age or older shall have an official negative tuberculin test within sixty (60) days prior to entry or originate directly and immediately from a tuberculosis-free state or an accredited tuberculosis-free herd.

(3) All goats. An entry permit shall be required for all goats for entry into Kentucky for sale only.

(2) Exhibition. All goats for exhibition shall be in compliance with requirements of this administrative regulation [noted above] as specified for goats with a Certificate of Veterinary Inspection issued within thirty (30) days prior to entry.

Section 7. Poultry. (1) General requirements. Poultry shall be individually identified with an official leg or wing band. The leg or wing band number shall be recorded on the Certificate of Veterinary Inspection which shall accompany the animals. All poultry shall comply with the requirements of 302 KAR 20.250, Avian influenza.

(2) Specific diseases. Salmonella pullorum. A negative agglutination test is required for all poultry within thirty (30) days prior to date of entry. The name of the laboratory conducting the test and test result shall be recorded on a Certificate of Veterinary Inspection which [and certificate] shall accompany poultry.

(3) Other movements. Chicks and hatching eggs shall originate from a flock under the National Poultry or National Turkey Improvement Plan.

(4) Exhibition. A Certificate of Veterinary Inspection shall accompany all poultry imported into Kentucky. All poultry shall be inspected prior to exhibition for evidence of any contagious, infectious, or communicable disease which [and certificate] shall accompany the poultry prior to exhibition for evidence of any contagious, infectious, or communicable disease of poultry. Evidence of any contagious, infectious, or communicable disease shall be justification for removal of [the elimination of said] poultry from exhibition or sale at no expense to the Commonwealth of Kentucky.


Section 9. Dogs and Cats. (1) All dogs over four (4) months of age for sale or exhibition shall be accompanied by a Certificate of Veterinary Inspection signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies, or from areas where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment when killed virus vaccine is used. Any vaccine approved for three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, Inc., [65CFR 148] qualifies the dog if it is one (1) year of age when vaccinated. [I provided] Show or performing dogs in [to be within] the state temporarily for a period of ten (10) days shall not be required to furnish a Certificate of Veterinary Inspection.

(2) All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Cabinet for Health Services, Department for Public Health. [65CFR 148, Kentucky Cabinet for Human Resources]
ministrative regulation. Certificate shall be valid thirty (30) days after issuance.

(b) An entry permit number may be obtained by calling 502-564-9556, Kentucky's automated permit system, available twenty-four (24) hours a day. The entry permit number shall be recorded on the Certificate of Veterinary Inspection.

(c) A transportation permit from the Kentucky Department of Fish and Wildlife Resources shall be required pursuant to 301 KAR 2:083.

(2) Specific diseases.

(a) Brucellosis.

1. Captive cervids six (6) months of age or older shall be negative to an official USDA-approved brucellosis test within thirty (30) days of entry; or

2. Originate directly and immediately from an accredited brucellosis free herd.

(b) Tuberculosis. The official tuberculosis tests shall be single cervical tuberculin test (SCT). Captive cervids six (6) months of age or older shall be negative to SCT test within sixty (60) days prior to entry, except when origin an accredited tuberculosis free herd.

(c) Cervids origin a tuberculosis quarantined state or area shall not be imported.

Section 14. Wild Free Ranging Cervids. (1) Wild free ranging cervids shall not be imported from a state quarantined for brucellosis or tuberculosis

(2) Wild free ranging cervids shall not be isolated prior to entry unless required by the state veterinarian.

(3) Wild free ranging cervids shall have a SCT test conducted within thirty (30) days prior to entry. Cervids that are included in a group that has a classified tuberculosis suspect or tuberculosis positive shall be disqualified from entry.

(4) Wild free ranging cervids six (6) months of age or older shall have an official USDA-approved brucellosis test within thirty (30) days of entry. Cervids that are included in a group that has a brucellosis suspect or brucellosis positive shall be disqualified from entry.

(5) Wild free ranging cervids shall have a statement recorded on their Certificate of Veterinary inspection that the cervids are healthy and are not known to have been exposed to any contagious, infectious, or communicable disease within the last twelve (12) months.

Section 15. All cervids entering Kentucky shall comply with provisions of 9 CFR 77.20 - 9 CFR 77.41.

Section 16. Federal Regulations Adopted Without Change. (1) The following federal regulations govern the subject matter of this administrative regulation and are hereby adopted without change.

(a) 9 CFR Part 77, Tuberculosis (1-1-02 Edition).

(b) 9 CFR Part 76, Brucellosis (1-1-02 Edition).

(2) The federal regulations are available for inspection and copying, during normal business hours of 8 a.m. to 4:30 p.m., Eastern Time, excluding state holidays, at the Division of Animal Health, 100 Fair Oaks, Frankfort, Kentucky 40601, or may be purchased from the U.S. Superintendent of Documents, Washington, D.C.

BILLY RAY SMITH, Commissioner
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation will be held on Monday, September 23, 2002, at 1 p.m., at the Department of Agriculture, Conference Room, Room 188, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2002, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made available unless a written request for a transcript is made. If you 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: Mark Farrow, General Counsel, Kentucky Department of Agriculture, Room 188, Capitol Annex, Frankfort, Kentucky 40601, Phone: (502) 564-5128, Fax: (502) 564-5016.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Don Notter, State Veterinarian

(1) Provide a brief summary of:

(a) What this administrative regulation does: Establishes health requirements for entry of livestock and other animals into Kentucky.

(b) The necessity of this administrative regulation: To prevent the introduction of disease.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute mandates the department to promulgate administrative regulations to carry out the provisions of KRS Chapter 257. This regulation establishes procedures needed for implementation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes requirements to be met before livestock and other animals can enter Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Requires that cervids be in compliance with established health requirements for entry into Kentucky.

(b) The necessity of the amendment to this administrative regulation: To prevent introduction of disease.

(c) How the amendment conforms to the content of the authorizing statutes: Statutes authorize regulations to carry out administration and enforcement of KRS Chapter 257.

(d) How the amendment will assist in the effective administration of these statutes: Establishes requirements and procedures necessary for administration.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All cervid producers in the state.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The participants will be required to conform to requirements of administrative regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: N/A

(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no fee increase to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fee.

(9) TIERING: Is tiering applied? Tiering was not used. This administrative regulation applies equally to all individuals and entities regulated by it.

DEPARTMENT OF AGRICULTURE
Division of Animal Health
(Amendment)


RELATES TO: KRS Chapter 257
STATUTORY AUTHORITY: KRS 257.030

NECESSITY, FUNCTION, AND CONFORMITY: To specify health requirements for the sale and exhibition of Kentucky livestock in Kentucky. Sale and exhibition requirements for out-of-state livestock are set out in [refer to] 302 KAR 20:040, Entry into Kentucky.

Section 1. General Requirements. (1)(a) All animals offered for
sale or exhibition in the Commonwealth shall be accompanied by a Certificate of Veterinary Inspection, unless otherwise provided in 302 KAR 20:070 and this administrative regulation.

(b) A Certificate of Veterinary Inspection shall be void:
1. 150 days after issuance for purposes of exhibition; and
2. Thirty (30) days after issuance for purposes of sale.

(2) All required testing shall be conducted by a state and federally approved laboratory.

Section 2. Cattle. (1) General requirements.
(a) If animals are from an accredited or certified herd, the Certificate of Veterinary Inspection shall document the accreditation and certification number with date of last herd test for tuberculosis and brucellosis.
(b) Blood tests for brucellosis shall be conducted by an approved state/federal laboratory.
(c) Cattle presented for change of ownership shall comply with 302 KAR 20:055.
(d) Cattle infected with worms, ringworm, or any contagious, infectious, or communicable disease shall not be eligible for sale or exhibition.

(2) Brucellosis.
(a) Sale and exhibition. A test shall not be required for sale or exhibition.
(b) The Certificate of Veterinary Inspection shall document the official animal identification.
1. Beef and dairy breeding animals twelve (12) months of age or older shall be negative to an official brucellosis test within thirty (30) days prior to change of ownership unless the cattle:
   a. Originated directly from a certified herd;
   b. Are official calfhood vaccinated of the dairy breed, less than twenty (20) months of age;
   c. Are official calfhood vaccinated of the beef breed less than twenty-four (24) months of age.
2. Heavy spangled and cow postpartum shall be test eligible regardless of age.
3. The seller shall:
   a. Be responsible for testing pursuant to subparagraph 1 of this paragraph; and
   b. Document the test until negative test results are obtained.

(c) Exhibition. Animals twelve (12) months of age or older shall be negative to an official test for brucellosis within 150 days prior to date of exhibition unless the cattle:
1. Originated directly from a certified herd;
2. Are official calfhood vaccinated of the dairy breed, less than twenty (20) months of age;
3. Are official calfhood vaccinated of the beef breed less than twenty-four (24) months of age.
2. Heavy spangled and cow postpartum shall be test eligible regardless of age.
3. Steers and spayed heifers shall be accompanied by a Certificate of Veterinary Inspection; and
4. The certificate shall show the individual identification of each animal.

(c) Brucellosis. Steers and spayed heifers that comply with this subparagraph shall be test eligible.

(3) Tuberculosis. [4a] Sale and exhibition. A test shall not be required for sale or exhibition.

(b) Exhibition. No test required.

Section 3. Performance Bull Testing Program. (44) All animals shall be accompanied by a Certificate of Veterinary Inspection.

(2) Brucellosis. Animals entered in this program shall, if twelve (12) months of age or older, be negative to an official brucellosis test within thirty (30) days prior to date of entry or originate directly and immediately from a certified herd.

(3) Tuberculosis. No test required.

Section 4. Horses; Specific Diseases; Equine Infectious Anemia.
(1) Sale. All horses and other equidae, except unweaned foals accompanied by their dam, six (6) months of age or older to be sold, offered for sale, traded, given away, leased, or moved for the purpose of change of ownership shall be negative to an AGID test or other USDA approved test for equine infectious anemia within the previous twelve (12) [six (6)] months. Equines which are offered for sale at auction markets without proof of a negative test for EIA within the previous twelve (12) [six (6)] months shall have a blood sample drawn at the market by the approved market veterinarian at the seller's expense.

(2) Exhibition. All horses and other equidae, except unweaned foals accompanied by their dam, six (6) months of age or older, offered for exhibition (i.e., entry into fairgrounds, livestock show grounds, public boarding stables, trail rides, racing, etc.) shall be negative to an AGID test or other USDA approved test for equine infectious anemia within the previous twelve (12) months.

Section 5. Swine. (1) General requirements.
(a) All swine shall have an official permanent identification.
(b) If animals originate from a validated and certified herd, the Certificate of Veterinary Inspection shall document herd validation and qualification number with date of last herd test for brucellosis and pseudorabies.

(2) Brucellosis. A test shall not be required for sale or exhibition.
(a) Sale. All swine, except barrows, six (6) months of age or older shall have a negative test within thirty (30) days prior to sale in accordance with the Uniform Methods and Rules published by APHIS, USDA, or originate directly and immediately from a validated herd.
(b) Exhibition. All swine, except barrows, six (6) months of age or older shall have a negative brucellosis test within 150 days prior to date of exhibition in accordance with the Uniform Methods and Rules published by APHIS, USDA, or originate directly and immediately from a validated herd.

(3) Pseudorabies. [4a] Sale or exhibition. A test shall not be required for sale or exhibition. The State Veterinarian may require an official pseudorabies blood test if the animal's status and premise or origin cannot be documented.

(a) Tuberculosis. For sale and exhibition. A test shall not be required for sale or exhibition. All swine shall be negative to an official pseudorabies blood test within thirty (30) days prior to sale or originate directly and immediately from a qualified herd.

(b) Tuberculosis. All swine shall be negative to an official pseudorabies blood test within 150 days prior to date of exhibition or originate directly and immediately from a terminal market hog show in which all swine proceed directly to slaughter are exempt from test requirements if no other livestock are present in the exhibition area. The exhibition area shall not be used for livestock exhibition purposes until properly cleaned and disinfected in accordance with state and federal requirements.

(c) Feeder pigs. All feeder pigs shall comply with 302 KAR 20:210, Pseudorabies surveillance.

Section 6. Sheep. (1) General requirements.
(a) All sheep and lambs shall be officially identified by ear or flank tattoo, official ear tag or by microchip and entered on a Certificate of Veterinary Inspection. For sale and exhibition in Kentucky, all breeding sheep shall originate from a consistent state meeting the requirements of USDA Voluntary Scrapie Flock Certification Program, and shall be identified with an official USDA Scrapie Program Identification tag. Market lambs under the age of eighteen (18) months shall be identified as documented on the Certificate of Veterinary Inspection.

(b) Sheep and lambs infected with any contagious, infectious or communicable disease are not eligible for sale or exhibition.

(2) Scrapie.
(a) Sale. 1. Sheep and [No sheep] lambs shall not be consigned that originate from a flock [or are known to be exposed to flocks] listed as a scrapie affected or surveillance flock by USDA Animal Plant Health Inspection Service, Veterinary Services [APHIS, USDA].

2. Flocks enrolled in the USDA Voluntary Scrapie Flock Certification Program [USDA] shall be eligible for sale. A Certificate of
Veterinary inspection shall document that the flock is in compliance with the USDA Voluntary Scrape Flock Certification (USDA-VSC) Program.  
(b) 4. Flocks enrolled in the USDA Voluntary Scrape Flock Certification Program (USDA-VSC) shall be eligible for exhibition. Certificate of Veterinary Inspection shall document that the flock is in compliance with the USDA Voluntary Scrape Flock Certification (USDA-VSC) Program.  
2. Sheep and lambs which originate from a flock listed as a surveillance flock by USDA APHIS VS may be eligible for exhibition only if the following conditions are met: 
   (a) Flock has been under surveillance for at least six months, or 
   (b) Flock has been on the USDA APHIS VS surveillance list for at least six months, and 
   (c) Flock has been under surveillance for at least six months. 
A statement by the veterinarian issuing the Certificate of Veterinary Inspection shall document this requirement for exhibition.  
3. Scabies. All sheep or lambs for breeding and feeding purposes consigned from a farm, ranch or premises shall be accompanied by a Certificate of Veterinary Inspection indicating that the sheep and lambs originated directly and immediately from an official scabies-eradicating flock. 
4. Sore mouth. Any sheep or lambs showing lesions of contagious exudative rhinitis shall not be eligible for exhibition or sale.

Section 7. Goats. (1) Scab: All goats shall [must] originate from a scabies-free [scab-free] area.  
(2) Scrapie. No goats from a herd under surveillance for scrapie that are known to have been exposed to or that are progeny of affected animals shall be entered for sale or exhibition.  
(3) Brucellosis. (a) Sale or exhibition. Testing shall not be required in the case of goats less than 12 months of age or goats that have not been exposed to or that are progeny of affected animals. 
(b) Exhibition. Goats six (6) months of age or older shall be tested for brucellosis within 30 days prior to sale or exhibition. 
(c) Tuberculosis. (a) Sale or exhibition. Goats shall be tested for tuberculosis within 120 days prior to sale or exhibition.  
(b) Exhibition. No test shall be required.

Section 8. Poultry. (1) General requirements. Poultry shall be individually identified with a leg tag or wing band. The official leg or wing band number shall be recorded on a Certificate of Veterinary Inspection which shall accompany poultry when presented for sale or exhibition. 
(2) Salmonella Pullorum. Sale and exhibition. Agglutination test within thirty (30) days prior to sale or within 150 days prior to date of exhibition. A Certificate of Veterinary Inspection shall accompany birds [birds] when presented for sale and exhibition and shall document laboratory conducting test and test date. 
(3) Chicks and hatching eggs shall originate from a flock under the National Poultry or National Turkey Improvement Plan.

Section 9. Dogs and Cats. (1) All dogs over four (4) months of age for sale or exhibition shall be accompanied by a Certificate of Veterinary Inspection signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies, or from an area where rabies is known to exist and that have not been exposed to rabies. 
All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment if killed virus vaccine is used. 
Any vaccine approved for a three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, Inc. [Amph], qualifies a dog if it is one year or older when vaccinated, provided, shown or performing at the show or within the state temporarily for a period of ten (10) days shall not be required to furnish a Certificate of Veterinary Inspection. 
(2) All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Kentucky Cabinet for Health Services, Department for Public Health [Department for Health Services, Kentucky Cabinet for Human Resources].

Section 10. Ratites (Ostrich, Emu, Rhea, Cassowary, Kiwi, etc.). (1) General requirements. 
(a) A permit number shall be obtained prior to the sale of any ratites in Kentucky by calling (502) 564-3956 weekdays between the hours of 8 a.m. - 4:30 p.m. prior to sale of any ratites in Kentucky. 
(b) The permit number shall appear on the Certificate of Veterinary Inspection accompanying the animals. 
(c) All ratites shall have a permanent official identification approved by a state or federal agency. 
(d) Any ratite with evidence of a contagious, infectious, or communicable disease shall not be eligible for sale or exhibition. 
(2) Specific diseases. 
(a) Ratites shall be negative to an official test for Avian Influenza within thirty (30) days prior to sale. 
(b) Ratites shall be negative to an official test for salmonella pullorum within thirty (30) days prior to sale. 
(c) A veterinarian's statement that ratites are not showing signs of any contagious, infectious, or communicable disease shall accompany the ratites.

Section 11. Camelids (Llamas, Alpacas, Camels, etc.). (1) Brucellosis. 
(a) Camelids six (6) months of age or older shall be negative to an official brucellosis test within 150 days prior to date of exhibition. 
(b) Camelids six (6) months of age or older shall be negative to an official brucellosis test within 30 days prior to date of sale. 
(c) Camelids not weaned, when accompanied by their dam, shall be identified and recorded on the dam's Certificate of Veterinary Inspection. 
(2) Tuberculosis. 
(a) Camelids six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days prior to sale or exhibition. 
(b) Camelids six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days prior to sale.
(2) Consignee's name, address, and state veterinarian issued permit number; and
(3) The permit number to ship, which may be obtained by telephone, issued by the State Veterinarian prior to movement.

BILLY RAY SMITH, Commissioner
APPROVED BY AGENCY: August 14, 2002
HILEWIT & LRC: August 14, 2002 at 2 p.m.

Hearing: A public hearing on this administrative regulation will be held on Monday, September 23 2002, at 1 p.m., at the Department of Agriculture, Conference Room, Room 108, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2002, of their intention to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made available unless a written request for a transcript is made. If you 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: Mark Farrow, General Counsel, Kentucky Department of Agriculture, Room 108, Capitol Annex, Frankfort, Kentucky 40601, Phone: (502) 584-5126, Fax: (502) 584-5016.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dr. Don Nutter, State Veterinarian.
(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes health requirements for the sale and exhibition of Kentucky livestock in Kentucky.
(b) The necessity of this administrative regulation: To prevent introduction or spread of disease.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute mandates the department to promulgate administrative regulations to carry out the provisions of KRS 251.601, 251.720, 251.725. This regulation establishes procedures needed for implementation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes health requirements for sale and exhibition of Kentucky livestock in Kentucky.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Requires that cervid producers follow established health requirements for sale and exhibition in Kentucky. Changes testing requirements for brucellosis and tuberculosis.
(b) The necessity of the amendment to this administrative regulation: To prevent introduction or spread of disease in cervids. Change testing requirements for brucellosis and tuberculosis.
(c) How the amendment conforms to the content of the authorizing statutes: Statutes authorize regulations to carry out administration and enforcement of KRS 251.601, 251.720. This regulation establishes health requirements for sale and exhibition in Kentucky.
(d) How the amendment will assist in the effective administration of the statutes: Requires that cervid producers be in compliance with established requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All cervid producers in Kentucky.

(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Cervid producers will be required to conform to guidelines.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: N/A
(b) On a continuing basis: N/A

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: N/A

If new, or by the change if it is an amendment: There is no fee increase to implement this regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fee.

(9) TIERING: Is tiering applied? Tiering was not used. This administrative regulation applies equally to all individuals and entities regulated by it.

DEPARTMENT OF AGRICULTURE
Division of Regulation and Inspection
(Amendment)

302 KAR 34:030. License and records required for each location.

RELATES TO: KRS 251.610, 251.640, 251.720
STATUTORY AUTHORITY: KRS 251.700

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation requires a grain dealer to have a license for each separate business location and establishes recordkeeping requirements for farmer-produced grain from point of origin to delivery. [Repeal specify that a grain dealer's license is required for each location if operated as a separate business establishment.]

Section 1. Definitions. (1) "Acknowledgement form" means a three (3) part document signed by a grain producer and a grain dealer, or an authorized agent, acknowledging that a load of grain was removed from a farm.
(2) "Off premises" means a site located away from a licensed grain facility.

Section 2. A person, firm, or corporation operating at more than one (1) location must have a license for each location if operated as separate business establishments. The license shall be posted in a conspicuous place in the office or appropriate section of the business establishment.

Section 3. (2) Each licensee shall keep in a safe place complete and correct records, which shall be available for inspection by the Kentucky Department of Agriculture, of all grain handled in each establishment which he is licensed to operate, which shall be available for inspection by the Department of Agriculture.

Section 4. Recordkeeping Requirements. (1) A grain dealer, licensed under KRS 251.720, shall issue to the grain producer a copy of an acknowledgement form, signed in triplicate by the grain dealer or his agent, at the time the grain is removed from the producer's farm by the grain dealer, or his agent. The acknowledgement form shall contain the name of the grain dealer, as shown on his grain dealer license, the grain dealer license number, telephone number of the grain dealer, the type of grain loaded, the date of loading, and the truck identification number. The acknowledgement form shall also contain the grain producer's name, address, phone number, and the location of the grain purchased.

(2) If grain quantity weight is based on destination weight or if the grain is weighed off premises, the net weight of the grain and the scale ticket number shall be included on the acknowledgement form.

Information contained on scale tickets generated off premises shall be transferred to the customer's settlement sheets. A copy of the off premises scale weight ticket shall be retained in the licensee's records. All records pertaining to the purchase of the grain shall reference the acknowledgment form number and the official weight scale ticket number.

(3) Acknowledgement forms, licensee scale tickets, settlement sheets, and purchase contracts shall be prenumbered sequentially. Copies shall be retained by the grain dealer and filed numerically. Settlement sheet information shall be cross-referenced for tracking and accountability. Any numbered document containing incorrect information shall be voided, but not destroyed. A copy of the voided document(s) and a record of any numbered document(s) lost shall be maintained by the grain dealer for review by the department, if requested.

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(4) All forms shall be completed in triplicate.
(5) All in-state official weights of grain shall be determined on scales approved by the Kentucky Department of Agriculture, Division of Regulation and Inspection. Out-of-state destination weights shall be determined by scales approved by the regulatory authority of the state of destination.
(6) A copy of a current dealer license shall be carried in each truck operated by the dealer. The copy shall be marked or stamped "COPY" and shall be made available upon request to the grain producer or the Kentucky Department of Agriculture.

BILLY RAY SMITH, Commissioner
APPROVED BY AGENCY: July 22, 2002
FILED WITH LRC: July 23, 2002 at noon
PUBLIC HEARING: A public hearing on this administrative regulation will be held on Monday, September 23, 2002, at 9 a.m., at the Department of Agriculture, Conference Room, Room 188, Capitol Annex, Frankfort, Kentucky 40601. Individuals interested in attending this hearing shall notify this agency in writing by Monday, September 16, 2002, 5 days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made available unless a written request for a transcript is made. If you 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: Mark Farrow, General Counsel, Kentucky Department of Agriculture, Room 188, Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-5126, fax 502 564-5016.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Allen Johnson
(1) Provide a brief summary of:
(a) What this administrative regulation does: Requires grain dealers to have a license for each business location and establishes recordkeeping requirements for farmer-produced grain from point of origin to delivery.
(b) The necessity of this administrative regulation: Same as (a).
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute mandates the department to promulgate administrative regulations to carry out the provisions of KRS 251.700. This regulation establishes procedures needed for implementation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation requires that all grain dealers have a license for each of their business locations and establishes recordkeeping requirements for farmer-produced grain from point of origin to delivery.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment establishes recordkeeping requirements for farmer-produced grain from point of origin to delivery.
(b) The necessity of the amendment to this administrative regulation: Same as (a).
(c) How the amendment conforms to the content of the authorizing statutes: Statutes authorize promulgation of administrative regulations to carry out administration and enforcement of KRS 251.700.
(d) How the amendment will assist in the effective administration of the statutes: Establishes recordkeeping requirements for farmer-produced grain from point of origin to delivery at market.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Grain producers, grain dealers, and their authorized agents.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The participants will be required to comply with requirements.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: N/A
(b) On a continuing basis: N/A
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no fee increase to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fee.
(9) TIERING: Is tiering applied? Tiering was not used. This administrative regulation applies equally to all individuals and entities regulated by it.

JUSTICE CABINET
Department of Corrections
Division of Adult Institutions
(Amendment)

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 cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Kentucky State Reformatory.

Section 1. Incorporation by Reference. (1) Kentucky State Reformatory policies and procedures August 13, 2002 [October 15, 2004], are incorporated by reference. Kentucky State Reformatory policies and procedures include:
KSR 01-00-09 Public Information and News Media Relations
KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-15 Cooperation and Coordination with Oldham County Courts
KSR 01-00-19 Personal Service Contract Personnel
KSR 02-00-01 Inmate Canteen
KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11 Inmate Personal Accounts
KSR 02-00-12 Institutional Funds and Issuance of Checks
KSR 04-00-02 Staff Training and Development
KSR 05-00-01 Officers' Daily Housing Security and Safety Log [Deleted 8/13/02]
KSR 05-00-02 Research Activities
KSR 05-00-03 Management Information Systems
KSR 06-00-01 Inmate Master File
KSR 06-00-03 Kentucky Open Records Law and Release of Psychological/Psychiatric Information
KSR 07-00-02 Institutiona Tower Room Regulations
KSR 07-00-06 Asbestos Abatement
KSR 07-00-07 Discharge Monitoring Report (DMR)
KSR 07-00-08 Control of Hazardous Energy (Lockout or Tagout)
KSR 07-00-09 Inventory Control of Underground Storage Tanks
KSR 08-00-07 Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08 Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery or Death
KSR 08-00-10 Hazardous Materials and Chemicals Safety Data Sheet

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KSR 09-00-21 Crime Scene Camera
KSR 09-00-23 Drug Abuse Testing
KSR 09-00-26 Centrally Located Institutional Perimeter
KSR 09-00-28 Restricted Areas
KSR 09-00-30 Parole Board
KSR 10-00-10 Special Management - Inmate Legal Access
[KSR 10-00-11 Unit D - Behavior Problem Control (Deleted 8/4/02)]
KSR 10-01-13 Unit D - Property Room Access (Deleted 8/13/02)
KSR 10-01-01 Special Management Unit Staff Allocation, Position Description, Staff Selection, Training and Evaluation
KSR 10-01-02 Segregation - General Operational Procedures
KSR 10-01-03 Special Management Unit - Inmate Tracking System and Records System
KSR 10-01-04 Special Management - Administrative Segregation
KSR 10-01-05 Special Management - Disciplinary Segregation
KSR 10-01-06 Special Management - Protective Custody
KSR 10-01-08 Special Management - Safekeepers and Pretrial Contract Hold Status Inmates
KSR 10-01-09 Special Management - Hold Ticket Inmates
KSR 10-01-13 Special Management - Property Room Access
KSR 10-02-01 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training, Time and Attendance
[KSR 10-02-02 Unit E Designated Staff Visits (Deleted 8/13/2002)]
[KRS 10-02-02 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: General Operating Procedures (Deleted 8/13/2002)]
KSR 10-02-05 Correctional Psychiatric Treatment Unit: Inmate Tracking System and Record System
KSR 10-02-08 Correctional Psychiatric Treatment Unit
KSR 11-00-01 Meal Planning and Procedure
[KSR 11-00-02 Special Diets (Deleted 8/13/2002)]
KSR 11-00-03 Food Service Inspections
KSR 11-00-04 Dining Room Rules and Dress Code for Inmates
KSR 11-00-06 Health Standards and Regulations for Food Service Employees
[KSR 11-00-07 Early Chow Line Access for Medically Designated Inmates (Deleted 8/13/2002)]
KSR 12-00-04 Inmate Summer Dress Regulations (Deleted 8/13/2002)
KSR 12-00-03 State Items Issued to Inmates
KSR 12-00-05 Sanitation Policy and Standards
KSR 12-00-07 Regulations for Inmate Barbershop
KSR 12-00-08 Treatment of Inmates with Body Lice
KSR 12-00-03 Medication for Inmates Leaving Institution Grounds (Amended 8/13/2002)
KSR 13-00-04 Medical and Dental Care
KSR 13-00-05 Medical Records
KSR 13-00-06 Institutional Laboratory Procedures
KSR 13-00-09 Institutional Pharmacy Procedures
KSR 13-00-10 Requirements for Medical Personnel
KSR 13-00-11 Health Evaluation
KSR 13-00-12 Vision Care/Optometry Services
KSR 13-00-14 Periodic Health Examinations for Inmates
KSR 13-00-15 Medical Alert System
[KSR 13-00-16 Suicide Prevention and Intervention Program (Deleted 8/13/2002)]
KSR 13-00-17 Special Care
KSR 13-00-02 Mental Health Services
KSR 13-00-02 Mentally Retarded Inmates
[KSR 13-00-02 Suicide Prevention and Intervention Program (Deleted 8/13/2002)]
[KSR 13-00-02 Department of Corrections Division of Mental Health's Intensive Services Transitional Program: Program Description (Deleted 8/13/2002)]
[KSR 13-00-02 Access to Intensive Services Programs Operated at Kentucky State Reformatory by the Division of Mental Health (Deleted 8/13/2002)]
KSR 14-00-01 Inmate Rights
KSR 14-00-02 Americans with Disabilities Act Inmate Program Access
KSR 15-00-02 Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 15-00-06 Inmate I.D. Cards
KSR 15-00-07 Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 15-00-08 Firehouse Living Area
KSR 15-00-09 Use of Tobacco Products for Inmates and Staff
KSR 15-00-10 Program Services for Special Housing Placement
KSR 15-01-01 Operational Procedures and Rules and Regulations for Unit A, B & C: Functions of Assigned Personnel
KSR 15-01-02 Operational Procedures and Rules and Regulations for Unit A, B & C: Staff Operational Procedures
KSR 15-01-03 Operational Procedures and Rules and Regulations for Unit A, B & C: Inmate Rules and Regulations
KSR 15-01-04 Operational Procedures and Rules and Regulations for Unit A, B & C: Institutional Medical and Fire Safety Service: Unit Application
KSR 15-01-05 Operational Procedures Rules and Regulations for Unit A, B & C: Institutional Inmate Services
KSR 15-01-06 Operational Procedures Rules and Regulations for Unit A, B & C: Inmate Honor Housing Criteria and Regulations
KSR 16-00-02 Inmate Correspondence and Mailroom Operations
KSR 16-00-03 Inmate Access to Telephones
KSR 16-01-01 Visiting Regulations
[KSR 16-01-03 Law Violation Procedures and Regulations (Deleted 8/13/2003)]
KSR 16-01-03 Night Visit Regulations
KSR 17-00-05 Assessment and Orientation, Consent Decree Notification to Inmates
KSR 17-00-07 Inmate Personal Property
KSR 17-00-08 Repair of Inmate Owned Appliances by Outside Dealers
KSR 18-00-04 IntraTransfers, Identification Department, Departure - Admission and Discharge
KSR 18-00-05 Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally III Classification
KSR 18-00-06 Kentucky State Reformatory Placement Committee
KSR 18-00-07 Inmate Work Incentives
KSR 18-00-02 On-the-Job (OJT) Training Program
KSR 19-00-03 Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01 Technical and Adult Basic Level Learning Center Programs
KSR 20-00-04 Criteria for Participation in A College Program
KSR 20-00-06 English as a Second Language
KSR 21-00-01 Legal Aide Office and Inmate Law Library Services and Supervision
KSR 21-00-02 Inmate Library Services
KSR 21-00-03 Library Services for Special Management Unit (SMU)
KSR 21-00-05 Library Services for Correctional Psychiatric Treatment Unit
KSR 22-00-03 Inmate Organizations
KSR 22-00-07 Inmate Magazine
KSR 22-00-06 Privilege Trips
KSR 23-00-02 Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03 Religious Programming
KSR 24-00-02 Substance Abuse and Chemical Dependency Program
KSR 25-00-01 Discharge of Inmates to Hospital or Nursing Home
KSR 25-00-01 Volunteer Services Program
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.
VOLUME 29, NUMBER 3—SEPTEMBER 1, 2002

VERTNER L. TAYLOR, Commissioner
APPROVED BY AGENCY: August 8, 2002
FILED WITH LRC: August 14, 2002 at 8 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, 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 September 10, 2002, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Jack Damron, Deputy General Counsel, 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 AND TIERING STATEMENT

Contact Person: Jack Damron, Deputy General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures of the Department of Corrections (Corrections) governing the operation of Kentucky State Reformatory and Corrections, which directs institutional employees in the safe and appropriate control of the inmate population and security of the institution.
(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035 and 197.020.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation governs every aspect of the operations of this institution.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: By providing clear and concise direction and information to institutional employees to ensure the safe and secure operation of the institution.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment shall delete the secure policies and procedures from this regulation.
(b) The necessity of the amendment to this administrative regulation: To conform to the requirement of KRS 196.035 and 197.020.
(c) How the amendment conforms to the content of the authorizing statutes: It permits the commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of Kentucky State Reformatory.
(d) How the amendment will assist in the effective administration of the statutes: It will make changes to delete the secured policies and procedures, thereby impacting the safety and security of the institution and the public.
(3) Type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 570 employees and 1906 inmates of the Kentucky State Reformatory.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: To ensure a clear understanding of the policies by employees, thereby impacting the security and safety of Kentucky State Reformatory and the public.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Funds budgeted for this 2000 - 2002 biennium.
(7) Provide and assessment of whether an increase in fees or funding shall be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None.
(9) TIERING: Is tiering applied: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applied 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 or actions 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
Kentucky Law Enforcement Council
(Amendment)

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

RELATES TO: KRS 15.330(1)(c), (e), 15.386(1), 15.404(1), 15.440(4)
STATUTORY AUTHORITY: KRS 15.330(1)(c), (e), (g) NECESITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(e) and (g) authorize the Kentucky Law Enforcement Council to approve law enforcement officers as having met the requirements for completion of law enforcement training and to promulgate administrative regulations to implement that requirement. This administrative regulation establishes requirement for graduation from the Department of Criminal Justice Training; basic training course required for peace officer certification and participation in the Kentucky Law Enforcement Foundation Program Fund, and for maintenance of basic training records.

Section 1. Basic Training Graduation Requirements. To graduate from the department’s basic training course, a recruit shall:
(1) Successfully complete a minimum of 650 [640] hours of training based upon the curriculum approved by the council in accordance with KRS 15.330 and 503 KAR 1:100;
(2) Attain a seventy (70) percent overall score on all graded training areas covered during the course for which a numerical score is assigned. A recruit who does not achieve a seventy (70) percent overall score shall be considered to have failed basic training;
(3) Pass all training areas covered during the course for which a pass or fail designation is assigned. A recruit who does not pass all pass or fail training areas shall be considered to have failed basic training; and
(4) Successfully complete all other assignments, exercises, and projects included in the course. After-hours assignments may be required, and shall be successfully completed in order to pass the training area for which they were assigned.

Section 2. Physical Training Requirements. A recruit who is required to complete basic training in order to fulfill the peace officer certification provisions established in KRS 15.380 to 15.404 shall meet the physical training entry and graduation requirements established in this section.
(1) Physical training entry requirements.
(a) Within five (5) days from the first date of the basic training course, the recruit shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Sixteen (16) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to sixty-four (64) percent of the recruit’s body weight;
3. Eighteen (18) sit-ups in one (1) minute;
4. 300 meter run in sixty-five (65) seconds;
5. Twenty (20) pushups; and
6. One and five-tenths (1.5) mile run in seventeen (17) minutes twelve (12) seconds.
(b) If a recruit passes all events when participating in the physi-
cal training entry test, he shall have met the physical training entry requirements:

(c) Retest. If a recruit fails to pass all events when participating in the physical training entry test:
1. He shall retest in the failed events no earlier than forty-eight (48) hours from the date of the entry test;
2. All failed events shall be retested on the same date;
3. If the recruit passes all previously failed events on the date of the retest, he shall have met the physical training entry requirements; and
4. If the recruit does not pass all previously failed events on the date of the retest, he shall be unqualified to participate in the department's basic training course for which he is currently enrolled, and may reapply to participate in a future department basic training course. The recruit shall receive no credit for the part of the basic training course which he has completed.

(2) Physical training graduation requirements:
(a) Within five (5) days from the final date of the basic training course, the recruit shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Seventeen (17) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to seventy-three (73) percent of the recruit's body weight;
3. Eighteen (18) sit ups in one (1) minute;
4. 100 meter run in sixty-five (65) seconds;
5. Twenty-five (25) push ups; and
6. One and five-tenths (1.5) mile run in sixteen (16) minutes fifteen (15) seconds.
(b) If a recruit passes all events when participating in the physical training graduation test, he shall have met the physical training graduation requirements.
(c) Retest. If a recruit fails to pass all events when participating in the physical training graduation test:
1. He shall retest in the failed events no earlier than forty-eight (48) hours after the date of the graduation test, but not later than the last scheduled date of the basic training course;
2. All failed events shall be retested on the same date;
3. If the recruit passes all previously failed events on the date of the retest, he shall have met the physical training graduation requirements; and
4. If the recruit does not pass all previously failed events on the date of the retest, he shall be considered to have failed basic training.

(3) Physical training safety factors.
(a) Prior to administering the outdoor events, specifically the 300 meter run and the one and five-tenths (1.5) mile run, of the physical training entry or graduation requirements, the physical training instructor shall survey weather conditions to determine whether the outdoor events can be safely performed without risk of physical injury due to:
1. Extreme cold, snow or icy conditions; or
2. Extreme heat or humidity or a combination thereof, or inclement weather including lightning, excessive wind, or rain.
(b) If the physical training instructor determines that it would be dangerous to administer the outdoor events due to the weather conditions, the time period in subsections (1)(a) and (2)(a) of this section may be extended until the events can be safely administered.
(c) During Week 10 of basic training, the recruits shall be administered the events of the Physical Training Requirements for purposes of reporting their progress to their respective law enforcement agencies. If weather conditions prohibit administration of the outdoor events of the physical training graduation examination prior to the last scheduled date of the basic training course, a recruit's successful completion of the 300 meter run and the one and five-tenths (1.5) mile run during Week 10 testing may be accepted in lieu of having to comply with the examination established in subsection (2)(a) of this section.

Section 3. Failure and Repetition of Basic Training. (1) A recruit who has failed a basic training course shall be permitted to repeat one (1) basic training course in its entirety during the following twelve (12) months.

(2) The recruit or his agency shall pay all fees for the repeated basic training course.

Section 4. Training Modules. (1) Effective July 29, 2002 and starting with Basic Training Class #319, basic training shall be divided into nine (9) different training modules on the following subjects:
(a) Orientation to basic training;
(b) Theft;
(c) Warrant/disorder;
(d) Traffic stops;
(e) Driving under the influence (DUI);
(f) Crimes against property;
(g) Collision;
(h) Crimes against persons; and
(i) Graduation.
(2) If a recruit is unable to complete basic training for a reason listed in Section 7 of this administrative regulation or because of being suspended, pursuant to 503 KAR 3:010, Section 4(1)(b), and later desires to return to training, he shall restart at the beginning of the module which he was in at the time of leaving basic training.
(3) Classes that started basic training before Class #319 and have not completed basic training by July 29, 2002, shall not be affected by this section.

Section 5. Examinations. (1) A recruit shall be examined in the following three (3) areas of basic training:
(a) Area I:
1. Four (4) academic tests, except that effective July 29, 2002, and beginning with Basic Training Class #319 and subsequent classes, there shall be five (5) academic tests; and
2. American Red Cross certification in the following:
   a. Professional rescuer CPR; and
   b. First aid and Automated external defibrillation;
(b) Area II:
1. Firearms, including:
   a. Day handgun;
   b. Night handgun; and
   c. Shotgun;
2. Vehicle operations, including:
   a. Precision course; and
   b. Emergency response course; and
3. Defensive tactics; and
(c) Area III:
1. Breath test, including:
   a. Practical examination; and
   b. Written examination;
2. DUI detection, including:
   a. Practical examination; and
   b. Written examination; and
3. Law Information Network of Kentucky (LINK) and National Crime Information Center (NCIC) inquiry only, including a combined practical and written examination.
(2) A recruit shall be permitted one (1) reexamination in each of the three (3) areas of basic training.
(3) A recruit who fails an examination, other than defensive tactics, shall not be reexamined:
(a) Earlier than twenty-four (24) hours from the original examination; or
(b) Later than:
   1. Thirty (30) days after the original examination; or
   2. The last scheduled day of the basic training course.
(4) Failure of a defensive tactics examination:
(a) If the failure occurs prior to the last scheduled day of defensive tactics training, the recruit shall not be reexamined earlier than the last scheduled day of defensive tactics training.
(b) If the failure occurs on the last scheduled day of defensive tactics training, the recruit shall not be reexamined:
   1. Earlier than twenty-four (24) hours from the original examination; or
   2. Later than the last scheduled day of the basic training course.
(5) A recruit shall be considered to have failed basic training if
the recruit:
(a) Fails a reexamination in accordance with subsection (2) of
this section; or
(b) Fails two (2) examinations in the same area of basic training.

Section 6. [5] Absence. (1) A recruit may have excused ab-
sences from the course with approval of the director of the certified
academy or his designee.
(2) An excused absence from the course which causes a recruit
to miss any of the 650 [840] hours of basic training shall be made up
through an additional training assignment.

Section 7. [6] Circumstances Preventing Completion of Basic
Training. If a recruit is prevented from completing the basic training
course due to extenuating circumstances beyond the control of the
recruit, including injury, illness, personal tragedy, or agency emer-
gency, he shall be permitted to complete the unfinished areas of the
course within 180 days immediately following the termination of the
extenuating circumstance, if the:
(1) Extenuating circumstance preventing completion of basic
training does not last for a period of longer than one (1) year; and
(2) Failure to complete is not caused by a preexisting physical
injury or preexisting physiological condition.

Section 8. [4] Termination of Employment while Enrolled. If,
while enrolled in the basic training course, a recruit's employment as
a police officer is terminated by [resignation or] dismissal and he is
unable to complete the course, he shall complete the remaining training
within one (1) year of reemployment as an officer. The rec-
cruit shall repeat basic training in its entirety if:
(1) The break in employment exceeds one (1) year; or
(2) The termination of employment is a result, directly or indi-
rectly, of disciplinary action taken by the department against the
recruit while enrolled in the basic training course.

Section 9. [8] Maintenance of Records. (1) At the conclusion of
each basic training course, the department shall, for each recruit
who completes the course, complete and send the following forms to
the council:
(a) DOCJT Form 68-1 (Application for Training Credit); and
(b) DOCJT Form 29 (Agency Training Authorization).
(2) The department shall send a copy of the DOCJT Form 68-1
to the:
(a) Council for verification; and
(b) DOCJT Records Section Supervisor.
(3) All training records required for fund purposes shall be re-
tained by the department, but a copy of pertinent facts shall be sent
to the fund administrator upon written request.
(4) All training records shall be:
(a) Available to the council, the secretary, and the fund admin-
istrator for inspection on appropriate purposes; and
(b) Maintained in accordance with applicable provisions of KRS
Chapter 171.

Section 10. [9] Incorporation by Reference. (1) The following
material is incorporated by reference:
(a) "DOCJT Form 00-1 - Application for Training Credit" (02/26/96 edition); and
(b) "DOCJT Form 29 - Agency Training Authorization" (06/27/97 edition).
(2) This material may be inspected, copied, or obtained, subject
to applicable copyright law, at the Department of Criminal Justice
Training, Funderburk Building, Eastern Kentucky University, 521
Lancaster Road, Richmond, Kentucky 40475-5102 , Monday
through Friday, 8 a.m. to 4:30 p.m.

ROBIN COOPER, Chair
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 15, 2002 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative
regulation shall be held on September 24, 2002, at 9 a.m. in the
Posey Auditorium, Stratton Building, Eastern Kentucky University,
Richmond, Kentucky 40475. Individuals interested in being heard at
this hearing shall notify this agency in writing by September 17,
2002, five days prior to the hearing, of their intent to attend. If no
notification of intent to attend the hearing is received by that date,
the hearing may be canceled. The hearing is open to the public. Any
person who wishes to be heard will be given an opportunity to com-
ment 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 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 pub-
lc hearing, or written comments on the proposed administrative
regulation to the contact person.

CONTACT PERSON: Stephanie C. Bingham, General Counsel,
Department of Criminal Justice Training, Funderburk Building,
Richmond, Kentucky 40475-5137, phone (859) 622-5897, fax (859)
622-3162.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham

(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes the
guidelines and procedures for graduation from the Department of
Criminal Justice Training (DOCJT) basic training course.
(b) The necessity of this administrative regulation: The regula-
tion is necessary so that the Kentucky Law Enforcement Council
may fulfill its responsibility, as established in KRS 15.330, to
approve law enforcement officers as having met the requirements
for completion of law enforcement training, specifically basic training
which is necessary for participation in the Kentucky Law Enforce-
ment Foundation Program Fund (KLEFFP), and peace officer cer-
fication pursuant to KRS 15.380 through 15.404.
(c) How this regulation conforms to the content of the authoriz-
ing statutes: KRS 15.330(1)(g) authorizes the Kentucky Law En-
forcement Council to promulgate reasonable rules and administra-
tive regulations to accomplish the purposes of KRS 15.310 to
15.510 and 15.990 to 15.962. This administrative regulation is
required to establish graduation standards for DOCJT basic training,
which is necessary for the administration of KLEFFP (KRS 15.410
to 15.510), and peace officer certification (KRS 15.310, and
15.380 through 15.402).

(2) If this is an amendment to an existing administrative regula-
tion, provide a brief summary of:
(a) How the amendment will change this existing administrative
regulation: The present amendment revises graduation require-
ments in 3 areas:
1. Recruits must take 650 hours of training;
2. Testing requirements for outdoor physical fitness events in
the event of weather that may pose a risk to recruit safety has been
changed;
3. A new section has been created to divided basic training into
ten different modules;
4. Recruits must now take five academic tests in Training Area I;
5. Recruits must pass the American Red Cross certified First
Aid;
6. Recruits will now receive training in automated external de-
brillation; and
7. Recruits will no longer be required to take a special examina-
tion in Law Information Network Kentucky (LINK) and National
Crime Information Center (NCIC).
(b) The necessity of the amendment to this administrative regu-
lation: These amendments are necessary to better protect the safety
of the general public and recruits attending basic training.
(c) How the amendment conforms to the content of the authoriz-
ing statutes: Please see the response contained in (1)(c) herein.
(d) How the amendment will assist in the effective administration
of the statutes: Please see the response contained in (2)(b) herein.
(3) List the type and number of individuals, businesses, organiza-
ons, or state and local governments affected by this administra-

tive regulation: All law enforcement agencies in the Commonwealth that utilize DOCJT basic training, which is approximately 400 agencies, including most state, county and local agencies, but excluding the Kentucky State Police, and the Lexington, Louisville and Jefferson County Police Departments.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that agencies should experience positive results from the amendment due to police recruits being better trained to meet the needs of the public. Additionally, the amendment will protect the health and safety of police recruits (Please see the response contained in (2)(d) herein).

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: None

(b) On a continuing basis: None

(5) What is the source of funding to be used for implementation and enforcement of this administrative regulation: The restricted Kentucky Law Enforcement Foundation Program Fund (KLEPFP).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) 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.

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Department of Education
(Amendment)

701 KAR 5:000. Teacher disciplinary hearings.

RELATES TO: KRS 161.770, 161.790
STATUTORY AUTHORITY: KRS 155.070, 161.790
NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.790 requires the chief state school officer to appoint an impartial three (3) member tribunal to conduct an administrative hearing and make the final determination on charges concerning a local school district's proposal to discipline or place on involuntary leave a teacher if [what?]. The teacher gives timely notice of his intent to answer the charges. This administrative regulation establishes necessary administrative and hearing procedures with respect to the tribunal process and identifies the required training for tribunal members designated to serve as tribunal members on an ongoing basis.

Section 1. A local school district superintendent proposing to discipline (except for a private reprimand) or place on involuntary leave a teacher shall immediately after notice to the employee transmit a copy of the notice of the action to the chief state school officer, along with advice as to the date of the receipt of the notice by the employee.

Section 2. (1) If, after a requested hearing has been scheduled by the chief state school officer or his designee, a continuance is requested by the teacher, the teacher shall specifically and in writing waive the statutory hearing deadlines and any subsequent backpay award for the period of the requested continuance. If the continuance request was initiated by the school district, this waiver shall not be required. A continuance initiated by the teacher shall not be granted without the appropriate waiver.

(2) A continuance requested by the teacher may be granted for good cause shown, including pending criminal charges making it advisable for the employee to testify at an administrative hearing or late entry of an attorney into the case on behalf of the employee. [An objection to a continuance request by the school district shall be considered on a case by case basis.]

A continuance requested by the school district, and not agreed to by the employee, may be granted upon documentation of an emergency or other circumstance making it impossible or prejudicially impractical for the district to adequately present its case at the scheduled hearing.

(4) A request for continuance made prior to the three (3) member tribunal convening shall be submitted in writing to the hearing officer.

Section 3. (1) To be a member of the pool of potential tribunal members who is designated to serve as a tribunal member on an ongoing basis, a person shall receive training on the following topics:

(a) The hearing process;
(b) The role of the tribunal;
(c) The role of the hearing officer;
(d) How to determine facts;
(e) Fundamental fairness;
(f) The law on teacher disciplinary actions (KRS 161.790); and
(g) The deliberative process.

(2) For attending training to become a member of the pool of potential tribunal members, a person shall receive a per diem of $100 and reimbursement of travel expenses from the Department of Education.

Section 4. (1) The local school district shall pay all travel expenses of the hearing officer.

(2) [The local school district shall] No later than the convening of the hearing, the local school district shall advise the tribunal members how to claim their per diem and travel expenses.

Section 5. [4] A hearing before the tribunal shall be conducted in accordance with KRS Chapter 13B.

Section 6. (5) (1) If, for any reason and after testimony has commenced, a tribunal member becomes unavailable to complete the hearing of the evidence of both parties, an appropriate substitute tribunal member shall be appointed by the chief state school officer and provided by the school district with a written transcript of all prior proceedings at the hearing unless waived under subsection (2) of this section.

(2) A hearing may be concluded and a decision rendered by a two (2) member tribunal upon express agreement of both parties.

GENE WILHOIT, Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRC: August 12, 2002 at 3 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 23, at 10 a.m. in the State Board Room, 1st Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin M. Noland, Deputy Commissioner and General Counsel, Bureau of Operations and Support Services, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-0321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Agency Contact Person: Kevin M. Noland
NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.6455 provides the Kentucky Board of Education with the authority to promulgate administrative regulations to establish a system of determining successful schools and a system of rewards and assistance for certified staff in schools and districts. This administrative regulation establishes procedures for the inclusion of special student populations in the state-required assessment and accountability programs.

Section 1. Incorporation by Reference. (1) "Procedures for Inclusion of Special Populations in the State-Required Assessment and Accountability Programs," June 2002, [dated September, 1999] is hereby incorporated by reference.

(2) This material/document may be inspected, copied, or obtained, subject to applicable copyright law, and copied at the Department of Education, Office of Assessment and Accountability, 18th Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

GENE WILHOIT, Commissioner
HELEN MOUNTJOY, Chairperson
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRC: August 12, 2002 at 3 p.m.
PUBLIC HEARING: A public hearing on this proposed administrative regulation shall be held on September 23, at 10 a.m. in the State Board Room, 1st Floor, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin M. Noland, Deputy Commissioner and General Counsel, Bureau of Operations and Support Services, 500 Mero Street, First Floor, Capitol Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Kevin M. Noland

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation assists local school districts, students, and parents in understanding how to include students with disabilities, students attending schools classified as A2 through A6, students with limited English proficiency, students receiving instruction in a home/hospital (homebound instruction) setting, and students who have temporary medical conditions that necessitate accommodations and/or modifications for participation in the state-required assessment and accountability programs.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 156.6455.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides the specifics for the inclusion of students in special populations in the state-required assessment and accountability programs as required by KRS 156.6455.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation assists local school districts in how to include students in special populations in the state-required assessment and accountability programs as required by KRS 156.6455.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment reflects changes in the existing regulation as it relates to the inclusion of student with limited English proficiency in the state-required assessment and accountability pro-

EDUCATION, ARTS, AND HUMANITIES CABINET
Kentucky Board of Education
Kentucky Department of Education
(Amendment)

703 KAR 5:070. Procedures for the inclusion of special populations in the state-required assessment and accountability programs.

RELATES TO: KRS 158.6451, 158.6453, 158.6455
STATUTORY AUTHORITY: KRS 156.070, 158.6455
programs as mandated by the federal "No Child Left Behind Act of 2001".

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary in order for Kentucky to comply with federal legislation.

(c) How the amendment conforms to the content of the authorizing statute: This amendment requires that students with limited English proficiency be included in the state-required assessment and accountability programs when they have been in a school or district for one full academic year prior to the year of the assessment in question.

(d) How the amendment will assist in the effective administration of the statute: This amendment will assist local education agencies in the inclusion of students with limited English proficiency in the state-required assessment and accountability programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: local school districts.

(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Local school districts and schools will have to ensure that all students with limited English proficiency who have been in the same school or district for one full academic year prior to the year of the assessment in question, or an English-speaking school for two full years prior to the assessment in question is included in the state-required assessment and accountability programs.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no additional costs to local education agencies to implement this administrative regulation. However, there will be a slight increase in costs for the Department of Education associated with the production and scoring of assessments as more students are included in the assessments.

(b) On a continuing basis: Slight cost increase for the Department of Education associated with test production and scoring.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The funding is within existing state funds already appropriated to the agency.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fee.

(9) TIERING: Is tiering applied? Tiering was not inappropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

(1) Name and address; (2) License number of provider;

(3) Source of funding for the provider of charitable health care service;

(4) Number of employees who render medical care without compensation or charge and without expectation of compensation or charge and who will be covered under the malpractice coverage;

(5) The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;

(6) Health services provided by the charitable health care provider;

(7) Information regarding the provider's medical professional liability insurance policy for which reimbursement is requested:

(a) Directory of the entire policy, including the declarations page showing:
   1. Insurer's name and address;
   2. Policy effective dates;
   3. Policy number;
   4. Premium due; and (b) Itemized billing and proof of payment of amount being requested to be reimbursed.

(8) Copy of the regulation filed with the Cabinet for Health Services under KRS 216.941; and (9) [which shall include the following:]

(a) Insurer's name and address;
(b) Policy period; and (c) Policy number;

(10) Acknowledgment that provider will follow insurer's risk management and loss prevention policies and procedures.

Section 2. If any of the information provided in Section 1 of this administrative regulation changes or is incorrect, the charitable health care provider shall provide the correct information immediately to the department.

Section 3. Any premium 'refund for medical professional liability insurance issued by the insurer and received by the charitable health care provider for any reason shall be promptly remitted to the Department of Insurance for transmittal to the General Fund. Accompanying such remittance should be a copy of the previous request, explanation of the errors prompting the refund, and copies of all documents from the insurer regarding the refund and its amount.

Section 4. (1) An insurer which offers medical professional liability insurance shall provide information regarding premiums paid, expenses incurred by the insurer, and profits made for all risk covered pursuant to KRS 304.40-075. The information required by Section 1 of this administrative regulation shall be provided to the department by March 1 and shall include premium, expense, and profit information from the preceding calendar year and shall be submitted on Form CHP-29 P&C 07 2000.

(2) In order to provide the department to determine reasonable loss ratio guidelines, upon request by the department, an insurer which offers medical professional liability insurance shall provide premium, profit, and expense information related to all of its medical professional liability insurance business.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Form CHP-2A P&C 07 2000, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Medical Professional Liability Insurance Annual Call for Data Instructions"; and

(b) Form CHP-2B P&C 07 2000, "Commonwealth of Kentucky Department of Insurance Property and Casualty Division Liability Insurance Annual Call for Data" is incorporated by reference.

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, from the Department of Insurance 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. Forms may also be obtained on the department's internet web site.

JANIE A. MILLER, Commissioner and Secretary
APPROVED BY AGENCY: July 24, 2002
Filed with LRC: July 31, 2002 at noon

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 27, 2002, at 10 a.m., at the Kentucky Department of Insurance, 215 West Main Street, Frankfort, Kentucky 40602-0517. Individuals interested in being heard at this hearing shall notify this agency in writing by September 20, 2002, 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 notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Vicki C. Horn or Melea Kelch, Kentucky Department of Insurance, 215 West Main Street, PO Box 517, Frankfort, Kentucky 40602-0517, phone (502) 564-6032, ext. 4268, fax (502) 564-1456.

REGULATORY IMPACT ANALYSIS

Contact Person: Vicki C. Horn or Melea Kelch

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends KAR 40-020, Charitable health care providers to require more complete documentation from them concerning professional liability insurance purchased so that the department can make more accurate premium expense claims for premium expenses for purchase of insurance in accord with KRS 304.40-075. Additionally, the commissioner is required to collect data from carriers providing charitable health care providers with professional liability insurance and this amendment incorporates the appropriate form by reference as well as prescribing that this information be filed online.

(b) The necessity of this administrative regulation: The department has found it impossible to obtain enough documentation from charitable health care providers to reimburse them accurately. In turn the charitable health care providers have had difficulty obtaining necessary documents from their professional liability carriers to provide to the department. This regulation should alleviate that problem. The department is required to collect data, including premium paid, profits made from these risks, and expenses incurred from insurers providing professional liability insurance to these charitable health care providers. In the past this has been collected on paper and the data has been entered by hand into a database. This amendment will streamline the collection and entry of data by incorporating a form by reference and requiring this form to be filed online where data can be automatically entered into the database.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides guidelines on reporting premium paid by charitable health care providers so that they may be reimbursed for purchase of professional liability insurance in conformity with KRS 304.40-075. This administrative regulation incorporates a form to collect data required to be collected by the department in conformity with KRS 304.40-075.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will allow the department to reimburse charitable health care providers more efficiently and accurately and collect the data from their insurers more efficiently, cost-effectively, and accurately.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change the existing regulation: This amendment will change the existing administrative regulation by clarifying the required documentation to be supplied to the department to ascertain the reimbursement owed to charitable health care providers. The amendment also clarifies and simplifies the reporting requirements of carriers providing professional liability insurance to charitable health care providers by incorporating a form by reference and requiring the data to be filed online.

(b) The necessity of the amendment to this administrative regulation:

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
(Amendment)


RELATES TO: KRS 1383.010, 1383.040, 1383.050, 1383.060, 1383.080, 1383.110, 1383.280, 1383.900

NECESSITY, FUNCTION, AND CONFORMITY: KRS 1383.010(7), 1383.050

Section 1. Definitions. (1) "Board of Housing" or "board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" is defined by KRS 1383.010(4).

(3) "Commissioner" is defined by KRS 1383.010(9).

(4) "Department" is defined by KRS 1383.010(11).
(5) "Farm" means property located outside the corporate limits of a municipality on at least ten (10) acres and having a bona fide agricultural or horticultural use as defined by KRS 132.010(9) and (10) and qualified by and registered with the property valuation administrator in that county.

(6) "Fire Code Official" means the State Fire Marshal, fire chief or other enforcement officer designated by the appointing authority of the jurisdiction for the enforcement of the provisions of KRS 227.300 and the Kentucky Standards of Safety (Fire Prevention Code) as set forth in 815 KAR Chapter 10.

(7) "Industrialized building system" or "building system" is defined in KRS 198B.010(16).

(8) "KBC" means the Kentucky Building Code as established in 815 KAR Chapter 7.


(10) "Kentucky Standards of Safety" means the administrative regulations established in 815 KAR Chapter 10, which were established by the Commissioner of the Department of Housing, Buildings and Construction pursuant to KRS 227.300 to serve as the fire prevention code for existing buildings as well as a supplement to this code, where applicable.

(11) "KRS" means the Kentucky Revised Statutes.

(12) "Manufactured home" is defined by KRS 198B.010(23) and 227.550(7).

(13) "Modular home" means an industrialized building system, which is designed to be used as a residence and which is not a manufactured or mobile home.

(14) "Ordinary repair" is defined by KRS 198B.010(19).

(15) "Single-family dwelling" or "one (1) family dwelling" means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which shall not be connected to any other unit or building.

(16) "Townhouse" means a single-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.

(17) "Two (2) family dwelling" means a building containing not more than two dwelling units which are connected.

Section 2. Administration and Enforcement of the Building Code. (1) Notwithstanding the requirements of the International Building Code/2000, the Kentucky changes set forth in the Kentucky Building Code Supplement shall be mandatory and shall supersede the conflicting provisions of the international code. Except as superseded by the provisions of this administrative regulation or the Kentucky Building Code Supplement, the International Building Code/2000, First Edition, Chapters 1 through 35 shall be the mandatory state building code for Kentucky for all buildings; except that one (1) and two (2) family dwellings and townhouses shall be governed by 815 KAR 7:125.

(2) The International Building Code shall be amended as set forth in the Kentucky Building Code Supplement.

Section 3. State Plan Review and Inspection Fees. The fees required by this section shall apply for plan review and inspection by the department, only.

(1) Fast track projects. A request for expedited site and foundation approval of one (1) week or less, prior to full review of the complete set of construction documents, shall be accompanied by the fee required by Table 121.3.1 in subsection (3) of this section, plus an additional fifty (50) percent of the basic plan review or inspection fee. The additional fifty (50) percent fee shall not be less than $400 and not more than $3,000. The entire fee shall be paid at the time of the initial plan submission.

(2) Calculation of departmental inspection fees shall require: 1. New buildings shall require multiplying the total building area under construction by the cost per square foot of each occupancy type as listed in subsection (3) of this section; and 2. Computing the square footage by the outside dimensions of the building.

(b) The fee for buildings with multiple or mixed occupancies may be calculated using the cost per square foot multiplier of the predominant use.

(3) Table 121.3.1, Basic Department Fee Schedule. The basic plan review or inspection fee shall be:

(a) Assembly occupancies, 8.5 cents;
(b) Business occupancies, 7.5 cents;
(c) Day care centers, 7.5 cents;
(d) Educational occupancies, 7.5 cents;
(e) Frozen food plants, 6.5 cents;
(f) High hazard occupancies, 7.5 cents;
(g) Industrial factories, 6.25 cents;
(h) Institutional occupancies, 8.5 cents;
(i) Mercantile occupancies, 7.5 cents;
(j) Residential occupancies, 7.5 cents;
(k) Warehouses, 5.5 cents;
(l) All other nonresidential, 6.5 cents.

(4) Additions to existing buildings. Plan review fees for additions to existing buildings, which shall not require the entire building to conform to the Kentucky Building Code, shall be calculated in accordance with the schedule listed in subsection (3) of this section by the measurement of the square footage of the addition, as determined by the outside dimensions of the addition. The minimum fee for review plans under this subsection shall be $200.

(5) Change in use. Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with the schedule listed in subsection (3) of this section by the total square footage of the entire building or structure under the new occupancy type as determined by the outside dimensions. The minimum fee for review of plans under this subsection shall be $200.

(6) Alterations and repairs. (a) Plan review fees for alterations and repairs not otherwise covered by this fee schedule shall be calculated by using the lower result of:

1. Multiplying the cost for the alterations or repairs by 0.0025; or
2. Multiplying the total area being altered or repaired by the cost per square foot of each occupancy type listed in the schedule in subsection (3) of this section.

(b) The total square footage shall be determined by the outside dimensions of the area being altered or repaired.

(c) The minimum fee for review of plans under this subsection shall be $200.

(7) Specialized fees. In addition to the fees listed in subsections (1) through (6) of this section, the following fees shall be applied for the special plan review of the following structures as listed in this section:

(a) Table 121.3.9, Automatic Sprinkler Review Fee Schedule:

<table>
<thead>
<tr>
<th>Type of System</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. 4-200 sprinklers</td>
<td>$150</td>
</tr>
<tr>
<td>2. 201-300 sprinklers</td>
<td>$175</td>
</tr>
<tr>
<td>3. 301-400 sprinklers</td>
<td>$210</td>
</tr>
<tr>
<td>4. 401-750 sprinklers</td>
<td>$250</td>
</tr>
<tr>
<td>5. Over 750 sprinklers</td>
<td>$250 plus twenty (20) cents per sprinkler over 750</td>
</tr>
</tbody>
</table>

(b) Fire detection system review fee:

1. Zero to 20,000 square feet shall be $150;
2. Over 20,000 square feet shall be $150 plus twenty (20) dollars for each additional 10,000 square feet in excess of 20,000 square feet.

(c) Standpipe plan review fee: $150 (combination stand pipe and riser plans shall be reviewed under the automatic sprinkler review fee schedule).

(d) Carbon dioxide suppression system review fee:

1. One (1) to 200 pounds of agent shall be $150;
2. Over 200 pounds of agent shall be $150 plus two (2) cents per pound in excess of 200 pounds.

(e) Clean agent suppression system review fee:

1. A. Up to thirty-five (35) pounds of agent shall be $150;
2. B. Over thirty-five (35) pounds shall be $150 plus six (6) cents per pound in excess of thirty-five (35) pounds.

(f) Foam suppression system review fee:

1. Fifty (50) cents per gallon of foam concentrate if the system is not part of an automatic sprinkler system;
2. Foam suppression system plans that are submitted as part of
an automatic sprinkler system shall be reviewed under the automatic sprinkler review fee schedule.
3. The fee for review of plans under this section shall not be less than $150 or more than $1,500.
   (g) Commercial range hood review fee: $150 per hood.
   (h) Dry chemical systems review fee (except range hoods): 1. One (1) to thirty (30) pounds of agent shall be $150;
   2. Over thirty (30) pounds of agent shall be $150 plus $25 cents per pound in excess of thirty (30) pounds.
   (i) Flammable, combustible liquids or gases and hazardous materials plan review fee: $100 per tank, plus fifty (50) dollars for each additional tank and $100 per piping system including valves, fill pipes, vents, leak detection, spill and overfill detection, cathodic protection or associated components.
   (j) Boiler and unfired pressure vessel fees: plan review fees of boiler and unfired pressure vessel installations shall be in accordance with 815 KAR 15:027.

Section 4. General. (1) Effective January 1, 2002, all plans, except as provided in subsection (2) of this section, shall be designed and submitted to conform to the 2002 edition of the Kentucky Building Code.

(2) Plans for single-family or one (1) family dwellings, two (2) family dwellings and townhouses may be designed and submitted to conform to either the 1997 edition of the Kentucky Building Code or the Kentucky Residential Code/2002 through June 30, 2002. Effective July 1, 2002, all plans for these dwellings shall be designed and submitted to conform to the Kentucky Residential Code/2002.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) "International Building Code/2000", First Edition, as adopted by the Kentucky Board of Housing, Buildings and Construction, except as amended by the Kentucky Building Code Supplement, also incorporated; and


(3) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100 [4042 U.S. 527 South], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANET HALL, Office of General Counsel DENNIS J. LANGFORD, Commissioner JANIE A. MILLER, Secretary APPROVED BY AGENCY: August 13, 2002.
FILED WITH LRC: August 14, 2002 at 2 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, at 10 a.m., EDT, in the office of the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing by September 16, 2002, (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for same. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

CONTACT PERSON: Janet Hall, Office of General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky 40601-5405, phone (502) 573-0365, fax (502) 573-1057.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Janet Hall
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes the Kentucky Building Code/2002 by adopting the 2000 edition of the International Building Code and making applicable modifications.
   (b) The necessity of this administrative regulation: This administrative regulation is necessary in order to adopt the Kentucky Building Code as required pursuant to KRS 198B.050.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: It utilizes the International Building Code as the basis for construction standards and allows the Board of Housing to make amendments ‘or Kentucky after due consideration of equivalent safety measures as required by KRS 198B.050.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: It sets forth standards authorized by the statute for the enforcement of the code, incorporating all applicable laws into its processes.
   (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: It will incorporate the latest edition of the National Electric Code (NFPA 70); extend the mandatory effective date of the Kentucy Residential Code until July 1, 2002 (from January 1, 2002) and create a new subsection relative to the inspection of industrialized building system.
   (b) The necessity of the amendment to this administrative regulation: This administrative regulation amendment will amend the seismic design and construction requirements in Kentucky; correct conflicts between certain code sections and state statutes and correct section references. This administrative regulation is necessary in order to ensure that the Kentucky Building Code contains requirements that are correct and appropriate for the State of Kentucky.
   (c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the requirements set forth in KRS 198B.050 that the Kentucky Building Code be subject to continuing review and modification.
   (d) How the amendment will assist in the effective administration of the statutes: This amendment will provide specific information and direction to individuals and businesses or organizations affected.
   (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Property owners who are remodeling, altering or constructing new buildings; architects and engineers, building inspectors, and all building construction related industries.
   (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendments are technical in nature, modifying the standards in some way which will cause industry to design and construct in accordance with the new amendments as well as all other code provisions. The fees charged by the state are essential to provide the oversight and enforcement of the code by plan review and inspection.
   (5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: Because this is the continuation of an existing program, with only updated code and new fees the cost of implementation really is a continuing one. This administrative regulation establishes no new costs or fees.
   (b) On a continuing basis: This administrative regulation establishes no new costs or fees.
   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administrative fees for plan review and inspection provide funding on an ongoing basis.
   (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be needed to implement this amendment.
   (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No in-
crease in fees with this amendment.

(9) TIERING: Is tiering applied? Tiering is not applied because these are standards that apply equally to all construction depending upon the type of building.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes.

2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect every local government since KRS Chapter 198B requires each local government to enforce the state building code on certain specifically identified occupancies.

3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation affects the local building inspection program. KRS 198B.060 requires local government to provide for building officials to enforce the Kentucky Building Code and they will be required to learn and enforce the Kentucky Building Code/2002.

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. Specific dollar estimates cannot be determined; provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): 
Expenditures (+/-): 
Other Explanation: Cost of amended sections of the code is estimated to be minimal to consumer.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
Division of Building Codes Enforcement
( Amendment)


RELATES TO: KRS 198B.010, 198B.040, 198B.050, 198B.060, 198B.080, 198B.110, 198B.260, 198B.090

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY, FUNCTION, AND CONFORMITY: KRS 198B.040(7) requires the Kentucky Board of Housing, Buildings and Construction to adopt and promulgate a mandatory uniform statewide building code, based on a model code, which establishes standards for construction of buildings in the state. This administrative regulation establishes the basic mandatory uniform statewide code provisions relating to construction of one (1) and two (2) family dwellings and townhouses.

Section 1. Definitions. (1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" is defined by KRS 198B.010(4).

(3) "Commissioner" is defined by KRS 198B.010(9).

(4) "Department" is defined by KRS 198B.010(11).

(5) "Farm" means property having a bona fide agricultural or horticultural use as defined by KRS 132.010(9) and (10) which is qualified by and registered with the property valuation administrator in the county in which the property is located.

(6) "KBC" means the Kentucky Building Code as established in 815 KAR 7:120.

(7) "Manufactured home" is defined by KRS 198B.010(23) and 227,550(7).

(8) "Modular home" means an industrialized building system, which is designed to be used as a residence and which is not a manufactured or mobile home.

(9) "Ordinary repair" is defined by KRS 198B.010(19).

(10) "Single-family dwelling" or "one (1) family dwelling" means a single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which shall not be connected to any other unit or building.

(11) "Townhouse" means a single-family dwelling unit constructed in a group of three (3) or more attached units separated by property lines in which each unit extends from foundation to roof and with open space on at least two (2) sides.

(12) "Two (2) family dwelling" means a building containing not more than two (2) family dwelling units which are connected.

Section 2. Mandatory Building Code Requirements for Dwellings. (1) Except as provided in subsection (2) of this section, a single-family dwelling, two (2) family dwelling or townhouse shall not be constructed unless it is in compliance with the International Residential Code, 2000 as amended by this administrative regulation, the Kentucky Residential Code Supplement, and the SEAOK White Paper.

(2) Exceptions:
(a) Permits, inspections and certificates of occupancy shall not be required for a single-family dwelling unless required by a local ordinance.

(b) All residential occupancies which are not single-family, two-family or townhouses shall comply with the Kentucky Building Code, 2002 as set forth in 815 KAR 7:120.

(3) The International Residential Code shall be amended as set forth in the Kentucky Residential Code Supplement and, for seismic requirements, the SEAOK White Paper developed by the Structural Engineers Association of Kentucky.

(4) Effective dates. Plans for single-family or one (1) family dwellings, two (2) family dwellings and townhomes may be designed and submitted to conform to either the 1997 edition of the Kentucky Building Code or the Kentucky Residential Code/2002 through June 30, 2002. Effective July 1, 2002, all plans for these dwellings shall be designed and submitted to conform to the Kentucky Residential Code/2002.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:


(b) "2002 Kentucky Residential Code Supplement", as amended May 16, 2002 [November 20, 2001 and February 14, 2002], and

(c) "SEAOK White Paper", February 6, 2002.


(3) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100 [4402 U.S. 127 South], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANET HALL, Office of General Counsel
DENNIS J. LANGFORD, Commissioner
JANIE A. MILLER, Secretary
APPROVED BY AGENCY: August 13, 2002
FILED WITH LRC: August 14, 2002 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, at 10 a.m., EDT, in the office of the Department of Housing, Buildings and Construction, 101 Sea Hero Road, Suite 100, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 16, 2002, (five working days prior to the hearing) of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made in which case the person requesting the transcript shall have the responsibility of paying for said transcript. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation by the above date to the contact person.

CONTACT PERSON: Janet Hall, Office of General Counsel, Department of Housing, Buildings and Construction, 101 Sea Hero
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Janet Hall
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the building construction requirements for one and two family dwellings and townhouses.
(b) The necessity of this administrative regulation: This administrative regulation establishes the Kentucky Residential Code as part of the Uniform State Building Code as required pursuant to KRS 198B.050.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This is the portion of the uniform mandatory statewide building code for single family dwellings as authorized by KRS Chapter 198B.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation contains all the enforcement requirements and technical standards for small residential construction.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This amendment will eliminate conflicts between provisions in the Kentucky Residential Code and state statutes; eliminate conflicts with the Kentucky Building Code; and amend the requirements regarding the use of flexible duct.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 198B.050 requires the adoption of a uniform state building code and its continuing review and modification.
(d) How the amendment will assist in the effective administration of the statutes: Will provide individual business and organizations affected with specific requirements of the Kentucky Residential Code.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Home builders and purchasers as well as local governments, but only if they elect to have a building inspection program for single family dwellings are affected.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation or amendment: The necessity of the administrative code is more comprehensive and understandable than the current code. This amendment will eliminate confusion and conflicts in present code requirements.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: This administrative regulation will be implemented at the option of local government.
(b) On a continuing basis:
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees for plan review and inspection.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be necessary to implement this administrative regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish fees.
(9) TIERING: Is tiering applied? No, this administrative regulation applies equally to all homes, townhouses, duplexes, except manufactured homes and farm homes.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes
2. State what unit, part or division of local government this administrative regulation will affect. This administrative regulation will affect local building code plan review and inspection programs, if established.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation will affect local government where there is a local building inspection program and ordinance extended to cover single family dwellings.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation: There is no increased fiscal impact created by this administrative regulation amendment, nor does it increase the number of persons needed by local government. State revenues are neither increased nor decreased by this administrative regulation amendment.

CABINET FOR HEALTH SERVICES
Department for Public Health
(Amendment)

902 KAR 2:020. Disease surveillance.

RELATES TO: KRS 211.180(1), 214.010, 214.645, 333.130
STATUTORY AUTHORITY: KRS 194A.050, 211.090(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.180 requires the Cabinet for Health Services to implement a statewide program for the detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled. KRS 214.010 requires every physician and every head of family to notify the local health department of the existence of diseases and conditions of public health importance, knowledge of which may give rise to medical or surgical problems. This administrative regulation establishes notification standards and specifies the diseases requiring urgent, priority, or routine notification, or in order to facilitate rapid public health action to control diseases, and permit an accurate assessment of the health status of the Commonwealth.

Section 1. Notification Standards. (1) A health professional licensed under KRS Chapters 311 through 314, and a health facility licensed under KRS Chapter 216B, shall give notification pursuant to subsection (3) of this section, if:
(a) A health professional makes a probable diagnosis of a disease specified in Section 2, 3, or 4 of this administrative regulation;
(b) The diagnosis is supported by:
1. "Case Definitions for Infectious Conditions under Public Health Surveillance"; or
2. A reasonable belief that the disease is present.
(2)(a) A single report by a hospital of a condition diagnosed by a test result from the hospital laboratory shall constitute notification on behalf of the hospital and its laboratory.
(b) A hospital may designate an individual to report on behalf of the hospital's laboratory and the hospital's clinical facilities.
(3) The notification shall be given to the:
(a) Local health department serving the jurisdiction in which the patient resides; or
(b) Department for Public Health.
(4) The reporting professional shall furnish the:
(a) Name, birthdate, address, county of residence, and telephone number of the patient; and
Section 3. Diseases Requiring Priority Notification. (1) Notification pursuant to Section 1(3) of this administrative regulation of the following diseases shall be made within one (1) business day:
(a) Group A streptococcal infection, invasive;
(b) Hepatitis B, acute;
(c) Hepatitis B infection in a pregnant woman or a child born after 1992;
(d) Mumps;
(e) Toxic shock syndrome;
(f) Tuberculosis.
(2) Upon receipt of a report for a disease or condition specified in subsection (1) of this section, a local health department shall:
(a) Shall investigate the report and carry out public health measures appropriate to the disease or condition;
(b) Shall notify the Department for Public Health of the case, in writing, within five (5) business days; and
(c) May seek assistance from the Department for Public Health.

Section 4. Diseases Requiring Routine Notification. (1) Notification pursuant to Section 1(3) of this administrative regulation of the following diseases shall be made within five (5) business days:
(a) Chancroid;
(b) Chlamydia trachomatis infection;
(c) Ehrlichiosis;
(d) Gonorrhea;
(e) Granuloma inguinale;
(f) Hepatitis C, acute;
(g) Histoplasmosis;
(h) Lead poisoning;
(i) Legionellosis;
(j) Lyme Disease;
(k) Lymphogranuloma venerum;
(l) Malaria;
(m) Rabies postexposure prophylaxis;
(n) Rocky Mountain Spotted Fever;
(o) Streptococcus pneumoniae, drug-resistant invasive disease;
(p) Syphilis, other than primary, secondary, early latent or congenital; and
(q) Toxoplasmosis.
(2) Upon receipt of a report for a disease or condition specified in subsection (1) of this section, a local health department shall:
(a) Make a record of the report;
(b) Answer inquiries or render assistance regarding the report requested by the reporting entity; and
(c) Forward the report to the Department for Public Health within three (3) business days.

Section 5. Outbreaks or Unusual Public Health Occurrences. (1) If, in the judgment of a health professional licensed under KRS Chapters 311 through 314, or a health facility licensed under KRS Chapter 216B, any unexpected pattern of cases, suspected cases or deaths which may indicate a newly-recognized infectious agent, an outbreak, epidemic, related public health hazard or an act of bioterrorism appears, e.g., smallpox [an extraordinary number of cases or occurrences of a disease or condition has appeared, considering the age group, geographic location, and previous disease experience of the population in question], a report shall be made immediately by telephone to:
(a) Local health department where the professional is practicing or where the facility is located; or
(b) Department for Public Health.
(2) An instance of suspected staphylococcal or other foodborne intoxication or an instance of salmonellosis or other foodborne or waterborne infection shall be reported within one (1) business day, and shall include all known information about the persons affected.
(3) The local health department shall:
(a) Shall investigate the outbreak or occurrence;
(b) Shall carry out public health measures appropriate to the disease or condition involved;
(c) Shall make medical and environmental recommendations appropriate to prevent future similar outbreaks or occurrences; and
(d) May seek assistance from the Department for Public Health.
Section 6. Laboratory Surveillance. (1)(a) In addition to the reports required by Sections 1 through 4 of this administrative regulation, laboratory results shall be reported weekly for influenza virus isolates.

(b) The report shall include the:
   1. Name, birthdate, address, and county of residence of the person with the disease; and
   2. Specific laboratory information pertinent to the result.

(c) The format of the report shall be an alphabetical listing of each person for whom a report is submitted.

(2) Upon request by the Department for Public Health, a clinical laboratory within a hospital licensed under KRS Chapter 216B, or a laboratory licensed under KRS Chapter 333, shall report:

   (a) The numbers of isolates and information regarding the antimicrobial resistance patterns of the isolates;

   (b) At intervals agreed upon between the laboratory and the department, not less frequently than three (3) months, for the following:

      1. Staphylococcus aureus;
      2. Enterococcus species; or
      3. Other organism specified in a request that includes a justification of the public health importance of the organism.

Section 7. Human Immune Deficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) Surveillance. (1) Health professionals licensed under KRS Chapters 311 through 314, health facilities licensed under KRS Chapter 216B, and laboratories licensed under KRS Chapter 333, shall report:

   (a) Positive test result for HIV infection including a result from:

      1. ELISA;
      2. Western Blot;
      3. PCR;
      4. HIV antigen; or
      5. HIV culture.

   (b) CD4+ assay including absolute CD4+ cell counts and CD4+%;

   (c) HIV detectable Viral Load Assay; and

   (d) A positive serologic test result for HIV infection; or

   (e) A diagnosis of AIDS that meets the definitions of AIDS established in:

      1. "Adult HIV/AIDS Confidential Case Report Form"; or
      2. "Pediatric HIV/AIDS Confidential Case Report Form".

   (2) An HIV infection or AIDS diagnosis shall be reported within five (5) business days and, if possible, on the "Adult HIV/AIDS Confidential Case Report form" or the "Pediatric HIV/AIDS Confidential Case Report form".

   (a) A report for a resident of Jefferson, Henry, Oldham, Bullitt, Shelby, Spencer, and Trimble Counties shall be submitted to the HIV/AIDS Surveillance Program of the Jefferson County Health Department.

   (b) A report for a resident of another Kentucky county shall be submitted to the HIV/AIDS Surveillance Program of the Kentucky Department for Public Health, or as directed by the HIV/AIDS project coordinator.

   (3) A report for a person with HIV infection without a diagnosis of AIDS shall be identified in the following order by a Unique Identifier (UI) consisting of the person's:

      (a) Initials of last and first name;
      (b) Date of birth, using the format MMDDYY; and
      (c) Last four (4) digits of Social Security number.

   (4) The following additional information shall be included with each report for a person with HIV infection without a diagnosis of AIDS:

      (a) Gender;
      (b) Race;
      (c) Risk factor, as identified by CDC;
      (d) County of residence;
      (e) Name of facility submitting report;
      (f) Date and type of HIV test performed;
      (g) Results of CD4+ cell counts and CD4+%;
      (h) Results of viral load testing;
      (i) PCR, HIV culture, HIV antigen, if performed;
      (j) Results of TB testing, if available; and
      (k) HIV status of the person's partner, spouse or children.

   (5) Reports of AIDS cases shall include the patient's full name and the information in subsections (1) through (4) of this section; and

      (a) The patient's complete address;
      (b) Opportunistic infections diagnosed; and
      (c) Date of onset of illness.

   (6)(a) Reports of AIDS shall be made whether or not the patient has been previously reported as having HIV infection.

   (b) If the patient has not been previously reported as having HIV infection, the AIDS report shall also serve as the report of HIV infection.

   (7) A physician or medical laboratory that makes a report under this section shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.

Section 8. Reporting of Communicable Diseases in Animals. (1) Upon arriving at a probable diagnosis in an animal of a condition known to be communicable to humans, a veterinarian licensed under the provisions of KRS Chapter 321 shall report the occurrence within one (1) business day to:

   (a) The local health department in which the animal is located; or
   
   (b) If the local health department cannot be reached, the Department for Public Health.

   (2) Upon the confirmation of a laboratory test result which indicates infection of an animal with an agent associated with a condition known to be communicable to humans, the director of a clinical laboratory licensed under KRS Chapter 333 shall, within one (1) business day, report the result to:

      (a) Local health department serving the jurisdiction in which the animal is located; or
      (b) Department for Public Health.

   (3) The local health department:

      (a) Shall investigate the report and carry out public measures for the control of communicable diseases appropriate to the condition;

      (b) Shall notify the Department for Public Health of the occurrence, in writing, within five (5) business days; and

      (c) May seek assistance from the Department for Public Health.

Section 9. Asbestosis, Coal Worker's Pneumoconiosis, and Silicosis. (1) A reporting provider shall submit the following information relating to a person diagnosed with asbestosis, coal worker's pneumoconiosis, or silicosis:

   (a) Name;
   
   (b) Address;
   
   (c) Birthdate; and
   
   (d) County of residence.

   (2) A reporting provider shall submit the required information to the department within three (3) months following the diagnosis.

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

   (a) Case Definitions for Infectious Conditions under Public Health Surveillance, MMWR, May 2, 1997, Volume 46, Number RR-10, published by the Epidemiology Program Office, Centers for Disease Control and Prevention, Public Health Service, U.S. Department of Health and Human Services, Atlanta, Georgia;

   (b) Adult HIV/AIDS Confidential Case Report (CDC 50.42A, Revised January, 2000; and

   (c) Pediatric HIV/AIDS Confidential Case Report form (CDC 50.42B, Revised January, 2000; and


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

NICHOLAS Z. KAFoglOS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARCIA R. MORGAN, Secretary
APPROVED BY AGENCY: August 8, 2002
FILED WITH LRC: August 9, 2002 at 4 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held September 23, 2002, 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 September 16, 2002. If no notice of intent to attend the hearing is received by that date the hearing may be canceled. The hearing is open to the public. Any person who attends will be given the opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Jill Brown, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 5-W, Frankfort, Kentucky 40621, (502) 564-7905, FAX (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Sue Billings, (502) 564-3418, ext. 3572

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation establishes the notification standards and specifies the diseases which must be reported to the Commonwealth in order to facilitate rapid public health action to control diseases, and permit an accurate assessment of the health status of the Commonwealth of Kentucky.
(b) The necessity of this administrative regulation: KRS 211.180 requires the Cabinet for Health Services to implement a statewide program for the detection, notification, and control of certain specified diseases.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This amendment conforms to the authorizing statute by bringing the list of reportable diseases in line with known or potential threats to the health status of Kentuckians.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment updates the reportable disease regulation to account for those diseases that potentially would be caused by acts of bioterrorism and to which the Commonwealth would need to respond rapidly.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Updates the regulation to reflect bioterrorism outbreaks.
(b) The necessity of the amendment to this administrative regulation: Without this amendment the potential exists for inadequate or untimely reporting of potentially dangerous diseases.
(c) How the amendment conforms to the content of the authorizing statutes: This amendment carries out the intent and provisions of the authorizing statutes.
(d) How the amendment will assist in the effective administration of the statutes: Without the amendment the statutes cannot be enforced in a way that reflects new hazards and risks.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Health care providers local health departments, citizens who use health care in Kentucky, health planners in the bioterrorism program, local communities that plan for, use or develop plans in response to bioterrorism.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: These groups will be impacted by the changes by the need to report rapidly any diseases that are caused by acts of bioterrorism.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: None
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: None
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None
(9) 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.

CABINET FOR HEALTH SERVICES
Department for Public Health
Division of Local Health Department Operations
(Amendment)

902 KAR 8:150. Board of health requirements.

RELATES TO: KRS 211.090, 211.170, 211.175(1), 212.020, 212.120, 212.210, 212.230, 212.245, 212.640, 212.855, 212.860, 212.880

STATUTORY AUTHORITY: KRS 194A.050, 211.025

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.025, 211.090(3), 211.170, 212.120, and 212.230 together require the Cabinet for Health Services to establish policies and standards of operation for the boards of health for local health departments of Kentucky. This administrative regulation establishes minimum administrative and operational requirements for city-county, county, and district boards of health. This administrative regulation does not apply to the Lexington-Fayette, Louisville-Jefferson or Northern Kentucky Independent District Boards of Health.

Section 1. Definitions. (1) "Agency" is defined at KRS 211.1751(1).
(2) "Agency director" means the administrative officer of the agency.
(3) "Board" means a statutorily mandated governing city-county, county, or district board of health created pursuant to KRS 212.020, 212.640, or 212.855, and does not apply to boards of health serving: (a) A city of the first class created pursuant to KRS 212.350;
(b) An urban county government created pursuant to KRS 212.626; or
(c) An independent district health department created pursuant to KRS 212.780.
(4) "City-county board" means the statutorily mandated governing body of a county that: (a) Contains a city of the second class;
(b) Is created pursuant to KRS 212.640; and
(c) Is not contained in a district board.
(5) "County board" means the statutorily mandated governing body of a single county health department created pursuant to KRS 212.020, and does not exist in a district.
(6) "District board" means the statutorily mandated governing body of a multicity county agency created pursuant to KRS 212.855.
(7) "Nongoverning board" means a city-county, or county, board of health that is under the governance of a district board.
(8) "Quorum" means a simple majority of the members of a board.

Section 2. Compliance. The policies and procedures established by governing boards shall be in compliance with KRS 212.230(1)(c).

Section 3. Functions of a Board. (1) A governing board shall: (a) Assure that the services provided meet the needs of the local citizenry, to protect and promote public health;
(b) Establish priorities and objectives for: 1. Service delivery, considering federal and state disease prevention and health promotion objectives;
2. Specific health and safety needs of the community; and
3. Resources of the agency;
(c) Assure that financial controls and program evaluation measures are ongoing to facilitate effective and efficient agency services and operations;
(d) Interview and hire an agency director in accordance with 902 KAR 8:040 through 902 KAR 8:140;
(e) Communicate board policies and priorities to the agency director;

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(f) Evaluate the performance of the agency director; and
(g) Review information and data provided by the agency director to assess the effectiveness and efficiency of the agency in complying with federal and state public health laws, regulations, and board policies.

(2) A nongoverning board shall:
(a) Maintain a membership on the county public health taxing district board;
(b) Prepare the annual public health tax resolution;
(c) Maintain trusteedship of the county public health tax;
(d) Provide for maintenance and upkeep of the agency building;
(e) Determine the appropriate use of the facility by community groups and other agencies; and
(f) Provide the district board with information regarding specific public health needs and concerns of the city-county or county board.

Section 4. Composition of the Board. (1) An ex officio member shall not serve on a city-county, county, or district board, except for an official of a county or city of the second class, including a:
(a) County judge executive;
(b) Mayor; [ae]
(c) City manager; or
(d) Designee of the above.

(2) A person eligible for membership as a lay member shall not be currently licensed and practicing as one (1) of the following, but may be retired from that profession:
(a) Physician;
(b) Dentist;
(c) Nurse;
(d) Optometrist;
(e) Engineer; [ae]
(f) Veterinarian; or
(g) Pharmacist.

(3) The board shall elect a chairman from its membership on an annual basis.

(4) A chairman may serve more than (1) consecutive terms.

(5) Officers shall be elected or appointed members of the board except that the board secretary, who need not be a member.

(6) The agency director may serve as secretary to the board. An agency director of a district agency may serve as secretary to the district board and as secretary to the nongoverning board within the district; or the agency director may designate an employee to serve as secretary of a city-county or county board.

(7) An employee of an agency shall not serve as a member of the board.

(8) A person shall not serve on a board and receive in excess of $2,000 per year in contract payments, unless approved in writing by the cabinet.

(9) If the appointment of a pharmacist to a district board conflicts with KRS 212.55(1)(b), the additional member, being a pharmacist, shall be appointed, except no county shall have more than seven (7) members.

Section 5. Meetings of the Board. (1) A quorum shall be present in order to conduct business.

(2) A vacant position shall be counted when determining the number to be present for a quorum to exist.

(3) A majority of the quorum is required to approve actions of the board.

(4) A telephone poll vote shall not be permitted on an issue considered by the board.

(5) A member of a board shall not be represented by a proxy at a board meeting, except for a member who is an official of a county or a city of the second class, including a:
(a) County judge executive;
(b) Mayor; or
(c) City manager.

(6) Meetings of a board and its committees shall comply with the Kentucky Open Meetings Law, KRS 61.805 to 61.850.

(7) Meetings of a board shall be held at specific times and places convenient to the public.

(8) The board shall provide a schedule of regular meetings, which shall be made available to the public and published in a local newspaper of general circulation.

(9) Board meetings shall be held in locations accessible to individuals with disabilities.

(10) A qualified interpreter for the deaf and hard of hearing shall be made available upon request to the board chairman or agency director at least ninety-six (96) hours prior to the scheduled meeting.

(11) A board may establish an executive committee for the execution of specific tasks.

(12) An executive committee shall be subordinate to the board.

(13) Matters delegated to an executive committee by the board shall be specifically set forth in the minutes.

(14) An executive committee shall report its actions at the next regular meeting of the board.

(15) An action of an executive committee shall be confirmed by the board and reflected in the board minutes.

Section 6. Minutes of Board Meetings. (1) Actions of the board shall be made a part of the minutes.

(2) Minutes shall be signed by the secretary and chairman of the board.

(3) Minutes shall include the following information:
(a) Name of the board;
(b) Date, time, and location of the board meeting;
(c) Listing of board members present and absent;
(d) Acknowledgment of a quorum;
(e) Review and approval or correction of the minutes of the last meeting;
(f) Presentation of old business;
(g) Presentation of new business;
(h) Statement of each motion made, identification of member moving and seconding motion, and tabulation of the vote by the members voting either for or against each motion;
(i) Scheduled date of next meeting; and
(j) Motion to adjourn.

(4) Board minutes shall be available in an alternative format within a reasonable period of time when requested by a member of the public demonstrating need.

(5) A permanent copy of the official minutes shall be maintained and kept on file by the agency.

(6) A signed copy of the minutes of the board shall be submitted to the cabinet within two (2) weeks after the date of the meeting.

Section 7. Conflicts of Interest. (1) A member of a board shall comply with the KRS 45A.340, Conflict of Interest of public officers and employees.

(2) A board member or a member of his family shall not be considered for a contract, lease or bid for services, in excess of $2000, unless the services are in the best public interest and have the prior approval in writing of the cabinet.

(3) If a board member or a member of his immediate family is considered for approval for a contract, lease, or bid to provide services to the agency, the board member shall:
(a) Leave the board meeting prior to discussion of the contract, lease or bid; and
(b) Not be allowed a vote on the contract, lease or bid.

(4) The board minutes shall reflect the board member was absent from the discussion because of a conflict of interest and was not permitted a vote.

Section 8. Training for Board Members. (1) A new member appointed to the board shall receive training from the agency director or other appropriate agency representative.

(2) The training shall include discussion or written materials on the following topics:
(a) Statutory responsibilities and functions of the cabinet, agency, and the board;
(b) Board laws, regulations, and local ordinances;
(c) Board members' responsibilities and functions;
(d) Agency services sites and the services provided at these sites;
(e) Agency staff by discipline or profession;
(f) Review of agency medical and environmental services, budget and annual report;
(g) Board minutes for the last calendar year; and
(h) Tour of the agency's main facility or, if feasible, a tour of
satellite or remote site.

Section 9. Board Regulations. (1) Internal board regulations and ordinances shall be indexed and placed in an agency's local board of health policy manual.

(2) New policies shall be placed in the manual no later than thirty (30) days after approval by the board and the cabinet, if applicable.

Section 10. Legal Advice. A board, created pursuant to KRS 212.020, 212.640, and 212.855, may employ counsel as needed to act as legal advisor for the board.

NICHOLAS Z. KAFEGLIS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARIA A. MORGAN, Secretary
APPROVED BY AGENCY: July 29, 2002
FILED WITH LRC: July 30, 2002 at 4 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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 September 16, 2002, five weekdays prior to the hearing, of their intention 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: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS

Contact person: Betty H. Olinger
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes minimum administrative and operational requirements for county, county, and district boards of health.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish minimum administrative and operational requirements for county, county, and district boards of health.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.025, 211.090, 211.070. 212.120, and 212.230 mandate that the Cabinet for Health Services establish policies and standards of operation for the local health departments of Kentucky and their governing boards. This administrative regulation conforms to the content of authorizing statutes by establishing policies and standards of operation for the local health departments of Kentucky and their governing boards.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by establishing policies governing health departments of health.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment will bring the regulation into alignment with the newly established requirement of board of health pharmacist membership appointment.
(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to establish requirements for board of health membership.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 211.025, 211.090, 211.070. 212.120, and 212.230 mandate that the Cabinet for Health Services establish policies and standards of operation for the local health departments of Kentucky and their governing boards. This administrative regulation conforms to the content of authorizing statutes by establishing policies and standards of operations for the local health departments of Kentucky and their governing boards.

(d) How the amendment will assist in the effective administration of the statutes: This amendment assists in the effective administration of the statutes by establishing policies governing health departments of health.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment will affect 118 county boards of health and 15 district boards of health.
(4) Provide an assessment of how the above group or groups will be impacted by the implementation of this administrative regulation if new, or by the change if it is an amendment: This amendment establishes policies governing health department boards of health membership.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Any costs incurred by a local health department would come from local health department funds (direct state or federal funds, Department for Public Health allocations, legislative appropriations, fees for service, local health tax, etc.).
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation: No increase of fees or funding will be required.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No increase of fees or funding will be required.
(9) TIERING: Is tiering applied? Yes, tiering was applied. This regulation applies to all boards of health with the exception of Lexington-Fayette and Louisville-Jefferson County Boards of Health and the Northern Kentucky Independent District Board of Health. The exempted boards of health have specific enabling legislation, which allows them to establish their own policies and procedures.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes
2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This regulation would affect only a part of the local government.
3. State the aspect or service of local government to which this administrative regulation relates. This administrative regulation relates to local health departments only.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a local government for the first full year the regulation is in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Expenditures (+/-): Other Explanation: This administrative regulation amendment will be used clarify board of health membership.

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


RELATES TO: KRS 218A.010 to 218A.030, 218A.080 to 218A.090, 21 CFR 1308.13
STATUTORY AUTHORITY: KRS 218A.020, 218A.080
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020

- 817 -
authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A. This administrative regulation designates Schedule III controlled substances.

Section 1. Amphetamine and Methamphetamine Combination Products. The Cabinet for Health Services designates the following amphetamine- and methamphetamine combination products as Schedule III controlled substances:

(1) A tablet or capsule containing:
   (a) Methamphetamine hydrochloride 1 mg.
   (b) Conjugated estrogens-equine 0.25 mg.; and
   (c) Methyl testosterone 2.5 mg.
(2) A liquid containing, in each 15 cc:
   (a) Methamphetamine hydrochloride 1 mg.
   (b) Conjugated estrogens-equine 0.25 mg.; and
   (c) Methyl testosterone 2.5 mg.

Section 2. Stimulants. The Cabinet for Health Services designates as Schedule III controlled substances a material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometrical), and salts of those isomers if the existence of the salts, isomers or salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;
(2) Chlorphenetermine;
(3) Chlortermine; and
(4) Phenmetrazine.

Section 3. Depressants. The Cabinet for Health Services designates as Schedule III controlled substances the following:

(1) A material, compound, mixture, or preparation containing amobarbital, secobarbital, or pentobarbital, or any of their salts, and at least one (1) other active medicinal ingredient which is not a controlled substance;
(2) A suppository dosage form containing amobarbital, secobarbital, or pentobarbital, or any of their salts, which has been approved by the United States Food and Drug Administration for marketing only as a suppository;
(3) A drug product containing gamma-hydroxybutyric acid, including its salts, isomer, and salts of isomers, for which an application is approved under section 505 of the Federal Food, Drug, and Cosmetic Act. Gamma-hydroxybutyric acid is also known as GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; or sodium oxybutyrate.
(4) Ketamine, its salts, isomers, and salts of isomers. Ketamine is also known as (+)-(2,2-dichlorophenyl)-2-(methylamino)-cyclohexane; and
(5) [44] Tiletamine and zolazepam or any of their salts.
   (a) Tiletamine is also known as 2-(ethylamino)-2-(2-thienyl)cyclohexanone;
   (b) Zolazepam is also known as 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-(3,4-e)(1,4-dizepin-7(1H))one, flupyrazon.

Section 4. Pentazocine Drug Products. The Cabinet for Health Services designates, in addition to the parenteral or injectable form of Pentazocine which is designated as a Schedule III controlled substance by KRS 218A.090(3), a material, compound, mixture, or preparation which contains a quantity of Pentazocine, including its salts.

Section 5. Anabolic Steroids. The Cabinet for Health Services designates as Schedule III Controlled Substances, in addition to those listed in KRS 218A.090(5), a material, compound, mixture, or preparation which contains a quantity of the following substances, including its salts, isomers, and salts of isomers, if the existence of salts of isomers is possible within the specific chemical designation:

(1) Chlorotestosterone;
(2) Dihydrotestosterone; and
(3) Methandranone.

Section 6. Hallucinogenic Substances. The Cabinet for Health Services designates as Schedule III controlled substances, in addition to those listed in KRS 218A.090, a material, compound, mixture, or preparation which contains a quantity of dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved product. Dronabinol is also known as:

(1) (6α-R-trans)-6a, 7, 8, 10a- tetrahydro-6, 6, 9-trimethyl-3-pentyl-8H-benzolo[delta]pyran-1-ol; or
(2) (-)-delta-9-(trans)-tetrahydrocannabinol.

Section 7. Narcotics. The Cabinet for Health Services designates as Schedule III controlled substance a material, compound, mixture, or preparation which contains any quantity of buprenorphine, or its salts.

NICHOLAS Z. KAFOGLOS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARcia MORGAN, Secretary
APPROVED BY AGENCY: July 28, 2002
FILED WITH LRC: July 29, 2002 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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 office by writing to September 16, 2002, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. 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: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Danna Droz
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation adds substances to the list of substances classified as Schedule III by KRS 218A.090.
   (b) The necessity of this administrative regulation: Federal regulations list substances in Schedule III that are not included in KRS 218A.090. For law enforcement purposes, these substances must be listed in state law or regulation also.
   (c) How this administrative regulation conforms to the content of the authorizing statute: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Conformance with federal regulation facilitates enforcement by state law enforcement agencies and compliance by citizens of the Commonwealth with both state and federal requirements.
   (e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
      (a) How the amendment will change this existing administrative regulation: The amendment adds one substance to the list of Schedule III substances.
      (b) The necessity of the amendment to this administrative regulation: Parallel federal regulations have been amended.
      (c) How the amendment conforms to the content of the authorizing statute: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A.
      (d) How the amendment will assist in the effective administration of the statutes: Conformance with federal regulation facilitates compliance by citizens of the Commonwealth with both state and federal requirements.
   (3) List the type and number of individuals, businesses, organi-
zations, or state and local governments affected by this administrative regulation: Approximately 14,000 health care professionals including pharmacists, physicians, dentists, and veterinarians in the Commonwealth are affected by this administrative regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment facilitates certain recordkeeping requirements for individuals affected by this regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: It will cost approximately $50 in staff time to update informational materials.
(b) On a continuing basis: There is no continuing cost for implementation of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administration of drug regulations is financed by the general fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees, directly or indirectly.

(9) 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. The comparable federal laws and regulations are 84 Stat. 1242, 21 USC 801, and 21 CFR 1308.13.

2. State compliance standards. The criteria for substances in Schedule IV are set forth in KRS 218A.020 and 218A.080.

3. Minimum or uniform standards contained in the federal mandate. The criteria for substances in Schedule IV are set forth in 21 USC 812(b)(3).

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This amendment will be identical to federal requirements.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards are not imposed.

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


RELATES TO: KRS 218A.010 to 218A.030, 218A.100 to 218A.110, 21 CFR 1308.14

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 211.090, 218A.020, 218A.100, 218A.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A. This administrative regulation designates Schedule IV controlled substances. KRS 218A.100 authorizes the Cabinet for Health Services to place a substance in Schedule IV if it finds that: (1) the substance has a low potential for abuse relative to substances in Schedule III; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III. KRS 218A.020(3) provides that if any substance is designated, rescheduled, or deleted as a controlled substance under a federal law and notice of the designation, rescheduling, or deletion is given to the cabinet, the cabinet may similarly control the substance by administrative regulation. The Cabinet for Health Services designates Schedule IV controlled substances.

Section 1. Stimulants. The Cabinet for Health Services designates as Schedule IV controlled substances, in addition to those specified by KRS 218A.110, a material, compound, mixture, or preparation which contains a quantity of the following substances, including their salts, isomers, whether optical position or geometric, and salts of the isomers, if the existence of the salts, isomers, and salts of isomers is possible:

1. Cathine (+)-norpseudoephedrine;
2. Diethylpropion;
3. Fenacafamind;
4. Fenfluramine;
5. Fenproprox; (7) Mefencore;
6. Modafinil;
9. Pemoline, including organometallic complexes and chelates;
11. Pipradrol;
12. Sibutramine; and
13. SPA (L)-1-dimethylamino-1,2-diphenylethane.

Section 2. Depressants. The Cabinet for Health Services designates as Schedule IV controlled substances, in addition to those specified by KRS 218A.110, a material, compound, mixture, or preparation which contains a quantity of the following substances, including their salts, isomers, and salts of isomers if the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation:

1. Alprazolam;
2. Bromazepam;
3. Camazepam;
4. Carisoprodol;
5. Chlordiazepoxide;
6. Clorazepate;
7. Clorazepate;
8. Clorazepate;
9. Clozazolam;
10. Cloxazolam;
11. Delorazepam;
12. Diazepam;
13. Dichloralphenazone;
14. Deslorazepam;
15. Ethyl Flurazepam;
16. Flunitrazepam;
17. Flunitrazepam;
18. Flurazepam;
19. Halazepam;
20. Halcinonide;
21. Ketazolam;
22. Lorazepam;
23. Lorazepam;
24. Lorazepam;
25. Lorazepam;
26. Lorazepam;
27. Methohexitol;
28. Miltazolam;
29. Mirtazapine;
30. Mirtazapine;
31. Nordazepam;
32. Oxazepam;
33. Oxazepam;
34. Oxazepam;
35. Oxazepam;
36. Oxazepam; and
37. Temazepam;
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Section 3. Narcotics. The Cabinet for Health Services designates as Schedule IV controlled substances, in addition to those specified by KRS 218A.110, a material, compound, mixture, or preparation containing a quantity of the following narcotic drugs, or their salts calculated as the free hydroxy base or alkaloid, as set forth below:

(1) Butorphanol;
(2) Dextropropoxyphene (Alpha-+)-4-dimethylaminol-2-diphenyl-3-methyl-propionoxybutane);
(3) Not more than one (1) milligram of dextropropoxyphene and not less than twenty-five (25) micrograms of atropine sulfate per dosage unit; and
(4) Nalbuphine.

NICHOLAS Z. KAFOGLIS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARCIA MORGAN, Secretary
APPROVED BY AGENCY: July 26, 2002
FILED WITH LRC: July 26, 2002 at 9 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002 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 September 16, 2002, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. 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: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 8W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Danna Droz.

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation adds substances to the list of substances classified as Schedule IV by KRS 218A.110.
(b) The necessity of this administrative regulation: Federal regulations list substances in Schedule IV that are not included in KRS 218A.110. For law enforcement purposes, these substances must be listed in state law or regulation also.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218A.020 authorizes the Cabinet for Health Services do add, delete, or reschedule substances enumerated in KRS Chapter 218A.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Conformance with federal regulation facilitates enforcement by state law enforcement agencies and compliance by citizens of the Commonwealth with both state and federal requirements.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment adds one substance to the list of Schedule IV substances.
(b) The necessity of the amendment to this administrative regulation: Parallel federal regulations have been amended.
(c) How the amendment conforms to the content of the authorizing statutes: KRS 218A.020 authorizes the Cabinet for Health Services do add, delete, or reschedule substances enumerated in KRS Chapter 218A.

How the amendment will assist in the effective administration of the statutes: Conformance with federal regulation facilitates compliance by citizens of the Commonwealth with both state and federal requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 14,000 health care professionals including pharmacists, physicians, dentists, and veterinarians in the Commonwealth are affected by this administrative regulation.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment facilitates certain recordkeeping requirements for individuals affected by this regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: It will cost approximately $50 in staff time to update informational materials.
(b) On a continuing basis: There is no continuing cost for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administration of drug regulations is financed by the general fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees, directly or indirectly.

(9) 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. The comparable federal laws and regulations are 84 Stat. 1242, 21 USC 801, and 21 CFR 1308.14.
2. State compliance standards. The criteria for substances in Schedule IV are set forth in KRS 218A.020 and 218A.100.
3. Minimum or uniform standards contained in the federal mandate. The criteria for substances in schedule IV are set forth in 21 USC 812(b)(4).
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This amendment will be identical to federal requirements.
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards are not imposed.

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


RELATES TO: KRS 2:8A.010 to 218A.030, 218A.080 to 218A.090, 21 CFR 1308.13, 1308.33-1308.34
STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 211.090, 218A.020, 218A.250
NECESSITY, FUNCTION AND CONFORMITY: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A. This administrative regulation exempts certain anabolic steroid products.
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[KRS 218A.020(3) provides that if a controlled substance is designated, rescheduled, or deleted as a controlled substance under federal law and notice is given to the Cabinet for Health Services, the Cabinet for Health Services may similarly control the substance under KRS Chapter 218A by administrative regulation. This administrative regulation exempts from the provisions of KRS Chapter 218A that anabolic steroid products have been exempted pursuant to federal regulation.]

Section 1. Exempt Anabolic Steroid Products. The Cabinet for Health Services exempts the following anabolic steroid containing compounds, mixtures, or preparations from the provisions of KRS 218A.150 - 218A.180 and 218A.200:

(1) Androgin L.A.®, vial, NDC number 0456-1005: testosterone enanthate 50 mg/ml, estradiol valerate 4 mg/ml;
(2) Andro-Estro 90-49®, vial, NDC number 0536-1605: testosterone enanthate 90 mg/ml, estradiol valerate 4 mg/ml;
(3) Component E-H® in process granulation, pill or drum: testosterone propionate 10 parts, estradiol benzoate 1 part;
(4) Component E-H® in process pellets, pill: testosterone propionate 25 mg, estradiol benzoate 2.5 mg/pellet;
(5) Component E-S® in process granulation, pill or drum: trenbolone acetate 5 parts, estradiol USP 1 part;
(6) Component E-S® in process pellets, pill: trenbolone acetate 120 mg, estradiol USP 24 mg/pellet;
(7) DepANDROGYN®, vial, NDC number 0456-1020: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(8) [43] DEPO-T.E.®, vial, NDC number 52765-257: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(9) Depo-Testadiol®, vial, NDC number 0008-0253: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(10) [42] depTESTROGEN®, vial, NDC number 51668-257: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(11) [42] Duomone®, vial, NDC number 52047-360: testosterone enanthate 90 mg/ml, estradiol valerate 4 mg/ml;
(12) [42] DURATESTRIN®, vial, NDC number 43799-016: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(13) [42] DUO-SPAN II®, vial, NDC number 0684-0102: testosterone cypionate 50 mg/ml, estradiol [testified] cypionate 2 mg/ml;
(14) [42] Estratest®, tablet, NDC number 0032-1026: esterified estrogens 1.25 mg, methyltestosterone 2.5 mg;
(15) [42] Estratest HS®, tablet, NDC number 0032-1023: esterified estrogens 0.625 mg, methyltestosterone 1.25 mg;
(16) [42] Menogen®, tablet, NDC number 59243-0570: esterified estrogens 1.25 mg, methyltestosterone 2.5 mg;
(17) [42] Menogen HS®, tablet, NDC number 59243-0560: esterified estrogens 0.625 mg, methyltestosterone 1.25 mg;
(18) [42] PAN Estra TEST®, vial, NDC number 0525-0175: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(19) [42] Premarin with Methyltestosterone®, tablet, NDC number 0046-0875: conjugated estrogens 1.25 mg, methyltestosterone 10.0 mg;
(20) [42] Premarin with Methyltestosterone®, tablet, NDC number 0046-0878: conjugated estrogens 0.625 mg, methyltestosterone 5.0 mg;
(21) [42] Synovex H in-process bulk pellets, drum: testosterone propionate 25 mg, estradiol benzoate 2.5 mg;
(22) [42] Synovex H Pellets in-process granulation, drum: testosterone propionate 10 parts, estradiol benzoate 1 part;
(23) [42] Synovex Plus®, in-process bulk pellets, drum: trenbolone acetate 25 mg, estradiol benzoate 3.5 mg/pellet [l];
(24) [42] Synovex Plus®, in-process granulation, drum: trenbolone acetate 25 parts, estradiol benzoate 3.5 parts;
(25) [42] TEST-ESTRO Cylineates®, vial, NDC number 0536-9470: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(26) [42] Testagen®, vial, NDC number 55535-257: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(27) [42] Testoderm®, 4 mg/d, patch, NDC number 17314-4605: testosterone 10 mg;
(28) [42] Testoderm®, 6 mg/d, patch, NDC number 17314-4609: testosterone 15 mg;

(29) Testoderm®, with Adhesive, 4 mg/d, patch, export only: testosterone 10 mg;
(30) [42] Testoderm®, with Adhesive, 6 mg/d, patch, NDC number 17314-2836: testosterone 15 mg;
(31) [42] Testoderm®, in-process film, sheet: testosterone 0.25 mg/cm²;
(32) [42] Testoderm®, with Adhesive, in-process film, sheet: testosterone 0.25 mg/cm²;
(33) [42] Testosterone Cyp 50 Estradiol Cyp 2, vial, NDC number 0814-7737: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(34) Testosterone Cypionate-Estradiol Cypionate Injection, vial, NDC number 54274-533: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(35) [42] Testosterone Cypionate-Estradiol Cypionate Injection, vial, NDC number 0182-3063: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(36) [42] Testosterone Cypionate-Estradiol Cypionate Injection, vial, NDC number 0364-6611: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(37) [42] Testosterone Cypionate-Estradiol Cypionate Injection, vial, NDC number 0402-0257: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(38) [42] Testosterone Cypionate-Estradiol Cypionate Injection, vial, NDC number 0009-0253: testosterone cypionate 50 mg/ml, estradiol cypionate 2 mg/ml;
(39) [42] Testosterone Enanthate-Estradiol Valerate Injection, vial, NDC number 0182-3073: testosterone enanthate 90 mg/ml, estradiol valerate 4 mg/ml;
(40) [42] Testosterone Enanthate-Estradiol Valerate Injection, vial, NDC number 0364-6616: testosterone enanthate 90 mg/ml, estradiol valerate 4 mg/ml;
(41) Testosterone Ophthalmic Solutions, ophthalmic solutions: testosterone 0.08%/v/v;
(42) [43] Tiplia Sex Reversal Feed (Investigational), Ranjen, Inc., plastic bags: methyltestosterone 60 mg/kg fish feed; and
(43) Tiplia Sex Reversal Feed (Investigational), Zeigler Brothers, Inc., plastic bags: methyltestosterone 60 mg/kg fish feed [fish feed, 60 mg/kg].

NICHOLAS Z. KAFOGLIS, M.D., Chairman
RICE C. LEACH, M.D., Commissioner
MARIA MORGAN, Secretary

APPROVED BY AGENCY: July 30, 2002

FILED WITH LRC: July 30, 2002 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation will be held September 23, 2002 at 9 a.m. in the Cabinet for Health Services Auditorium, 1st Floor, Department for Public Health Building, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by September 16, 2002. 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. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written comments of intent to attend the public hearing or written comments to: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 5 W-B, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 Fax.

REGULATORY IMPACT ANALYSIS

Contact person: Donna Droz
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation exempts certain anabolic steroid products from the requirements of KRS 218A.150-218A.180 and 218A.200.
(b) The necessity of this administrative regulation: Federal regulations exempt certain products from certain requirements of the federal Controlled Substances Act.

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(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Conformance with federal regulations facilitates compliance by citizens of the Commonwealth with both state and federal requirements.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment adds eight substances to and deletes one substance from the list.

(b) The necessity of the amendment to this administrative regulation: Parallel federal regulations have been amended.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 218A.020 authorizes the Cabinet for Health Services to add, delete, or reschedule substances enumerated in KRS Chapter 218A.

(d) How the amendment will assist in the effective administration of the statutes: Conformance with federal regulation facilitates compliance by citizens of the Commonwealth with both state and federal requirements.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 14,000 health care professionals including pharmacists, physicians, dentists, and veterinarians in the Commonwealth are affected by this administrative regulation.

(4) Provide an assessment of whether an increase in fees or funding will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The amendment eliminates certain record keeping requirements for individuals affected by this regulation.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: It will cost approximately $50 in staff time to update informational materials.

(b) On a continuing basis: There is no continuing cost for implementation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The administration of drug regulations is financed by the general fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding will not be required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees, directly or indirectly.

(9) 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. The comparable federal laws and regulations are 21 USC 602 (41)(A), (B), 21 USC 812(c)(6) and 21 CFR 1308.34.

2. State compliance standards. The criteria for exemption are set forth in KRS 218A.090(4)(j).

3. Minimum or uniform standards contained in the federal mandate. The criteria for substances to be exempt are set forth in 21 CFR 1308.33.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards are not imposed.

CABINET FOR HEALTH SERVICES
Division of Public Health Protection and Safety
(Amendment)

902 KAR 100:012. Fee schedule.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)

STATUTORY AUTHORITY: KRS 194A.050, 211.090, 211.848, 1902 KAR 100:012; KRS 211.990(4)

NECESSITY FUNCTION, AND CONFORMITY: KRS 211.848(1) mandates [authorizes] the Cabinet for Health Services [Human Resources] to establish a reasonable schedule of fees by administrative regulation. These fees shall be paid by applicants for registration of radiation producing machines and radioactive material licenses and for their renewal, and for environmental surveillance activities conducted by the cabinet. The purpose of this administrative regulation established (is to establish) a fee schedule and charges for radioactive material licenses and radiation producing machines registrants for registration, licensing and inspection services.

Section 1. [Applicability. This administrative regulation shall apply to applicants, registrants and licensees of radiation producing machines and radioactive materials.]

Section 2. Radiation Producing Machine Schedule of Annual Fees and Charges. The following schedule of annual fees shall apply [apply] to radiation producing machine registrants. An application [Application(s)] for registration or annual renewal [renewals] shall be accompanied by the appropriate fee established below:


3. Other x-ray tubes not specified above - $50.

4. Shielding evaluation:

(a) Diagnostic facilities - $200.

(b) Linear accelerator - $1,000.

Section 2.[3] Radioactive Material License Schedule of Annual Fees and Charges. The following schedule shall apply [apply] to radioactive material licenses. An initial and renewal application [application(s)] shall be accompanied by the fee established in this section:

1. A specific radioactive material license [license] initial and annual fee:

(a) Human use.

1. Nuclear medicine - $790 [450].

2. Teletherapy - $790 [450].


4. Other - $375.

(b) Industrial radiography - $790 [450].

(c) Wireline service - $790 [450].

(d) Broad scope - $1,050 [600].

(e) Nuclear laundry - $1,580 [900].

(f) Irradiator.

1. Self-contained - $390 [225].

2. Unshielded during irradiation - $1,580 [900].


1. Industrial gauging device - $1,310 [250].

2. In vitro/in vivo kits - $1,050 [600].

3. Radiopharmaceuticals - $1,580 [900].

4. Other - $900.

(h) Industrial gauging devices - $390 [225].

(i) In vitro and clinical laboratory - $225.

(j) Veterinary use - $375.

(k) Services (e.g., leak testing) - $200 [450].

(l) Other (nonspecified) - $390 [225].
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: Jill Brown, Cabinet Regulation Coordinator, Cabinet for Health Services, Office of the Counsel, 275 East Main Street - 4W-C, Frankfort, Kentucky 40621, (502) 564-7905, (502) 564-7573 (Fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Jan Jasper

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets an annual fee schedule and charges for radioactive material licenses and radiation producing machines registrants.
(b) The necessity of this administrative regulation: This administrative regulation provides funding to support the administration of the Cabinet for Health Services' radiation programs as mandated by KRS 211.842.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 211.845 mandates the Cabinet for Health Services to fix a reasonable schedule of fees and charges to be paid by applicants for registration of radiation producing machines and radioactive materials licenses and for renewal of the certificates and licenses. The Cabinet for Health Services shall also prescribe, by regulation, a reasonable schedule of fees to be paid by registrants and licensees for inspections and environmental surveillance activities conducted by the cabinet.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amendment modifies the fees for radiation facilities, establishments for:
1. New categories of radioactive material licensees;
2. Shielding evaluations;
3. Review of sealed source and devices; and
4. Provides for reimbursement for escort of radioactive material through the Commonwealth.

(b) The necessity of the amendment to this administrative regulation: This administrative regulation provides funding to the Cabinet for Health Services to operate its radiation program and ensures the beneficial use of radiation while providing protection of worker and public health.

(c) How the amendment conforms to the content of the authorizing statutes: The current amendment conforms to the requirements established by KRS 211.845.

(d) How the amendment will assist in the effective administration of the statutes: The amendments will provide a mechanism for the Cabinet for Health Services to fund statutory mandates that ensure the beneficial use of radiation while protecting the citizens of the Commonwealth from unnecessary exposure to the harmful effects of ionizing radiation that is a carcinogen. The resources from these fees shall be directed toward licensure, registration, certification, inspections, compliance activities, emergency response, and other radiation protection activities for the protection of public health.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:
(a) 400 radioactive material licensees will be impacted by the amendment;
(b) 200 applicants for shielding evaluations;
(c) One manufacturer of sealed source and devices;
(d) Escort of radioactive material.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Increase in fees and charges to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for renewal of the certificates and licenses will have a minor impact. The amended schedule of fees and charges remains significantly less than fees and charges assessed by the U.S. Nuclear Regulatory Commission for licensees in nonagreement states.

(5) Provide an estimate of how much it will cost to implement
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1. A licensed clinical social worker; or
2. A licensed clinical psychologist.

10) "Medically necessary" or "medical necessity" means that a covered benefit is determined to be needed in accordance with 907 KAR 3:130.

11) "Medicare Economic Index" or "MEI" means the economic index referred to in 42 USC 1395m(b)(3)(XL)

12) "PCC" or "primary care center" means an entity that has met the licensure requirements established in 902 KAR 20-058.

13) "Percentage increase in the MEI" means as defined in 42 USC 1395u(i)(3).

14) "PPS" means prospective payment system.

15) "Rate year" means the twelve (12) month period beginning July 1 of each year for which a rate is established for a center or clinic under the prospective payment system.

16) "Reasonable cost" means a cost as determined by the applicable Medicare cost reimbursement principles set forth in 42 CFR Part 413, 45 CFR 74.27, and 48 CFR Part 31.

17) "RHC" or "rural health clinic" means as defined in 42 CFR 405.2401.

18) "Visit" means a face-to-face encounter between a patient and a health care provider during which a FQHC, RHC, or PCC service is delivered.

Section 2. Provider Participation Requirements. (1) A participating center or clinic shall be enrolled in the Kentucky Medicaid Program.

(2) An FQHC shall be enrolled as a primary care center.

(3) A participating center or clinic and staff shall comply with all applicable federal, state, and local regulations concerning the administration and operation of a PCC, FQHC, or an RHC.

(4) A center or clinic performing laboratory services shall meet the requirements established in 907 KAR 1:028 and 907 KAR 1:575.

Section 3. Reimbursement. (1) For services provided on or after July 1, 2001, the department shall reimburse a PCC, FQHC, and RHC 100 percent of its average allowable cost of providing Medicaid-covered services during a center's or clinic's fiscal years 1999 and 2000. A center's or clinic's fiscal year that ends on January 31 shall be considered ending the prior year.

(2) A center or clinic shall complete MAP 100601 annually and submit it to the department by the last calendar day of the third month following the center's or clinic's fiscal year end.

(3) The department shall:
(a) Use a center's or clinic's desk reviewed or audited cost reports for fiscal years ending February 1999 through January 2000 and February 2000 through January 2001;
(b) Trend the cost from the second base year forward to July 1,

this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Fees from the licensing of radioactive material users.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: NA
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does establishes and increases existing fees.

(9) TIERING: Is tiering applied? Tiering was appropriate in this administrative regulation because a different level of oversight is applicable to licensee depending on the activities conducted with radioactive material and for new categories of licensees. Tiering was also necessary for shielding evaluations due to the level of plan review necessary to ensure the protection of worker and public health.

CABINET FOR HEALTH SERVICES
Department for Medicaid Services
Division of Physicians and Specialty Services (Amendment)


RELATES TO: KRS 205,560, 216B.010, 216B.130, 216B.990, Chapter 314, 42 CFR Part 491, Subpart A, 440.230, 45 CFR 74.27, 48 CFR Part 31, 42 USC 1396a[100-220]


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(3) 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 the provisions for reimbursement [sets forth the method for determining amounts payable by the cabinet] for primary care center, [and] federally-qualified health center, and rural health clinic services.

Section 1. Definitions. (1) "Allowable costs" means costs that are incurred by a center or clinic that are reasonable in amount and proper and necessary for the efficient delivery of services.

(2) "Audit" means an examination, which may be full or limited in scope, of a clinic's or center's financial transactions, accounts, and reports as well as its compliance with applicable Medicare and Medicaid regulations, manual instructions, and directives.

(3) "Center" means a federally-qualified health center or a primary care center.

(4) "Change in scope of service" means a change in the type, intensity, duration, or amount of service.

(5) "Clinic" means a rural health clinic.

(6) "Department" means the Department for Medicaid Services or its designated agent.

(7) "Federally-qualified health center" or "FQHC" means as defined in 42 CFR 405.2401.

(8) "Health care provider" means:
(a) A licensed physician;
(b) A licensed osteopathic physician;
(c) A licensed podiatrist;
(d) A licensed optometrist;
(e) A licensed and certified advanced registered nurse practitioner;
(f) A licensed dentist or oral surgeon;
(g) A certified physician assistant; or
(h) For an FQHC also means:
2001 by the percentage of increase as measured by the HCFA hospital market basket index; and
(c) Calculate the average cost by dividing the total cost associated with FQHC, PCC, and RHC services by the total visits associated with the FQHC, PCC, and RHC services.

(4) If a center or clinic has only one (1) full year of cost report data, the department shall calculate a PPS base rate using a single-audited cost report.

(5) The department shall adjust a PPS base rate determined in accordance with this section to account for an increase or decrease in the scope of services provided during fiscal year 2001 in accordance with Section 6 of this administrative regulation.

(6) Until the establishment of a PPS base rate by the department, a center or clinic shall be paid for services at an interim rate.

(7) Except for a center that has been receiving an incentive payment, the interim rate shall be the rate on file on June 30, 2001;

(8) A center that has been receiving an incentive payment shall have an interim rate based upon the average costs of providing services for fiscal years 1999 and 2000. The average shall be calculated in accordance with this section using unaudited cost report data.

(9) A center shall not be eligible for an incentive payment for services provided on and after July 1, 2001.

(10) A center or clinic shall have thirty (30) days from the date of notice by the department of its PPS rate to request an adjustment based on a change in scope of services; and
(b) The department shall have thirty (30) days to review the request prior to establishing a final PPS rate that shall be subject to appeal in accordance with Section 9 of this administrative regulation.

Section 5. Establishment of a PPS Base Rate for a New Provider. (1) The department shall establish a PPS base rate to reimburse a new PCC, FQHC, and RHC 100 percent of its reasonable cost of providing Medicaid covered services during a center or clinic’s base year.

(2) Reasonable costs shall be determined by the department based on a center or clinic’s cost report used by the department to establish the PPS rate.

(3) Until a center or clinic submits a Medicaid cost report containing twelve (12) months of operating data for a fiscal year, the department shall make payments to the center or clinic based on an interim rate.

(4) A new center or clinic shall submit a budget that sets forth:
(a) Estimates of Medicaid allowable costs to be incurred by the center or clinic during the initial reporting period of at least twelve (12) months; and
(b) The number of Medicaid visits a center or clinic expects to provide during the reporting period.

(5) An interim payment shall be based on an annual budgeted or projected average cost per visit that shall be subject to reconciliation after a Medicaid cost report with twelve (12) months of actual operating data has been received.

Section 6. Adjustments to a PPS Rate. (1) If a center or clinic changes its scope of services after the base year, the department shall adjust a center’s or clinic’s PPS rate by dividing a center’s or clinic’s total Medicaid costs by total Medicaid visits. A provider shall submit MAP 100501 to request a rate adjustment after a change in service.

(2) Total Medicaid costs shall be determined in accordance with the following:
(a) The Medicaid costs of existing services shall be determined by multiplying a center’s or clinic’s current Medicaid PPS rate by the number of Medicaid visits used to calculate the base Medicaid PPS rate.

(b) The Medicaid costs of a new service shall be determined by:
1. Adding:
(a) The projected annual direct cost of a new service as determined from a center’s or clinic’s budgeted report; and
(b) The administrative cost of a new service which shall be equal to the ratio of administrative costs to direct costs determined from the base-year cost reports multiplied by a center’s or clinic’s projected direct cost of a new service; and
2. Multiplying the sum derived in subparagraph 1 of this para-
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effective April 1, 1990, all federally-qualified health centers shall be placed on a universal rate-year for purposes of payments.

(b) For the purpose of calculating interim rates, costs from the most recent audited cost report shall be used with costs trended to the beginning of the year (e.g., January 1, 1989 for the first universal rate-year) and indexed for inflation to the end of that year.

(5) As an incentive for cost-efficiency, providers which at the beginning of the universal rate-year have medical and medical expenses in the lowest one-fourth (1/4) of the array shall receive an incentive payment which is set at twenty (20) percent of the average composite rate of the incentive eligible group, with the incentive to be paid only on visits which are not in excess of 10,000. The entire interim payment shall be considered prospective in nature for the incentive eligible group in that there shall be no settlement after audited billing and refund, unless changes are less than 10 percent payments, to the extent that cost exceeds the interim payments, an upward adjustment shall be made to compensate for the additional costs. At the time of settlement, the center shall receive the greater of the interim payment, or actual cost, not to exceed charges.

(6) Effective with regard to services provided on or after October 1, 1998, the cost of drugs for specified immusions as shown in 907 KAR 1:051 which are provided free from the Department for Health Services to primary care centers and federally-qualified health centers shall be paid by the Department for Health Services. Payments to the Department for Health Services upon receipt of notice from the centers that the drugs were used to provide immunizations to Medicaid recipients.

(7) Effective with regard to services provided on or after January 1, 1989, the cost of drugs for specified immunizations as shown in 907 KAR 1:051 shall not be considered an allowable or an allowable charge even though the drugs purchased on the open market so long as the drugs could have been obtained free from the Department for Health Services.

Section 2. Implementation of the Payment System. (1) The reimbursement system developed by the cabinet for primary care centers and federally-qualified health centers is supported by the Medicare reimbursement principles which shall issue as guidelines for determining reasonable allowable costs in areas not addressed specifically by the cabinet.

(2) The system shall utilize a method whereby providers shall be paid an interim rate based on a reasonable estimation of current year costs followed by a year-end adjustment to actual reasonable allowable costs. When the need can be demonstrated, adjustment to actual rates shall be made.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor’s accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each provider shall make available to the cabinet at the end of each fiscal reporting period, and at intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet.

(5) Interim payments provided to the provider shall be made at reasonable intervals but not less than monthly.

Section 3. Prohibition Against Joint Participation. Dual or joint participation in the medical assistance program by a primary care center or federally-qualified health center shall not be permitted. When a primary care center or federally-qualified health center elects to participate as such in the medical assistance program it shall not participate concurrently under other regular ongoing elements of the medical assistance program, including the rural health clinic services element. In addition, when a center elects to participate in the medical assistance program, it is considered to elect participation for all eligible service elements, components, or subunits of the center.

Section 4. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this administrative regulation for services not covered by 907 KAR 1:051, primary care centers, and federally-qualified health centers, nor for that portion of a center’s costs found unreasonable or not allowable in accordance with the cabinet’s "Primary Care–Centers–and–Federally-qualified Health Center Reimbursement Manual." In addition, when the utilization review processes of the cabinet find that costs have been incurred through provision of unnecessary medical–treatment services, the costs shall be disallowed.

Section 5. The amendments to this administrative regulation shall be applicable with regard to payments for services provided on or after July 1, 1991.

MIKE ROBINSON, Commissioner
MARCIA R. MORGAN, Secretary
APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 12, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held September 23, 2002, at 9 a.m., in the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending shall notify this agency in writing by September 16, 2002. If no notice of intent to attend the hearing is received by that date the hearing may be canceled. The hearing is open to the public. Any person who attends will be given the opportunity to comment on the proposed administrative regulation. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notice of intent to attend the public hearing or written comments to: Jill Brown, Cabinet Regulation Coordinator, Office of the General Counsel, Cabinet for Health Services, 275 East Main Street - 5-W, Frankfort, Kentucky 40621, (502) 564-7905, FAX (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Agency Contact Person: Teresa Goodrich or Stuart Owen (564-6204) (1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the reimbursement methodology for primary care centers, federally-qualified health centers, and rural health clinics.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to reimburse primary care centers, federally-qualified health centers, and rural health clinics for services provided to Medicaid recipients.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation grant the cabinet for Medicaid Services (DMS) the authority to reimburse primary care centers, federally-qualified health centers, and rural health clinics for services provided to Medicaid recipients.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the reimbursement methodology for primary care centers, federally-qualified health centers, and rural health clinics.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This regulation is being amended to comply with the reimbursement provisions of the Medicare, Medicaid, and SCHIP Benefits Improvement Act (BIPA) of 2000, add physician assistant to the definition of health care provider and for FQHC providers, add licensed clinical social worker and licensed psychologist to the definition of health care provider.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to bring the state into compliance with federal regulations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to ensuring that payments made to primary care centers, federally-qualified health centers, and rural health clinics do not exceed those mandated by federal regulation and that payments are made for services provided by individuals entitled by federal regulation to generate a billable event.

(d) How the amendment will assist in the effective administration of the statutes: This amendment inserts within the definition of...
health care provider additional individuals that, as employees of a primary care center, a federally-qualified health center, or a rural health clinic, may generate a billable event and the amendment provides for the methodology which brings the state into compliance with federal payment mandates.

(3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: This administrative regulation establishes reimbursement for all primary care centers and federally-qualified health centers (47) and rural health clinics (70).

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This amendment will allow a greater choice of health care provider employee types for the above groups as well as creating an equitable reimbursement methodology.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The addition of a 30-day grace period during which a provider may request an adjustment of his PPS rate and a 30-day period during which DMS may review the request will not have a fiscal impact. The addition of physician assistants in all 3 facility types and the addition of licensed clinical social workers and licensed clinical psychologists in only the FQHCs, implemented in the emergency regulation filed May 23, 2002, will generate additional billings and, therefore, increase program costs, but the amount is indeterminable. Due to implementing the prospective payment system in the emergency regulation filed November 30, 2001, first year expenditures should decrease by approximately $2,132,178. This amount reflects the rate adjustments required to comply with changes mandated by the Center for Medicaid Services (CMS) under PRWORA and Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000. It also reflects the annual savings of $3.9 million from ceased incentive payments in the primary care center program.

(b) On a continuing basis: For subsequent years the savings should be about 2% of the total program costs annually, depending on how rates for new facilities and new services for existing facilities are determined. From the elimination of incentive payments in the primary care center program, an annual savings of 5.9 million will be an on-going savings.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of revenue to be used for the implementation of this administrative regulation are federal funds authorized by the Title XIX and Title XXI of the Social Security Act and matching funds of general and agency appropriations. Federal funds of $1,491,245 (69.94%) and state matching funds of $640,933 (30.06%) will be saved.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this amendment.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish or increase any fees.

(9) 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 primary care center, federally-qualified health center, and a rural health clinic program for indigent Kentuckians. Having elected to offer these programs, the state must comply with federal requirements contained in 42 USC 1396a(aa).

2. State compliance standards. This administrative regulation establishes a prospective payment system (PPS) for federally-qualified health centers and rural health clinic services as mandated by 42 USC 1396a(aa).

3. Minimum or uniform standards contained in the federal mandate. 42 USC 1396a(aa) requires state Medicaid agencies to reimburse services provided by federally-qualified health centers and rural health clinics in accordance with a prospective payment system. A PPS rate system must be created according to the standards set forth in the federal law.

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? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This administrative regulation will affect only a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. Local health departments that enrolled in the Medicaid Program as primary care centers.

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 (+/-):

5. Other Explanation: Local health departments enrolled as primary care centers may employ physician assistants instead of physicians to provide primary care services which may result in a reduction of expenditures and a potential increase in revenues attributable to additional staffing. Some of the health departments may be adversely affected by their PPS rate.

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

921 KAR 2:017. Kentucky Works supportive services.

RELATES TO: KRS 194B.050(1), 205.200(2), 205.211, 205.203, 45 CFR Parts 260-265, 42 USC 601 et seq., STATUTORY AUTHORITY: KRS 194B.050(1), 205.200(2), 205.203, 42 USC 601 et seq., EO 98-731

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 205 requires the Cabinet for Families and Children [as required] to administer the public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive assistance be prescribed by administrative regulations in conformity with 42 USC 601 et seq., and federal regulations. KRS 205.203 requires administrative regulations for the development of a work program for recipients of public assistance to provide for immediate employment or preparation for employment and to provide supportive services to assist in the pursuit of work and self-sufficiency. This administrative regulation sets forth the requirements for receiving Kentucky Works supportive services.

Section 1. Definitions. (1) "Approved Kentucky Works activity" means participation in an allowable activity in accordance with pursuant to 42 USC 1396a(aa).

2.921 KAR 2:370, Section 2(2)(c).

(2) "Assistance" means the definition of "assistance" pursuant to 45 CFR 260.34.
Section 4. Transportation Payment Amount and Authorization.
(1) If free transportation is unavailable that meets the needs of the recipient, transportation shall be provided for an individual participating in an approved Kentucky Works activity, to the extent funds are available, through:
(a) Arrangement by the state K-TAP agency or contractor; and
(b) After receipt of verification, as required in Section 5 of this administrative regulation, by a regional, capitated transportation network, a direct payment to the individual shall be made through the System Tracking for Employability Program or "STEP" (STEP), as follows:
1. If low-cost transportation is available and meets the needs of the individual, the actual transportation cost shall be paid up to the maximum payment rate pursuant to subparagraph 2 of this paragraph;
or
2. If free or low-cost transportation that meets the needs of the individual is unavailable, a direct payment shall be made to the individual per month as follows:
   a. Nine (9) dollars for less than four (4) days per month;
   b. Thirty-five (35) dollars for four (4) to sixteen (16) days per month;
   c. Sixty (60) dollars for seventeen (17) or more days per month.
(2) [ed] For a special circumstance, as determined by the cabinet, when the actual transportation cost exceeds the maximum payment rate in subsection (1)(b) of this section (paragraph (a) of this subsection), if approved by the cabinet, the actual cabinet-negotiated rate not to exceed $100 per month may be paid.
(3) [ed] A payment shall be issued in accordance with [made pursuant to] 921 KAR 2:050.
(4) [ed] In precomponent, if necessary to guarantee that the transportation arrangement shall not be lost, a transportation payment shall be provided for the period of up to:
   a. Two (2) weeks prior to the scheduled start of component activity; and
   b. One (1) month during a break in component activity if subsequent component activity is scheduled to begin within that period.

Section 5. Restriction on Authorization of a Transportation Payment.
(1) To verify the anticipated need for a transportation expense payment, the K-TAP recipient shall provide the following verification:
(a) "PA 33, Verification of Transportation and Participation in Education or Training Activity;" or
(b) "PA 33N, Second Notice Verification of Transportation and Participation in Education or Training Activity;"
(2) A payment shall not be made if:
(a) [ed] Appropriately verification listed in subsection (1) of this section is not returned by the end of the month prior to the month in which the cost will be incurred; or
(b) [ed] The participant is penalized for noncompliance with a Kentucky Works activity, in accordance with [made pursuant to] 921 KAR 2:370.

Section 6. [Transportation Service in a Regional Capitated Transportation Network, included in or until statewide implementation is completed, the transportation service shall be provided pursuant to 921 KAR 2:168.

Section 7.] Other Supportive Services.
(1) To the extent funds are available, other supportive services shall be provided if necessary for participation in the approved Kentucky Works activity of:
(a) Component preparation;
(b) Component participation while the K-TAP case remains active;
or
(c) [ed] A period of up to ninety (90) days subsequent to the discontinuance of the K-TAP case if:
1. The case is not discontinued due to:
   a. Fraudulent activity;
or
2. Failure to comply with procedural requirements;
   a. The Kentucky Works participant elects to continue the approved component activity in which he is engaged at the time of discontinuance; and
   b. Total gross income of the benefit group, pursuant to 921 KAR 2:016, Section 1(2), is at or below 200 percent of federal poverty level, adjusted annually.]
level, adjusted annually, or
(d) Acceptance of a new job or retention of an existing one if the parent or other adult;
1. Has accepted employment and a start date of employment is provided, except if an item is required as a condition of being hired by the employer; or
2. Is employed.
(2) Other supportive services shall be approved by the cabinet.
(3) An item or service needed by the K-TAP recipient for participation in a Kentucky Works activity that may [shall] be approved is the purchase of:
(a) A drug screening test fee;
(b) Up to three (3) uniforms for employment, if not reimbursable by the employer;
(c) One (1) suitable interview outfit for preemployment purposes;
(d) Required clothing or shoes particular to a service, profession or company, if not reimbursable by the employer;
(e) School supplies and books;
(f) A licensing fee which includes:
   1. Exam costs required to obtain a professional license or certification;
   or
   2. Driver's license fee;
   (g) A timepiece necessary for employment or training;
   (h) The cost to have a photo identification;
   (i) The cost of a criminal records check fee, if required by the provider or employer;
   (j) A driver's education class fee;
   (k) Tools required for employment; or
   (l) Another item or service needed by the K-TAP recipient for participation in the Kentucky Works activity, as determined by the cabinet.
(4) [43] Other supportive services shall be a cumulative limit of $400 [300] in a twelve (12) month period, beginning with the first day of the month in which the initial payment [appropriate verification] is issued.
(5) [44] A payment may be authorized for an eligible parent or other adult [included] as a specified relative pursuant to Section 10 of 921 KAR 2:006.
(6) [45] A penalized or sanctioned K-TAP ineligible adult shall not be [ineligible] eligible for other supportive services.
(7) [66] A retroactive payment for other supportive services shall not be made for an item purchased by a penalized or sanctioned individual who later cures the penalty. After the parent or other adult cures the penalty or sanction, an eligible expense may be authorized.
(8) [73] Except in accordance with Section 7 [pursuant to Section 4] of this administrative regulation, a medical service or item shall not be an allowable supportive service.

Section 7. [8] Allowable Medical Service or Item. If non-TANF funding is used, to the extent funds are [and as long as funding is] available, the purchase of the following item or service shall be allowed for a K-TAP recipient, if needed for participation in the Kentucky Works activity and not reimbursable through Medicaid, as determined by the cabinet and limited to:
(1) Eyeglasses or corrective lens;
(2) Dentures;
(3) Hearing aids; and
(4) Medical service or item required as a condition of employment.

Section 8. [9] Car Repairs. (1) If a free service for car repairs, including a vocational school automotive program, is unavailable that meets the needs of the recipient, a car repair expenditure shall be provided, to the extent funds are available, if necessary for participation in the approved Kentucky Works activity of:
(a) Component preparation; or
(b) Component participation, including unsubsidized employment while the K-TAP case remains active.
(2) [74] A period of up to ninety (90) days subsequent to the discontinuance of the K-TAP case if:
   1. The case is not discontinued due to:
      a. Fraudulent activity; or
      b. Failure to comply with procedural requirements;
   2. The Kentucky Works participant elects to continue the approved component activity in which he is engaged at the time of discontinuance; and
   3. Total gross income of the benefit group, pursuant to 921-KAR 2:016, Section 1(3), is at or below 200 percent of federal poverty level, adjusted annually.
(2) Car repair expense shall meet the following criteria to be considered for payment:
(a) Car repair that makes the car functional;
(b) Property tax on the vehicle;
(c) Vehicle registration;
(d) Licenses fee;
(e) Liability insurance to drive a vehicle; and
(f) New or used automotive part to be purchased by the K-TAP recipient to make the car functional; and
(g) Other car expense needed by the K-TAP recipient that would allow participation in the Kentucky Works activity, as determined by the cabinet.
(3) A car repair expenditure listed in subsection (2) of this section shall require:
(a) An estimate of the cost and
(b) Approval by the cabinet.
(4) [40] Auto repair work that shall:
(a) Be completed by a garage, unless the repair is completed by a vocational school automotive program; or
(b) Be the responsibility of the K-TAP recipient if a payment is made for a new or used automotive part as specified in subsection (2)(f) of this section.
(5) Prior to approval of a car repair expenditure, the cabinet shall verify the participant owns the vehicle.
(6) The restrictions on authorization and verification of a supportive service payment described in Section 14 of this administrative regulation shall apply to a car repair expense and payment.
(7) The payment maximum for total car repair expenditures shall be up to a maximum of $500 per year per eligible family.

Section 9. [40] Short-Term Training. To the extent funds are available, a fee for a short-term training program shall be eligible for payment for a K-TAP recipient if the training program is:
(1) Not eligible for federal financial aid; and
(2) Likely to lead to paid employment and is in accordance with the participant's transitional assistance agreement, in accordance with 921 KAR 2:370, [form KW - 203, "K-TAP Transitional Assistance Agreement"], as determined by the cabinet.

Section 10. [41] Other Fees. (1) To the extent funds are available, the following fees payment may be made for an eligible recipient:
(a) A training registration fee;
(b) Financial aid application fee;
(c) Testing fee;
(d) Application fee required by a vocational school for a specified program;
(e) Liability insurance fee;
(f) Copy of records fee;
(g) Activity fee if mandated by the institution; or
(h) Other required fee.
(2) Required [Other] fees shall not exceed $200 per payment.

Section 11. [42] Work Incentive Bonus. (1) For a K-TAP recipient discontinued prior to the adoption of 921 KAR 2:520, a work incentive [a job retention bonus of $250 shall be paid to a K-TAP adult who:
(a) Obtains full-time unsubsidized employment that shall be at least thirty (30) hours per week at no less than the federal minimum wage;
(b) Reports and provides timely verification of the wages;
(c) Remains K-TAP eligible; and
(d) Maintains employment for at least ninety (90) days; and
(e) The work incentive bonus shall be limited to one (1) time only during the lifetime of the K-TAP adult.
(2) A job retention bonus of $500 shall be paid to an adult who:
(a) Becomes ineligible for K-TAP with reported earnings;
(b) Obtains and maintains full-time unsubsidized employment
that shall be at least thirty-five (35) hours per week at no less than the federal minimum wage;

(c) Reports and provides [timely] verification of the wages within ten (10) days of receipt of the wages;

(d) Maintains continuous employment for at least ninety (90) days; and

(e) At the end of the ninety (90) day period;

1. Requests a bonus within thirty (30) days of the end of the ninety (90) day period; and

2. Provides the cabinet with a current mailing address.

(2) [(4)] If the adult described in [paragraph (a) of this] subsection (1) of this section maintains continuous employment for 180 days an additional $500 shall be paid, if requested.

(3) [(4)] If the adult described in [paragraph (a) of this] subsection (1) of this section maintains continuous employment for 270 days an additional $500 shall be paid, if requested.

(4) [(6)] The work incentive bonus for an adult discontinued from K-TAP with as a result of earnings shall be limited to three (3) payments of $500 during the lifetime of the adult.

(a) A K-TAP applicant or recipient shall be advised of the work incentive bonuses at the time of application, at recertification and through periodic mailings that remind them of incentives that are available.

(b) An adult discontinued from K-TAP [(4)] A person K-TAP recipient entitled for the work incentive bonus during the transitional extension period] shall not be required to meet a gross income limit to receive a work incentive bonus.

(7) A work incentive bonus shall:

(a) Not be available to a K-TAP recipient who is discontinued on or after the adoption of 921 KAR 2:520; and

(b) Be available to a K-TAP recipient discontinued prior to the adoption of 921 KAR 2:520, if eligible, for a period of nine (9) months after the adoption of 921 KAR 2:520, [the at or below 200 percent gross income limit pursuant to Section 1(13)(c) of this administrative regulation.]

Section 12. [(4)] Educational Bonus. (1) An educational bonus of $250 per individual shall be paid to a K-TAP adult or child who reports and verifies:

(a) Receiving a:

1. High school diploma;

2. GED certificate; or

3. Postsecondary school certificate or degree; or

(b) Graduating from English as a second language class.

(c) A short-term training program shall not qualify for postsecondary education.

(3) A K-TAP applicant or recipient shall be advised of the educational bonus and be reminded of available work incentives:

(a) During application;

(b) At recertification; and

(c) Through periodic mailings.

Section 13. [(4)] Assistance with Access to a Vehicle. (1) In limited areas, to the extent funds are available, a K-TAP recipient may be provided the opportunity to lease or buy a vehicle at a subsidized rate.

(2) To qualify, the K-TAP recipient shall be participating in one (1) of the following Kentucky Works components:

(a) Full-time employment;

(b) Training activity leading to employment; or

(c) Last year of postsecondary education.

Section 14. [(4)] Restrictions on Authorization of Supportive Service Payments. (1)(a) To verify an expense and authorize a supportive service payment, except as provided in Section 5 of this administrative regulation, a "PA-32, Authorization for Supportive Services Payment shall be completed; and

(b) "PA-32, Authorization for Supportive Services Payments" shall be considered valid for thirty (30) calendar days from the date issued by the cabinet.

(2) A payment shall not be made for the period during which:

(a) A valid "PA-32, Authorization for Supportive Service Payment" is not returned; or

(b) The participant is:

1. Penalized for noncompliance with a Kentucky Works activity, as specified in [pursuant to] 921 KAR 2:370; or

(3) [a] A supportive service payment shall be issued in accordance with 921 KAR 2:050.

Section 15. [(47)] Hearings and Appeals. An applicant or recipient of supportive services [benefits pursuant to a program described herein] who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing in accordance with [pursuant to] 921 KAR 2:050.

Section 16. [(48)] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "PA-32, Authorization for Supportive Services Payments, edition 11/02 [§5(0)];" and

(b) "PA-33, Verification of Participation in Education or Training Activity, edition 5/02 [§5(0)];" and

(c) "PA-33N, Second Notice [for] Verification of Transportation and Participation in Education or Training Activity, edition 5/02 [Kentucky Works Participation, edition 5/00]."

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, 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.

DIRECTIONS FOR USE OF THIS DOCUMENT

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(a) A valid "PA-32, Authorization for Supportive Service Payment" is not returned; or

(b) The participant is:

1. Penalized for noncompliance with a Kentucky Works activity, as specified in [pursuant to] 921 KAR 2:370; or

2. [a] Ineligible

(3) A supportive service payment shall be issued in accordance with 921 KAR 2:050.

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DITRA PARIS, Commissioner

VIOLA P. MILLER, Secretary

APPROVED BY AGENCY: August 12, 2002

FILED WITH LRC: August 12, 2002 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2002, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation.

Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Kellie Peace, Regulation Coordinator, Cabinet for Families and Children, Office of the Counsel, 275 East Main Street, 4th Floor West, Frankfort, Kentucky 40621, Phone (502) 564-7900, (502) 564-9216 (fax).

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: Shirley Eldrige

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the requirements for providing supportive services to Kentucky Transitional Assistance Program (K-TAP) recipients who are participating in Kentucky Works.
(b) The necessity of this administrative regulation: This administrative regulation is needed to establish the requirements for Kentucky Works supportive services. This administrative regulation conforms to the content of the authorizing statutes: KRS 205.200(2) requires the Cabinet for Families and Children to prescribe by regulation the conditions of eligibility for public assistance in conformity with federal statutes and regulations. KRS 205.2003 requires the cabinet to develop a work program for K-TAP recipients and to provide supportive services to assist recipients in the pursuit of work and self-sufficiency. This administrative regulation establishes the requirements for receiving Kentucky Works supportive services. This administrative regulation sets forth these standards in conformity with Kentucky's Title IVA TANF Program.
(d) How this administrative regulation currently assists or will assist in the effective administrative of the statutes: This administrative regulation establishes uniform conditions and requirements under which the cabinet provides supportive services. This administrative regulation establishes criteria for a direct payment system for transportation payments, payment of car repair expenses, and the payment of other supportive services.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The proposed amendment to the administrative regulation will phase out the work incentive bonuses. The provisions for transportation services will be revised. Other supportive services will be changed from $600 to $400 per year and a specific list of allowable services or items will be added.
(b) The necessity of the amendment to this administrative regulation: Refer to (2)(a).
(c) How the amendment conforms to the content of the authorizing statutes: The amendments to this administrative regulation comply with Kentucky's Title IVA TANF Program for the provision of supportive services. It is necessary to phase out the work incentive bonuses as a result of the implementation of a new work expense reimbursement program called the Work Incentive (WIN) Program according to KAR 2:520. It is necessary to remove references to KAR 2:016 in this administrative regulation to comply with KAR 2:019. Repeal of KAR 2:018.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation will affect K-TAP adults who are Kentucky Works participants who are receiving supportive services. As of June 2002 there were 31,581 families (cases) receiving K-TAP including 18,674 cases with an adult. In June 2002 there were 12,338 adults participating in Kentucky Works.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The maximum amount of other supportive services will be changed from $600 to $400 per K-TAP family. Currently, the average amount of total payments for supportive services for a year is $427 per K-TAP family. We anticipate that very few K-TAP recipients will be impacted by the change in the payment maximum to $400. Qualifying individuals who previously received supportive services, including transportation services during the transition extension period or the 90 day extension period, will be covered by a new program for post K-TAP recipients called the Work Incentive (WIN) program according to KAR 2:520. Qualifying individuals who would have been eligible for a work incentive bonus will be covered by the Work Incentive (WIN) program. The funds previously provided for transportation services in KAR 2:018 will be reallotted to a system of direct payment for transportation services which is provided in this regulation.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The amendments to this administrative regulation will not create an additional budget impact to the Cabinet for Families and Children to implement. These amendments will create no additional increase or decrease in the number of recipients who may receive supportive services. The cost to the cabinet for transportation services will be funded through funds previously allocated for the transportation services according to KAR 2:018. Funding for supportive services provided to post K-TAP recipients during the 90 day extension and the transitional extension period will be reallocated to the Work Incentive program according to KAR 2:520. Funding for the work incentive bonuses will also be reallocated to KAR 2:520. Refer to number (4).
(b) On a continuing basis: Refer to (5)(e).
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: TANF funds.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: Funds were projected and included in the SFY 2003 budget request. The amendments to this administrative regulation did not create a need for fees or additional funding.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.
(9) TIERING: Is tiering applied? No. Tiering was not applied since application of policy is applied in a like manner for all individuals statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 602(a)(1)
2. State compliance standards. KRS 205.200 and 205.2003
3. Minimum or uniform standards contained in the federal mandate. 42 USC 602(a)(1)
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No. This amendment is in compliance with Kentucky’s Title IVA TANF Program.
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)

921 KAR 2:500. Family Alternatives Diversion or "FAD"

RELATES TO: KRS 205.200(2), 205.2003, 205.211
STATUTORY AUTHORITY: KRS 194B.050(4), 205.200(2), 42 USC 601 et seq. [1307 et seq., EO 98-231]
NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Families and Children has the responsibility under the provisions of KRS Chapter 205 to administer the block grant program funded under 42 USC 601 et seq. KRS 205.200 requires that the conditions of eligibility to receive assistance be prescribed by administrative regulations in conformity with 42 USC 601 et seq. and federal regulations, and KRS 194B.050(1) authorizes the Cabinet for Families and Children to adopt administrative regulations necessary to implement programs mandated by federal law or to quality for receipt of federal funds. This administrative regulation sets forth the requirements for the Family Alternatives Diversion Program and Employment Retention Assistance.

Section 1. Definitions. (1) "Benefit group" means a group that meets the eligibility requirements established for K-TAP eligible benefit
(2) "Cabinet" means Cabinet for Families and Children. 
(3) "ERA" means Employment Retention Assistance. 
(4) "FAD" means the Family Alternatives Diversion Program. 
(5) "FAD" means the Family Alternatives Diversion Program. 
(6) "K-TAP Program" means a money payment program for children. 
(7) "K-TAP" means the Kentucky Transitional Assistance Program or "K-TAP" [K-TAP]. 
(8) "K-TAP" means the Kentucky Transitional Assistance Program or "K-TAP" [K-TAP]. 
(9) "Kentucky Transitional Assistance Program" or "K-TAP" [K-TAP]. 
(10) "Kentucky's Temporary Assistance for Needy Families" or "TANF" [TANF Program], Program, means a money payment program for children. 
(11) "Kentucky's Temporary Assistance for Needy Families" or "TANF" [TANF Program], Program, means a money payment program for children. 
(12) "K-TAP" means the Kentucky Transitional Assistance Program or "K-TAP" [K-TAP]. 
(13) "Overpayment" means a FAD or ERA benefit received by an individual who: 
(14) "Overpayment" means a FAD or ERA benefit received by an individual who: 
(15) "Self-supporting" means an individual who: 
(16) "Self-supporting" means an individual who: 
(a) is employed in accordance with 921 KAR 2:006, Section 1; 
(b) is employed in accordance with 921 KAR 2:006, Section 1, within the subsequent three (3) months; 
(c) "Unsubsidized child care" means child care for which financial assistance is not provided. 

Section 2. Eligibility for Family Alternatives Diversion or "FAD" [FAD]. (1) To qualify for FAD benefits, the benefit group as defined in Section 1(1) of this administrative regulation shall: 
(a) Meet the requirements of income and resource requirements in the month of application as established in [pursuant to] 921 KAR 2:016, Sections 2, 3(1), 4(1), and 6; 
(b) Except for the thirty (30) day unemployment requirement for unemployed parent cases as described in [pursuant to] 921 KAR 2:006, Section 9(6)(e) that shall not be required, meet technical requirements of K-TAP in accordance with [pursuant to] 921 KAR 2:006; 
(c) Not be currently receiving ongoing K-TAP benefits; 
(d) Have a verified short-term need to include: 
(i) Car repair or other transportation assistance; 
(ii) Unsubsidized child care; 
(iii) Utilities payment assistance [Child support]; 
(iv) Housing payment assistance; and 
(v) Items required for employment; or 
(vi) Other assistance as deemed appropriate by the service region administrator or designee [related problem]. 
(e) Be determined by the cabinet to be self-supporting if the short-term need is met. 
(2) The FA-1, Transitional Assistance Self-assessment Survey [Form, FA-4], shall be used to screen applicants for K-TAP and to determine eligibility for FAD along with the FA-2, Family Alternatives Survey [Form, FA-2]. 
(3) The cabinet shall determine through the screening process in subsection (2) of this section, if a potential K-TAP eligible benefit group may be an eligible family to receive FAD benefits. 
(b) The K-TAP eligible benefit group shall be notified of the option to decline FAD benefits in lieu of applying for ongoing K-TAP benefits. 
(c) FAD shall be utilized instead of K-TAP if requested by the benefit group and if the benefit group is deemed eligible for FAD. 
(4) The benefit group's countable gross income shall include the earned and unearned income in accordance with [pursuant to] 921 KAR 2:016, Sections 3 and 4. 
(b) The benefit group's gross income shall be computed using the best estimate of income for the month of application in accordance with [pursuant to] 921 KAR 2:016, Section 9. 
(c) The benefit group's total gross earned and unearned income as determined in paragraph (b) of this subsection shall be compared to the maximum gross income scale for K-TAP in accordance with [pursuant to] 921 KAR 2:016, Section 8(2)(b). 
(d) If the benefit group's total gross earned and unearned income exceed the maximum gross income limit for the appropriate benefit group size, pursuant to 921 KAR 2:016, Section 8(2), the family shall not be eligible for a FAD payment. 
(5) (a) The FAD eligibility period for an approved FAD application shall be a three (3) consecutive month period beginning with the month of issuance of the first FAD check or voucher. 
(b) One or more checks up to $1,300, to the extent funds are available, [4,500] may be issued to resolve a short-term need as specified in subsection (1)(d) of this section [an emergency] during the three (3) month eligibility period. 
(c) One approval during the three (3) month eligibility period shall be necessary to issue one (1) or more checks. 
(d) An adult member of a benefit group [individual] shall not be approved for FAD more than once during a twenty-four (24) month period. 
(e) An adult member of a benefit group shall not be approved for FAD more than twice in a lifetime. 
(f) If the adult member of a benefit group has voluntarily quit employment, the adult member shall not be eligible to receive FAD. 
(g) An adult member of a benefit group who has voluntarily quit employment shall be eligible to receive FAD if the adult member meets criteria as specified in 921 KAR 2:370, Section 6(1)(e) through (k). 

Section 3. Authorization of a FAD Payment. (1) The amount of the eligible FAD payment shall be issued in one (1) or more checks or vouchers to: 
(a) A vendor; 
(b) A two (2) party check to the eligible FAD benefit group and vendor; or 
(c) The eligible FAD benefit group if the vendor refuses to: 
1. Accept a payment or voucher; or 
2. Provide the cabinet with a tax identification number. 
(2) Total payments during the three (3) month FAD eligibility period shall not exceed $1,300, to the extent funds are available [4,500]. 

Section 4. Coordination with K-TAP and Other Benefit Programs. (1) Receipt of a FAD payment shall exclude the benefit group from receiving ongoing K-TAP benefits for twelve (12) months unless nonreceipt would result in: 
(a) Abuse or neglect of a child, as determined by the cabinet; or 
(b) The parent's inability to provide adequate care or supervision due to the loss of employment through no fault of the parent as determined by the cabinet. 
(2) An application shall be taken or a referral made for the following benefits as needed for a FAD eligible family: 
(a) Food stamps; 
(b) Medicaid; and 
(c) Child care. 
(3) For a FAD eligible benefit group, referral for other services shall be made as needed to: 
(a) Other agencies including: 
1. The Division of Child Support; 
2. The Cabinet for Health Services; and 
3. The Department for Employment Services; or 
(b) Charitable organizations. 
(4) A referral shall be made for other services, as needed, offered through the Department for Employment Services or other contractors to the FAD eligible benefit group to include the following services: 
(a) Job search; 
(b) Job readiness assessment; and 
(c) Life skills. 

Section 5. (Eligibility for Employment Retention Assistance (ERA). (1) To assist in maintaining self-sufficiency, ERA shall be available to a family if the family: 
(a) Contains a parent who has been discontinued from K-TAP with earnings; 
(b) Contains a parent who is currently employed when services are requested; 
(c) Has total gross income at or below 200 percent of federal poverty level; 
(d) Requires a service or item which would stabilize the family and allow continued employment due to a short-term need; and 
(e) Has not received an ERA payment anytime during the previ...
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cases twelve (12) months.
(3) The ERA eligibility period for a discontinued K-TAP recipient shall be for the twelve (12) month period beginning with the effective date of discontinuance from K-TAP.
(4) The eligible ERA payment shall be issued to the eligible family.
(5) One (1) or more checks up to a total of $1,500 may be issued to resolve an emergency or emergencies during the twelve (12) month eligibility period.
(6) A benefit group shall not be prohibited from receiving K-TAP following the twelve (12) month eligibility period for ERA if all K-TAP eligibility requirements are met.
(7) A beneficiary group shall not be eligible for ERA and K-TAP or FAD concurrently.

Section 6. Overpayments. (1) A FAD [or ERA] overpayment, as defined in Section 1 of this administrative regulation including assistance paid pending hearing decision, shall be recovered from the claimant.
(2) An overpayment shall be recovered through:
(a) Repayment by the individual to the cabinet; or
(b) Civil action in the court of appropriate jurisdiction after:
1. Notice and an opportunity for a fair hearing in accordance with [pursuant to] 921 KAR 2:055 is given; and
2. The administrative and judicial remedy have been exhausted or abandoned.


Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "FA-1, [IT] Transitional Assistance Self-assessment, edition 11/02 [596]."
(b) "FA-2, [IF] Family Alternatives Assessment, edition 11/02 [599]."
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday 8 a.m. to 4:30 p.m.

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRC: August 13, 2002 at 1 p.m.

PUBLIC HEARINGS: A public hearing on this administrative regulation shall be held on September 23, 2002, 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 September 16, 2002, 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: Kelly Peace, Cabinet for Families and Children, Office of the General Counsel, 275 East Main Street - 4th Floor West, Frankfort, Kentucky 40621, (502) 564-7900, (502) 564-9126 (Fax).

REGULATORY IMPACT ANALYSIS
Agency Contact Person: Shirley Eldridge, Coordinator
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation sets forth the requirements for the Family Alternatives Diversion Program or "FAD".
(b) The necessity of this administrative regulation: FAD provides temporary assistance to families discontinued from the Kentucky Temporary Assistance Program or "K-TAP" to prevent the parent from losing employment and to remain self-sufficient.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 205.200(2) requires the Cabinet for Families and Children to prescribe by regulation the conditions of eligibility for public assistance and conformity with federal statutes and regulations. This administrative regulation sets forth the requirements for the FAD Program.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes uniform conditions and requirements under which the cabinet administers FAD.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This amended regulation clarifies the eligibility period and criteria, revises payment amounts, and defines services and items payable in administering FAD. This amended regulation deletes the Employment Retention Assistance Program due to the creation of the new Work Incentives Program or "WIN", as established in 921 KAR 2:520.
(b) The necessity of the amendment to this administrative regulation: It is necessary to amend this administrative regulation to clarify for the applicant for FAD and the self-supporting family that applicants may not receive FAD more than once during a 24 month period, not more than twice in a lifetime, or if he has voluntarily quit employment; to revise the payment rate to not more than $1300; to enumerate the services for which FAD is allowable; and to delete ERA.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment to this administrative regulation conforms to KRS 205.200(2) by establishing provisions for FAD.
(d) How the amendment will assist in the effective administration of the statutes: This amendment establishes uniform conditions and requirements under which the cabinet administers FAD.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The affected entities are families who are potentially eligible for K-TAP who are not currently receiving ongoing K-TAP benefits who only need assistance to meet a short-term need instead of on-going assistance. As of June 2002, there were a total of 32,682 families, 19,984 adults, and 53,042 children who received K-TAP.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment:
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: None
(b) On a continuing basis: None
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funding - Temporary Assistance for Needy Families or "TANF".
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There are no fees and FAD is federally funded through TANF.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

TIERING: Is tiering applied? Tiering was not applied since policy is applied in a like manner to all eligible members of a benefit group.

FEDERAL MANDATE ANALYSIS COMPARISON
1. Federal statute or regulation constituting the federal mandate. 42 USC 601 et seq., 1397 et seq.
2. State compliance standards. KRS 205.200(2)
3. Minimum or uniform standards contained in the federal mandate. 42 USC 601 et seq., 1397 et seq.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate. No.
5. Justification for the imposition of the stricter standards, or additional or different responsibilities or requirements. None
COUNCIL ON POSTSECONDARY EDUCATION
( New Administrative Regulation )


RELATES TO: KRS 164.020
STATUTORY AUTHORITY: KRS 164.020(28), SB 74 (2002 GA)
NECESSITY, FUNCTION, AND CONFORMITY: SB 74 (2002 Regular Session) mandates that the Council on Postsecondary, beginning with the 2003-04 academic year, to develop an administrative regulation requiring public postsecondary education institutions to grant academic college credit toward graduation for students taking high school advanced placement courses and scoring at a certain level.

Section 1. Definitions. (1) "Advanced placement" is defined in SB 74, (2002 Regular Session), Section 1(1). (2) "AP exam" means the College Board Advanced Placement Examination described in SB 74, (2002 Regular Session), Section 1(3). (3) "Council" means the Council on Postsecondary Education as defined in KRS 164.011. (4) "Institution" means a public postsecondary educational institution listed in KRS 164.001(15).

Section 2. College and University Academic Credit for AP Examination. (1) Effective with the 2003-04 academic year, an institution shall grant academic credit toward college graduation for a high school student who scores three (3) or higher on the AP exam. (2) An institution shall develop, by January 1, 2003, a written policy to implement the requirement of subsection (1) of this section. (a) The written policy shall specify whether the institution shall grant academic credit toward the requirements of a major, program, or degree and shall state: 1. What AP exams will be accepted toward academic credit toward a major, program or degree; 2. The minimum acceptable score on the AP exam for granting such academic credit toward a major, program or degree. (b) The written policy in subsection (2) of this section shall fully comply with subsection (1) of this section. (3) An institution shall submit to the council, by January 1, 2003, the policy developed pursuant to this administrative regulation. (4) An institution shall publish and disseminate the policy developed in subsection (3) of this section in electronic and print form.

SUE HODGES MOORE, Interim President
DENNIS L. TAULBEE, General Counsel
APPROVED BY AGENCY: August 1, 2002
FILED WITH LRC: August 9, 2002 at 3 p.m.
PUBLIC HEARING: A public hearing on 13 KAR 2:025, College preparatory education, shall be held on September 25, 2002, at 10 a.m. at the Council on Postsecondary Education, Conference Room B. Individuals interested in being heard at this hearing shall notify this agency in writing by September 18, 2002, five days prior to the hearing, of their intent to attend. If no notification to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Dr. Dianne M. Bazell, Senior Associate, Academic Affairs, Council on Postsecondary Education, Suite 320, 1024 Capital Center Drive, Frankfort, Kentucky 40601, phone (502) 573-1555, fax (502) 573-1535, Email: Diane.bazell@mail.state.ky.us.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dennis L. "Taulbee, General Counsel

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation mandates that the Council on Postsecondary, beginning with the 2003-04 academic year, develop an administrative regulation requiring public postsecondary education institutions to grant academic college credit toward graduation, for students taking high school advanced placement courses and scoring at a certain level.
(b) The necessity of this administrative regulation: SB 74 (2002 Regular Session), KRS 164.020(28) require that a regulation be adopted.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms explicitly to the authorizing statutes.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation guarantees academic credit toward college graduation for a high school student who scores 3 or higher on the Advanced Placement Examination.
(e) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment assists or will assist in the effective administration of the statutes: This is a new administrative regulation.
(e) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The primary organizations affected by this regulation are public postsecondary education institutions, and local school districts. Students, and prospective students will benefit from this regulation.
(f) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: Institutions will be required by the statute to implement the provisions of the new law which grants academic credit for advanced placement courses. Students who take advanced placement will be positively affected by the new regulation. Institutions will have to develop new procedures, and, in some cases, new policies.
(g) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No cost.
(b) On a continuing basis: No cost.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No
(e) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No
(f) TIERING: Is tiering applied? Tiering is not appropriate under these circumstances.

KENTUCKY RETIREMENT SYSTEMS
( New Administrative Regulation )

105 KAR 1:350. Collection of account without formal administration of estate.

RELATES TO: KRS 61.703
STATUTORY AUTHORITY: KRS 61.645(9)(g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.703 provides upon the death of a member, retiree, or recipient who has
an existing account or other benefit that totals no more than $1,000, a surviving spouse, child, parent, or brother or sister may without formal administration of the estate collect the account by filing an appropriate affidavit with the Kentucky Retirement Systems.

Section 1. The survivor who makes demand for the deceased member, retiree, or recipient account shall file with the retirement office a Form 6826, Affidavit for Collection of Account Without Formal Administration of Estate or other affidavit, and shall confirm or state:

1. The affidavit is for the collection of deceased member, retiree, or recipient account and is made in accordance with the provisions of KRS 61.703 allowing for the collection of the account without formal administration of the estate;

2. The date of death of the member, retiree, or recipient, and confirm that ninety (90) days have elapsed since the date of death;

3. No application or petition for the appointment of a personal representative of the estate of the member, retiree, or recipient is pending or has been granted in any jurisdiction;

4. The value of the gross estate, wherever located and less liens and encumbrances, of the deceased member, retiree, or recipient does not exceed $7,500;

5. The survivor shall confirm he or she is the surviving spouse; or if none, a surviving child; or if none, a surviving parent; or if none, a surviving brother or sister;

6. The survivor shall state he or she is entitled to payment of the account;

7. The survivor shall acknowledge that the Kentucky Retirement Systems shall be discharged and held harmless to the same extent as if conducting business with a personal representative; and in the event any person or entity establishes a superior right to the account, the survivor shall acknowledge that he or she, and not the Kentucky Retirement Systems, shall be answerable and accountable for the member, retiree, or recipient account to any creditor or appointed personal representative of the estate.

Section 2. The affidavit shall be accompanied by death certificate, or if no death certificate is available, other acceptable evidence of death of the member, retiree, or recipient.

Section 3. The Kentucky Retirement Systems, upon receipt of a properly-executed affidavit for collection of account without formal administration of estate accompanied by death certificate, shall make payable to the surviving spouse, child, parent, or brother or sister the account of the deceased member, retiree, or recipient.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If no notice 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 notice of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

1. Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides for the collection of a deceased member, beneficiary, or recipient's account: without formal administration of estate pursuant to KRS 61.703.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the procedures and terms of affidavit as required by statute for the collection of a deceased member, retiree, or recipient account of no more than $1,000.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation is necessary to set out the procedures and terms of affidavit as required by statute for the collection of a deceased member, retiree, or recipient account of no more than $1,000.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets out the procedures and terms of affidavit as required by statute for the collection of a deceased member, retiree, or recipient account of no more than $1,000. The retirement systems will be able to pay out small inactive accounts where a member has died and the estate contained few assets to justify an action in probate.

2. If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation will effect approximately 200 inactive cases where the retirement systems is holding inactive cases where a member, or the beneficiary, or recipient is known to have died, but the family has not pursued an action in probate to be named personal representative to collect the account assets because of the small dollar amount of the account.

4. Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: Spouses, or other family member of a deceased member, beneficiary, or recipient will be able to collect monies from these accounts.

5. Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement systems account from the Retirement Allowance Account (trust and agency funds).

6. Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

7. State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

8. TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.
KENTUCKY RETIREMENT SYSTEMS
(New Administrative Regulation)


RELATES TO: KRS 61.702
STATUTORY AUTHORITY: KRS 61.645(9)(g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.702 provides for health and hospital insurance for eligible retirees, spouses, dependents, and beneficiaries. This administrative regulation establishes procedures for the administration of health and hospital insurance benefits.

Section 1. The recipient of health and hospital insurance whose premium exceeds the recipient's monthly benefit allowance shall be billed by the retirement systems on a monthly basis for the balance of insurance premiums.

(1) Payment by the recipient for the balance of insurance premiums for insurance coverage effective that month shall be received at the retirement systems no later than day fifteen (15) of the month.

(a) The recipient may pay for the balance of insurance premiums by check from a financial institution; or

(b) The recipient may pay for the balance of insurance premiums by monthly automatic electronic transfer of funds by completing and filing a Form 6131, Bank Draft Authorization for Direct Pay Accounts.

(2) Failure by the recipient to make timely payment for the balance of insurance premiums shall result in cancellation of insurance coverage effective the month payment is due, and the recipient shall not be eligible until the next open enrollment period for insurance coverage.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, Monday through Friday, 8 a.m. to 4:30 p.m.

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: August 15, 2002
FILED WITH LRC: August 15, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days 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 hear at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: William P. Hanes, Esq., Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-4646, fax (502) 564-5656.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact: William P. Hanes, Esq.

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 61.702 provides for health and hospital insurance for eligible retirees, spouses, dependents, and beneficiaries. This administrative regulation establishes procedures for the administration of health and hospital insurance benefits.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to set out the procedures for the administration of health and hospital insurance benefits.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 61.702 provides for health and hospital insurance for eligible retirees, spouses, dependents, and beneficiaries. This administrative regulation is necessary to set out the procedures for the administration of health and hospital insurance benefits.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The administrative regulation sets out the procedure for recipient's who are direct billed for health insurance premiums the ability to pay for the balance of premium once a month by check or by monthly automatic electronic transfer of funds form a financial institution.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

(b) The necessity of the amendment to this administrative regulation:

(c) How the amendment conforms to the content of the authorizing statutes:

(d) How the amendment will assist in the effective administration of the statutes:

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The administrative regulation will affect approximately 2200 recipients who are direct billed the balance of their health insurance premiums.

(4) Provide an assessment of how the above group or groups will be impacted either by the implementation of this administrative regulation, if new, or by the change if it is an amendment: The approximately 2200 recipients will benefit by being able to set up a direct bill account and have the balance of the health insurance premiums paid by the convenience of electronic transfer.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There is no cost to implement this regulation.

(b) On a continuing basis: There is no continuing cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Administrative expenses of the retirement system are paid from the Retirement Allowance Account (trust and agency funds).

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in fee required.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. Procedures are the same for all affected individuals.

KENTUCKY BOARD OF DENTISTRY
(New Administrative Regulation)

201 KAR 8:450. Dental hygienist services when supervising dentist not physically present.

RELATES TO: KRS 313.010(3), 313.310
STATUTORY AUTHORITY: KRS 313.010(3), 313.310, 313.260
NECESSITY AND FUNCTION AND CONFORMITY: KRS 313.270(2) and 313.310(2) authorizes the board to promulgate regulations regarding the practice of dental hygiene. This administrative regulation establishes requirements for dental hygienists to practice under the supervision of the dentist without the dentist being physically present.

Section 1. Definitions. (1) "Direct supervision" means the dentist must be physically present on the premises of the office where the dentist practices when a dental hygienist practices dental hygiene on patients.

(2) "General supervision" means the dentist has authorized a specific dental service or procedure but is not necessarily physically present.
present.

(3) "Physical Status I" means American Society of Anesthesiologists classification of Physical Status I is determined to be a normal healthy patient where no management alterations are required.

(4) "Physical Status II" means The American Society of Anesthesiologists classification of Physical Status II is determined to be a patient with mild to moderate systemic disease that does not interfere with daily activity or who has a significant health risk factor where dental management alterations may or may not be required.

Section 2. (1) A dental hygienist who practices under general supervision shall have been licensed for a period of at least two (2) years with a minimum of 3,000 hours of experience in the practice of dental hygiene prior to practicing under this administrative regulation.

(2) The dental hygienist shall provide proof of two (2) years with a minimum of 3,000 hours of experience in the practice of dental hygiene. This proof may include payroll or employment records showing dates and hours of employment by a dentist in the practice of dental hygiene or other proof that is independently verifiable and is acceptable to the board. Proof of hours or experience shall be retained by the hygienist, attached to the form "Dental Hygiene-GS". The supervising dentist shall retain a copy of this form at his/her office.

Section 3. (1) A dental hygienist shall successfully complete a course approved by the Kentucky Board of Dentistry in the identification and prevention of potential medical emergencies. The board shall approve a course or courses that may include the following topics:

(a) Medical history, including American Society of Anesthesiologists classification of physical status.
(b) Recognition of common medical emergency situations, symptoms and possible outcomes.
(c) Office emergency protocols.
(d) Prevention of emergency situations during dental treatments.

(2) The dental hygienist shall retain proof of recertification every two (2) years in the medical emergency course. This course shall be classified as a "B" or "C" category continuing education course under 201 KAR 8:140 and be at least three (3) clock hours in duration.

Section 4. Nothing in this administrative regulation shall permit a dental hygienist to perform any procedure not defined by KRS 313.010(3).

Section 5. (1) The supervising dentist who employs a dental hygienist who has met the standards of this administrative regulation and who allows the dental hygienist to practice under general supervision of the dentist shall:

(a) Complete a written order prescribing the dental service or procedure to be done to a specific patient by the dental hygienist; and

(b) Retain the original order in the patient's dental record.

(2) The minimum requirements for the written order shall include:

(a) Medical history update;
(b) Radiographic records requested;
(c) Dental hygiene procedures requested;
(d) Name of the patient;
(e) Date of last oral examination;
(f) Date of written order; and
(g) Signature of the dentist.

(3) The oral examination of the patient by the supervising dentist shall have been completed within seven (7) months of the treatment by the dental hygienist practicing under general supervision.

Section 6. The supervising dentist shall evaluate and provide to the board written validation of an employed dental hygienist's skills necessary to perform dental hygiene services under this administrative regulation, by filing form "Dental Hygiene-GS", with the board. The supervising dentist and hygienist shall retain a copy of this form at the work site of the dental hygienist.

Section 7. The supervising dentist shall provide a written protocol addressing the medically-compromised patients who may or may not be treated by the dental hygienist under general supervision. The dental hygienist shall only treat patients who are in the American Society of Anesthesiologists classification of Physical Status I and II as listed in "Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, Part 2 (2000 Edition), American Dental Association.

Section 8. Incorporation by Reference (1) The following material is incorporated by reference:

(a) "Dental Hygiene-GS" form dated 8/14/2002, Kentucky Board of Dentistry; and


(2) This material may be inspected, copied, obtained, subject to applicable copyright law, at Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

MATTHEW GANDOLFO, DMD, President
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 14, 2002 at 3 p.m.

PUBLIC HEARING: A public hearing on this proposed new administrative regulation shall be held on September 23, 2002, at 3 p.m. local time, at the Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223. Individuals interested in being heard at this meeting shall notify the board in writing by September 16, 2002, 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this new 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 new administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed new administrative regulation to: Gary Munsie, Executive Director, Kentucky Board of Dentistry, 10101 Linn Station Road, Suite 540, Thornton Park Plaza, Louisville, Kentucky 40223, phone (502) 423-0573, fax (502) 423-1239.

REGULATORY IMPACT ANALYSIS

Contact Person: Gary Munsie, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for dental hygienists to practice under the supervision of the dentist without the dentist being physically present.
(b) The necessity of this administrative regulation: HB 467 requires the board to establish this regulation.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation meets statutory requirements in HB 467 by establishing this regulation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes standards to allow dental hygienists to practice general supervision and under what conditions.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation may affect approxi-
mately 1,577 dental hygienists.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this amendment. Dental hygienists will have the ability to perform the duties of a dental hygienist while the dentist may not be physically present in the office.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: This will cost the Board of Dentistry 10

(b) On a continuing basis: Upkeeping of data could cost the board $2,000 per year in each year thereafter.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The present fee structure of the board would be sufficient to implement this administrative regulation at this time.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change it if it is an amendment: An increase in fees will not be necessary at this time.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There will be no fee increases to implement this administrative regulation, nor does this administrative regulation establish any new fee.

(9) Tiering: Is tiering applied? No. The same standards govern all persons within the appropriate section of the regulation.

DEPARTMENT OF AGRICULTURE
Division of Animal Health
(New Administrative Regulation)

302 KAR 20:066. Chronic wasting disease surveillance in captive cervids.

RELATES TO: KRS Chapters 246, 257, 2002 Ky. Acts ch. 88
STATUTORY AUTHORITY: KRS 257.030, 2002 Ky. Acts ch. 88, sec. 1, 2

NECESSITY, FUNCTION, AND CONFORMITY: To specify criteria and health requirements necessary to prevent the introduction of chronic wasting disease into Kentucky, develop a herd monitoring system, and to establish requirements for intrastate movement of cervids.

Section 1. Definitions. (1) "Adjacent herd" means a herd of cervids occupying premises that border an affected herd, including herds separated by roads or streams; or a herd of cervids occupying premises that were previously occupied by an affected herd within the past five (5) years as determined by the designated epidemiologist.

(2) "Affected cervid herd" means a cervid herd from which any animal has been diagnosed as affected with CWD or is not in compliance with the provisions of the control program for CWD as described in this administrative regulation.

(3) "Approved laboratory" means the National Veterinary Service Laboratory, Ames, Iowa, or laboratories accredited by the American Association of Veterinary Laboratory Diagnosticians.

(4) "Certificate of Veterinary Inspection" means an official document issued by the State Veterinarian, federal animal health official, or by a licensed, accredited veterinarian at the point of origin. The Certificate of Veterinary Inspection shall document official individual animal identification, the number of animals shipped, the purpose of the movement, the points of origin and destination, the consignor and consignee, and other information required by the state animal health officer for intra- or interstate movement.

(5) "Certified CWD cervid herd" means a herd of cervids that has qualified for and has been issued a certified CWD cervid herd certificate signed by the State Veterinarian.

(6) "Cervid" means deer, elk, moose, caribou, reindeer, and related species and hybrids thereof, including all members of the cervidae family and hybrids thereof.

(7) "Cervid herd of origin" means a cervid herd, or any farm or other premises, where the animals were born or where they are kept for at least one (1) year before the date of shipping.

(8) "Cervid CWD surveillance identification program" or "CCWDSI program" means a CWD surveillance program requiring identification and laboratory diagnosis including brain tissue as directed by the State Veterinarian, on all deaths, including deaths by slaughter, hunting (including hunting on hunting preserves), illness, and injury, of cervids six (6) months of age or greater or any cervid displaying clinical signs of CWD. The diagnosis shall include examination of brain and any other tissue as directed by the State Veterinarian. If tissues associated with a cervid death are not submitted for laboratory diagnosis due to postmortem changes or unavailability, the State Veterinarian shall determine compliance.

(9) "Chronic wasting disease" or "CWD" means a transmissible spongiform encephalopathy of cervids.

(10) "Closed herd" means a cervid herd which has had no imported animals for a period of three (3) years.

(11) "CWD exposed" or "exposed" means a designation applied to cervids that are either part of an affected herd or for which epidemiological investigation indicates contact with CWD affected animals or contact with animals from a CWD affected herd in the past five (5) years.

(12) "CWD affected" means a designation applied to cervids diagnosed as affected with the CWD prion based on laboratory results, clinical signs, or epidemiological investigation.

(13) "CWD suspect" means a designation applied to cervids for which laboratory evidence or clinical signs suggest a diagnosis of CWD, but for which laboratory results are inconclusive.

(14) "Designated epidemiologist" means a state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under this administrative regulation.

(15) "Herd" means a group of cervids that are under common ownership or supervision.

(16) "Imported animal" means an animal introduced into a herd from any source.

(17) "Individual herd plan" means a written herd management plan that is designed by the herd owner, the owner's veterinarian, if requested, and a designated epidemiologist to identify and eradicate CWD from a known affected, exposed, or adjacent herd.

(18) "KDFWR" means the Kentucky Department of Fish and Wildlife Resources.

(19) "Licensed, accredited veterinarian" means a veterinarian approved by the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture (USDA), the State Veterinarian, in accordance with 9 CFR Part 161 to perform functions required by cooperative state-federal animal disease control and eradication programs, and is licensed to practice in the state of Kentucky.

(20) "Monitored CWD cervid herd" means a herd of cervids that has complied with the CCWDSI program as defined in subsection (9) of this section. Monitored herds shall be defined as one (1) year, two (2) year, three (3) year, and four (4) year monitored in accordance with the time in years such herds have complied with the CCWDSI program.

(21) "Official individual animal identification" means an identification ear tag that conforms to the alphanumeric National Uniform Eartagging System as defined in 9 CFR Part 71.1 or other state-federal approved identification devices.

(22) "Official cervid CWD test" means an approved test conducted at an approved laboratory to diagnose CWD.

(23) "Quarantine" means an imposed restriction prohibiting movement of cervids to any location without specific written permits.

(24) "State" means any state of the United States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or Guam.

(25) "Traceback" means the process of identifying the herd or origin of CCWDSI program positive animals, including herds that were sold for slaughter.

Section 2. Supervision of the Cervid CWD Program. The State Veterinarian shall provide routine supervision of the cervid CWD control program.

Section 3. Surveillance Procedures. Surveillance procedures include the following:
1. Upon death, all cervids shall have the brain submitted and examined for CWD by an approved laboratory. A positive diagnosis of CWD by an approved laboratory shall be confirmed by the National Veterinary Service Laboratory.

2. Surveillance for CWD, as provided in Section 1 of this administrative regulation, shall be maintained for all cervid herds.

Section 4. Official Cervid Tests. Official cervid tests for CWD are:

1. Histopathology;
2. Immunohistochemistry;
3. Western Blot;
4. Negative Strain Electron Microscopy;
5. Bioassay;
6. Any state-federal approved test performed by an approved laboratory to confirm the diagnosis of CWD.

Section 5. Investigation of Cervid CWD Surveillance Identification Affected Animals. Traceback shall be performed for all animals diagnosed at an approved laboratory as affected with CWD. All herds of origin and all adjacent herds and herds having contact with affected animals as determined by the CCWDSI program shall be investigated epidemiologically. All herds of origin, adjacent herds, and herds having contact with affected animals or exposed animals shall be quarantined.

Section 6. Duration of Quarantine. Quarantines placed in accordance with this administrative regulation shall be removed in accordance with the following:

1. A herd of origin may be removed from quarantine after five (5) years of compliance with all provisions of this administrative regulation.
2. A herd having contact with affected or exposed animals may be removed from quarantine after five (5) years of compliance with the provisions of this administrative regulation as directed by the State Veterinarian, in consultation with the designated epidemiologist.
3. An adjacent herd may be removed from quarantine as directed by the State Veterinarian, in consultation with the designated epidemiologist.

Section 7. Herd Monitoring Program. (1) General. A person who keeps captive cervids in this state shall enroll the herd in the Chronic Wasting Disease Herd Monitoring Program.

(2) Application. To enroll a herd in the monitoring program, a person shall complete and submit an application provided by the department. The application shall include all the following:

(a) The name, address, and telephone number of the herd owner;
(b) The herd location or locations, including the street address and county;
(c) The herd location or locations, including the street address and county;
(d) A complete herd census report compiled no more than thirty (30) days prior to the date of application. The applicant shall submit the census report on a form provided by the department. The census report shall include all the following:
1. The number, species, age, and sex of cervids in the herd;
2. The official individual animal identification of each cervid;
3. A written statement, by a licensed, accredited veterinarian, that certifies all the following:
4. That the herd owner has knowledge of all herd health records and knowledge of all disease events occurring in the herd within the past twelve (12) months.
5. That no cervid in the herd has shown any signs or symptoms of CWD in the past twelve (12) months.
6. Application. The department shall grant or deny an application under subsection (2) of this section within thirty (30) days after the department receives a complete application. The herd shall be enrolled in the herd monitoring program on the day that the department accepts the application.

(4) Annual enrollment. To continue in the herd monitoring program persons shall comply with the following:

(a) Identify every cervid in the herd that is six (6) months old or older with official individual animal identification. Cervids shall be tagged on or before six (6) months of age.
(b) Upon death, all cervids shall have the brain submitted and examined for CWD by an approved laboratory. A positive diagnosis of CWD by an approved laboratory shall be confirmed by the National Veterinary Service Laboratory.
(c) Notify the herd veterinarian within twenty-four (24) hours of observing an animal with signs or symptoms suggestive of CWD in the herd.
(d) Complete and file an annual herd census.
(e) Create and maintain complete herd records under subsection (6) of this section.
(f) Provide the department with an annual written statement from the herd veterinarian. A licensed, accredited veterinarian shall sign and submit the statement within thirty (30) days before or after the anniversary of the herd's enrollment under subsection (3) of this section. The statement shall certify all the following:

1. That the veterinarian has knowledge of all herd health records and knowledge of all disease events occurring in the herd within the past twelve (12) months.
2. That the veterinarian has knowledge of all herd health records and knowledge of all disease events occurring in the herd within the past twelve (12) months.
3. That the herd has not shown any signs or symptoms of CWD in the past twelve (12) months.
4. Annual herd census. A person shall complete an annual herd census under subsection (4)(d) of this section within thirty (30) days before or after the anniversary date of the herd's enrollment under subsection (3) of this section. The person shall file an annual census report under subsection (4)(d) of this section, on a form provided by the department, within ten (10) days after completing the annual herd census. The report shall include all the following:

(a) The number, species, age, and sex of cervids in the herd;
(b) The official individual animal identification and all secondary identifications of each cervid.
(c) The number, species, age, and sex of cervids added to the herd since the last reported herd census. The report shall indicate whether these new cervids were natural additions or purchased additions. If cervids were purchased additions, the report shall identify source of purchased additions, date of purchase, and shall document that animals meet the CWD surveillance and monitoring requirements prior to entry into the herd.
(d) The number, species, age, and sex of cervids that have left the herd since the last reported herd census. The report shall indicate, for each cervid, all the following:

1. Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter;
2. Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter;
3. If the cervid died on the premises, the cervid's age, official individual animal identification, and the disposition of its carcass. If the carcass left the premises, the report shall identify the carcass destination or recipient.
4. If the cervid was shipped to slaughter, the cervid's age, official individual animal identification, and the name and address of the slaughter establishment. The report shall include the CWD test result.

(6) Herd records. A person shall keep the following herd records under subsection (4)(e) of this section and shall make them available to the department upon request:

(a) A record of each purchased addition to the herd shall include:

1. The species, age, and sex of the cervid;
2. The name and address of the person from whom the cervid was purchased;
3. The address of the herd from which the cervid was purchased.
4. A copy of the Certificate of Veterinary Inspection that accompanied the animal for intra- and interstate movement;
(b) A record of each cervid leaving the herd shall include the following:
1. Whether the cervid died on the premises, was shipped to slaughter, or was shipped live other than to slaughter.

2. If the cervid was shipped live other than to slaughter, the name of the person to whom it was shipped, the place to which it was shipped and a copy of the Certificate of Veterinary Inspection related to the shipment.

3. If the cervid died on the premises, the apparent cause of death, the cervid's age, sex, official individual animal identification, and the disposition of the cervid's carcass. If the carcass left the premises, the record shall identify the carcass destination or recipient.

4. If the cervid was shipped to slaughter, the cervid's age, sex, official individual animal identification, and the name and address of the slaughter establishment.

(c) A record of all CWD individual animal tests conducted on cervids in the herd.

(d) Records received from the herd veterinarian related to veterinary services provided to the herd.

(7) Suspending enrollment.

(a) The department may, without prior notice or hearing, suspend a herd's enrollment in the herd monitoring program under this section if any of the following apply:

1. A person falsifies any information on an enrollment application, or any subsequent information required for continued enrollment.

2. A person fails to comply with requirements under subsection (4) of this section for continued enrollment.

(b) The State Veterinarian or designee may issue a suspension order under paragraph (a) of this subsection. A person adversely affected by a suspension order may request a hearing pursuant to KRS Chapter 138.

Section 8. Identification and Disposal Requirements. Affected and exposed animals shall remain on the premises where they are found until they are identified and disposed of in accordance with direction from the State Veterinarian.

Section 9. Cleaning and Disinfecting. Premises shall be cleaned and disinfected under state or federal supervision within fifteen (15) days after affected animals have been removed.

Section 10. Methods of Obtaining Certified CWD Cervid Herd Status. Certified CWD cervid herd status shall include all cervids in the cervid herd. They shall not be commingled with other cervids that are not certified. A herd may qualify for status as a certified CWD cervid herd as follows:

(1) Purchasing a certified CWD cervid herd: Upon request and with proof of purchase, the State Veterinarian shall issue a new certified CWD cervid herd certificate in the new owner's name. The anniversary date and the herd number, as assigned by the department, shall remain the same. If part or all of the purchased herd is moved directly to premises that have no other cervids, the herd may retain certified CWD status, and the State Veterinarian shall issue a new certification number. The anniversary date of the new herd is the date of the most recent herd certification status certificate.

(2) Upon request and with proof of records, a herd owner shall be issued a certified CWD cervid herd certificate by complying with the CCWDSI program, as defined in Section 1 of this administrative regulation, for a period of five (5) years.

Section 11. Recertification of a Certified CWD Cervid Herd. A herd is certified for twelve (12) months. For continuous certification, adherence to the provisions in this administrative regulation and all other state laws and rules pertaining to raising cervids is required. A herd's certification status is immediately terminated and a herd investigation shall be initiated when CWD affected or exposed animals are found in the herd.

Section 12. Movement into a Certified CWD Cervid Herd. Animals originating from certified CWD cervid herds may move into another certified CWD cervid herd. Animals originating from herds which have not been certified CWD cervid herds may not be certified until they remain in the certified CWD cervid herd for five (5) years. Animals originating from CWD monitored herds shall not be certified until the combination of the CWD monitored status and the years present in the certified CWD herd total five (5) years.

Section 13. Movement into a Monitored CWD Cervid Herd. Animals originating from a monitored CWD cervid herd may move into another monitored CWD cervid herd of the same status. Animals originating from a herd which is not a monitored CWD cervid herd or from a lower status monitored CWD cervid herd shall not be monitored until they have been in the monitored herd for a number of years equal to the designation herd's monitored status at time of entry.

Section 14. Recognition of Monitored CWD Cervid Herds. The State Veterinarian shall issue a monitored CWD cervid herd certificate indicating CWD monitored herd status as CWD monitored one (1), CWD monitored two (2), CWD monitored three (3), or CWD monitored four (4), according to the number of years the herd has qualified for such status.

Section 15. Recognition of Certified CWD Cervid Herds. The State Veterinarian shall issue a certified CWD cervid herd certificate when the herd first qualifies. For recertification, the State Veterinarian shall issue a renewal form annually.

Section 16. Intra-state Movement Requirements. All intra-state movements of cervids, other than to a state- or federally-inspected slaughter establishment, shall be accompanied by an intra-state movement Certificate of Veterinary Inspection signed by a licensed, accredited veterinary. The intra-state movement certificate shall include the following:

(1) Consignor's name, address, and State Veterinarian issued permit number;

(2) Consignee's name, address, and State Veterinarian issued permit number; and

(3) The permit number to ship, which may be obtained by telephone, issued by the State Veterinarian prior to movement and one of the following statements:

(a) "All cervids identified on this certificate are from a closed herd as defined in Section 1 of 302 KAR 20:066"; or

(b) "All cervids identified on this certificate originate from a herd with a minimum three (3) year monitored status"; or

(c) "All cervids identified on this certificate originate from a certified CWD cervid herd".

Section 17. Requirements for Entry into Kentucky. All cervids entering Kentucky shall be accompanied by a Certificate of Veterinary Inspection, issued by a licensed, accredited veterinarian, and a telephone entry permit number requested by the licensed, accredited veterinarian signing the certificate and issued by the State Veterinarian before movement. One (1) of the following statements shall appear on the certificate:

(1) "All cervids identified on this certificate originate from a herd in which all cervids have been kept for at least three (3) years or into which they were born. There has been no exposure to or additions from any other source in the past three (3) years. There have been no diagnoses, signs, or epidemiological evidence of CWD in this state for the past five (5) years. Records and causes of death for the past three (3) years in this herd of origin are available to the animal health official of the state of origin"; or

(2) "All cervids identified on this certificate originate from a herd which has been determined to have a minimum three (3) year monitored status by the animal health official of the State of Kentucky";

(3) "All cervids identified on this certificate originate from a herd which has been determined to have certified CWD cervid herd status by the animal health official of the state of Kentucky".

Section 18. For cervid herds in existence prior to the effective date of this administrative regulation, eligibility for closed herd status shall commence on the date of the last import into the herd or the last herd mortality not tested for CWD, whichever occurs last.

BILLY RAY SMITH, Commissioner
APPROVED BY AGENCY: August 14, 2002
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Dr. Don Notter, State Veterinarian.

(1) Provide a brief summary of:
   (a) What this administrative regulation does: Establishes criteria and health requirements necessary to prevent the introduction of chronic wasting disease, develops a herd monitoring system, and establishes requirements for interstate movement of cervids.
   (b) The necessity of this administrative regulation: To prevent introduction and spread of chronic wasting disease into Kentucky.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute mandates the department to promulgate administrative regulations to carry out the provisions of KRS Chapters 248 and 257. This administrative regulation establishes requirements and procedures needed for implementation.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes requirements and procedures necessary for administration.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: N/A
   (b) The necessity of the amendment to this administrative regulation: N/A
   (c) How the amendment conforms to the content of the authorizing statutes: N/A
   (d) How the amendment will assist in the effective administration of the statutes: N/A
   (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: It will affect all cervid producers in the state.
   (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The participants will be required to conform to requirements of administrative regulation.
   (5) Provide an estimate of how much it will cost to implement this administrative regulation:
      (a) Initially: N/A
      (b) On a continuing basis: N/A
   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: N/A
   (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no fee increase to implement this regulation.
   (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fee.
   (9) TIERING: Is tiering applied? Tiering was not used. This administrative regulation applies equally to all individuals and entities regulated by it.

DEPARTMENT OF AGRICULTURE
Division of Regulation and Inspection
(Repealer)


RELATES TO: KRS Chapter 430
STATUTORY AUTHORITY: KRS 438.340
NECESSITY, FUNCTION, AND CONFORMITY: 302 KAR 78:010 is no longer necessary; responsibilities were transferred to another state agency.

Section 1. 302 KAR 78:010, Tobacco sales to persons under the age of eighteen (18) years is hereby repealed.

BILLY RAY SMITH, Commissioner
APPROVED BY AGENCY: July 22, 2002
FILED WITH LRC: July 23, 2002 at noon

PUBLIC HEARING: A public hearing on this administrative regulation will be held on Monday, September 23, 2002, at 9 a.m., at the Department of Agriculture, Conference Room, Room 188, Capitol Annex, Frankfort, Kentucky 40601, phone: (502) 564-5126, fax: (502) 564-5016.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Randy Wise

(1) Provide a brief summary of:
   (a) What this administrative regulation does: Repeals 302 KAR 78:010, Tobacco sales to persons under the age of 18 years.
   (b) The necessity of this administrative regulation: To repeal regulations that are no longer necessary; responsibilities have been transferred to another state agency.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statute mandates the department to promulgate administrative regulations to carry out the provisions of KRS Chapters 430.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Repeals regulations that are no longer necessary.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
   (a) How the amendment will change this existing administrative regulation: N/A
   (b) The necessity of the amendment to this administrative regulation: N/A
   (c) How the amendment conforms to the content of the authorizing statutes: N/A
   (d) How the amendment will assist in the effective administration of the statutes: N/A
   (3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: N/A
   (4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: The participants will be required to conform to requirements of administrative regulation.
   (5) Provide an estimate of how much it will cost to implement this administrative regulation:
      (a) Initially: N/A
      (b) On a continuing basis: N/A
   (6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: N/A
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no fee increase to implement this regulation.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This regulation does not establish or increase any fee.
(9) TIERING: is tiering applied? Tiering was not applied because the regulation repeals an administrative regulation that is no longer necessary.

JUSTICE CABINET
Kentucky Law Enforcement Council
(New Administrative Regulation)

503 KAR 1:160. Department of Criminal Justice Training - Kentucky Police Corps basic training: graduation requirements; records.

RELATES TO: KRS 15.330(1)(c), (g), 28 CFR 92.1-92.13, 42 USC 14091-14102
STATUTORY AUTHORITY: KRS 15.330(1)(c), (e), (g)
NEECESSITY, FUNCTION, AND CONFORMITY: KRS 15.330(1)(c) and (g) authorize the Kentucky Law Enforcement Council to prescribe qualifications for attendance of law enforcement training course and to promulgate administrative regulations. This administrative regulation establishes requirements for graduation from the Department of Criminal Justice Training - Kentucky Police Corps basic training course, which fulfills the requirements for peace officer certification and participation in the Kentucky Law Enforcement Foundation Program Fund, and for maintenance of the resulting basic training records.

Section 1. Definitions. (1) "Cadet" means a person attending the Police Corps basic training course.
(2) "Director" means the director of the Training Operations Division of DOCJT, or his designee.
(3) "Police Corps basic training" means the 1,290 1/2 hour council-approved basic training course conducted by DOCJT;
(4) "Police Corps director" means the director of the Police Corps section of DOCJT, or his designee.

Section 2. Police Corps Basic Training Content. Police Corps basic training shall consist of 1,290 1/2 hours of training, and require a cadet to demonstrate proficiency in the following three (3) areas:
(1) Area I:
(a) Five (5) academic tests; and
(b) First aid and CPR, including:
1. Professional rescuer CPR;
2. American Red Cross certified first aid; and
3. Automated external defibrillation.
(2) Area II:
(a) Firearms, including:
1. Day handgun;
2. Night handgun;
3. Shotguns; and
4. Firearms familiarization;
(b) Vehicle operations, including:
1. Precision course; and
2. Emergency response course; and
3. Defensive tactics; and
(d) Mountain bike.
(3) Area III:
(a) Breath test, including:
1. Practical examination; and
2. Written examination;
(b) DUI detection, including:
1. Practical examination; and
2. Written examination; and
(c) Criminal Justice Information Systems Mobile Data Terminal, including a combined practical and written examination.

Section 3. Police Corps Basic Training Graduation Requirements. To graduate from Police Corps basic training, a cadet shall:
(1) Successfully complete a minimum of 1,290 1/2 hours of training based upon the curriculum approved by the council in accordance with KRS 15.330 and 503 KAR 1:090;
(2) Attain a seventy (70) percent overall score on all graded training areas covered during the course for which a numerical score is assigned. A cadet who does not achieve a seventy (70) percent overall score shall be considered to have failed Police Corps basic training;
(3) Pass all training areas covered during the course for which a pass or fail designation is assigned. A cadet who does not pass all pass or fail training areas shall be considered to have failed Police Corps basic training; and
(4) Successfully complete all other assignments, exercises, and projects included in the course. After-hours assignments may be required, and shall be successfully completed in order to pass the training area for which they were assigned.

Section 4. Physical Training Requirements. A cadet shall meet the physical training entry and graduation requirements established in this section.
(1) Physical training entry requirements.
(a) Within five (5) days from the first day of the Police Corps basic training course, the cadet shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Sixteen (16) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to sixty-four (64) percent of the cadet's body weight;
3. Eighteen (18) sit-ups in one (1) minute;
4. 300 meter run in sixty-five (65) seconds;
5. Twenty (20) push-ups; and
6. One and five-tenths (1.5) mile run in seventeen (17) minutes twelve (12) seconds.
(b) If a cadet passes all events when participating in the physical training entry test, he shall have met the physical training entry requirements.
(c) Retest. If a cadet fails to pass all events when participating in the physical training entry test:
1. He shall retest in the failed events no earlier than forty-eight (48) hours from the date of the entry test;
2. All failed events shall be retested on the same date;
3. If the cadet passes all previously-failed events on the date of the retest, he shall have met the physical training entry requirements; and
4. If the cadet does not pass all previously-failed events on the date of the retest, he shall be unqualified to participate in the Police Corps basic training course for which he is currently enrolled, and may reapply to participate in a future DOCJT basic training course. The cadet shall receive no credit for the part of the Police Corps basic training course which he has completed.
(2) Physical training graduation requirements.
(a) Within five (5) days from the final date of the Police Corps basic training course, the cadet shall successfully complete each of the following events as instructed and evaluated by qualified department instructors:
1. Seventeen (17) inch vertical jump;
2. One (1) repetition maximum (RM) bench press equal to seventy-three (73) percent of the recruit's body weight;
3. Eighteen (18) sit-ups in one (1) minute;
4. 300 meter run in sixty-five (65) seconds;
5. Twenty-five (25) push-ups; and
6. One and five-tenths (1.5) mile run in sixteen (16) minutes fifteen (15) seconds.
(b) If a cadet passes all events when participating in the physical training graduation test, he shall have met the physical training graduation requirements.
(c) Retest. If a cadet fails to pass all events when participating in the physical training graduation test:
1. He shall retest in the failed events no earlier than forty-eight (48) hours after the date of the graduation test, but not later than the last scheduled date of the Police Corps basic training course;
2. All failed events shall be retested on the same date;
3. If the cadet passes all previously-failed events on the date of
the retest, he shall have met the physical training graduation re-
quirements; and
4. If the cadet does not pass all previously-failed events on the
date of the retest, he shall be considered to have failed Police Corps
basic training.

(3) Physical training safety factors.
(a) Prior to administering the outdoor events, specifically the 300
meter run and the one and five-tenths (1.5) mile run, of the physical
training entry or graduation requirements, the physical training in-
structor shall survey weather conditions to determine whether the
outdoor events can be safely performed without risk of physical
injury due to:
1. Extreme cold, snow or icy conditions; or
2. Extreme heat or humidity or a combination thereof, or inclem-
ent weather including lightening, excessive wind, or rain.
(b) If the physical training instructor determines that it would be
dangerous to administer the outdoor events due to the weather
conditions, the time period in subsections (1)(a) and (2)(a) of this
section may be extended until the events can be safely adminis-
tered.
(c) During Week 16 of Police Corps basic training, the cadets
shall be administered the events of the physical training require-
ments for purposes of reporting their progress to their sponsoring
law enforcement agencies. If weather conditions prohibit administra-
tion of the outdoor events of the physical training graduation exami-
nation prior to the last scheduled date of the Police Corps basic
training course, a cadet’s successful completion of the 300 meter
run and the one and five-tenths (1.5) mile run during Week 16 test-
 ing may be accepted in lieu of having to comply with the examina-
tion established in subsection (2)(a) of this section.

Section 5. Reexaminations. (1) A cadet shall be permitted one
(1) reexamination in each of the three (3) areas of Police Corps
basic training.
(2) A cadet who fails an examination, other than defensive tact-
ics, shall not be reexamined:
(a) Earlier than twenty-four (24) hours from the original exami-
nation; or
(b) Later than:
1. Thirty (30) days after the original examination; or
2. The last scheduled day of the Police Corps basic training
course.
(3) Failure of a defensive tactics examination.
(a) If the failure occurs prior to the last scheduled day of defen-
sive tactics training, the cadet shall not be reexamined earlier than
the last scheduled day of defensive tactics training.
(b) If the failure occurs on the last scheduled day of defensive
tactics training, the cadet shall not be reexamined:
1. Earlier than twenty-four (24) hours from the original examina-
tion; or
2. Later than the last scheduled day of the Police Corps basic
training course.
(4) A cadet shall be considered to have failed Police Corps basic
training if the cadet:
(a) Fails a reexamination in accordance with subsection (1) of
this section; or
(b) Fails two (2) examinations in the same area of Police Corps
basic training.

Section 6. Failure and Repetition of Police Corps Basic Training.
(1) A cadet who has failed a Police Corps basic training course shall
be unqualified for future Police Corps basic training courses. The
cadet may participate, if qualified, in one (1) DOCJT law enforce-
ment basic training course in its entirety during the following twelve
(12) months.
(2) The cadet or his agency shall pay all fees for the DOCJT
basic training course.

Section 7. Absence. (1) A cadet may have excused absences
from Police Corps basic training with approval of the director, or the
Police Corps director.
(2) An excused absence from Police Corps basic training which
causes a cadet to miss any of the required 1,290 1/2 hours of train-
ing shall be made up through an additional training assignment.

Section 8. Leave of Absence from Police Corps Basic Training.
(1) Pursuant to 42 USC section 14096(a), a cadet:
(a) Who requests a leave of absence from Police Corps basic
training due to temporary physical or emotional disability shall be
granted the leave for a period not to exceed one (1) year, or eight-
een (18) months in the event of multiple requests; or
(b) Who requests a leave of absence from Police Corps basic
training for a reason other than those described in subsection (a) of
this section may be granted the leave for a period not to exceed one
(1) year, or eighteen (18) months in the event of multiple requests.
(2) The length of leaves of absence from educational study,
Police Corps basic training, or service that a cadet has previously
received will be deducted from the time available for a leave of ab-
sence from Police Corps basic training.
(3) A cadet who receives a leave of absence shall be required to
repet Police Corps basic training in its entirety.

Section 9. Maintenance of Records. (1) All training records re-
quired for Kentucky Law Enforcement Foundation Program Fund
purposes shall be retained by DOCJT, but a copy of pertinent facts
shall be sent to the fund administrator upon written request.
(2) All training records shall be:
(a) Available to the Office of the Police Corps and Law Enforce-
ment Education of the United States Justice Department, the coun-
cil, the secretary, and the fund administrator for inspection or other
appropriate purposes; and
(b) Maintained in accordance with applicable provisions of KRS
Chapter 171.

ROBIN COOPER, Chair
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 15, 2002 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative
regulation shall be held on September 24, 2002, at 9 a.m. in the
Posey Auditorium, Stratton Building, Eastern Kentucky University,
Richmond, Kentucky 40475. Individuals interested in being heard at
this hearing shall notify this agency in writing by September 17,
2002, five days prior to the hearing, of their intent to attend. If no
notification of intent to attend the hearing is received by that date,
the hearing may be canceled. The hearing is open to the public. Any
person who wishes to be heard will be given an opportunity to com-
ment 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 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 pub-
lic hearing, or written comments on the proposed administrative
regulation to the contact person.
CONTACT PERSON: Stephanie C. Bingham, General Counsel,
Department of Criminal Justice Training, Funderburk Building,
Richmond, Kentucky 40475-3377, phone (859) 622-5897, fax (859)
622-3162.

REGULATORY IMPACT ANALYSIS
Contact Person: Stephanie C. Bingham
(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes the
guidelines and procedures for graduation from the Department of
Criminal Justice Training - Kentucky Police Corps basic training
course.
(b) The necessity of this administrative regulation: The regula-
tion is necessary so that the Kentucky Law Enforcement Council
may fulfill its responsibilities, as established in KRS 15.330, to estab-
lish and prescribe qualifications for attendance to the Department of
Criminal Justice Training - Kentucky Police Corps basic training
course.
(c) How this administrative regulation conforms to the content of
the authorizing statutes: KRS 15.330(1)(c) and (e) authorize the
Kentucky Law Enforcement Council to prescribe qualifications for
attendance of law enforcement training course and to promulgate
reasonable rules and administrative regulations. This administrative
regulation is required to establish graduation requirements for the Department of Criminal Justice Training - Kentucky Police Corps.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets clear, reasonable and consistent rules and procedures for graduation from the Department of Criminal Justice Training - Kentucky Police Corps Program.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation. Not applicable.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 14 local law enforcement agencies in the Commonwealth shall be affected as a result of the Department of Criminal Justice Training - Kentucky Police Corps basic training course beginning in June 2002.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that agencies should experience positive results from the implementation of this administrative regulation. Upon graduation, Kentucky Police Corps cadets will be assigned to various agencies for a period of 4 years. The Federal Police Corps Act (42 USC sections 14091 et seq.) authorizes the award of a scholarship to participants in the Police Corps who agree to work in a State or local police force after graduation. Additionally, each agency will receive, from the United States Department of Justice, $10,000 for each year of service, for each Police Corps graduate hired.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: No additional state costs.

(b) On a continuing basis: No additional state costs.

(c) That is a part of the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds received pursuant to the Police Corps Act, and the Kentucky Law Enforcement Foundation Program Fund, which is a restricted fund.

(6) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish or increase fees.

(9) TIERING: Is tiering applied? No, tiering was not 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.

JUSTICE CABINET
Department of Criminal Justice Training
(New Administrative Regulation)

503 KAR 3:090. Department of Criminal Justice Training - Kentucky Police Corps Program.

RELATES TO: KRS 15A.070(1), 42 USC 14094, 14096, 14099
STATUTORY AUTHORITY: KRS 15A.070(1), (5), 42 USC 14094, 14099
NECESSITY, FUNCTION, AND CONFORMITY: 42 USC 14094(a) requires a state desiring to participate in the Police Corps Program to designate a lead agency to submit and administer the program in the state. Pursuant to KRS 15A.070(1), the Kentucky General Assembly authorized the Department of Criminal Justice Training to establish, supervises and coordinate training programs and schools for law enforcement personnel. This administrative regulation establishes the Department of Criminal Justice Training - Kentucky Police Corps basic training course.

Section 1. Assurances. To develop and implement interagency agreements to carry out the program, the Department of Criminal Justice Training - Kentucky Police Corps Program shall:

1. Work in cooperation with:
   (a) Local law enforcement liaisons;
   (b) Representatives of police labor organizations;
   (c) Police management organizations; and
   (d) Other state and local agencies.

2. Advertise the assistance available under the Police Corps Program plan;

3. Screen and select law enforcement personnel for participation in the Police Corps Program and

4. Meet the requirements of 42 USC 14099.

Section 2. Application Process. (1) To participate in the Department of Criminal Justice Training - Kentucky Police Corps Program, an applicant shall:

(a) Complete:
   1. An "Application for Admission" Form;
   2. A "Release of Information to Agency" Form;
   3. A "Criminal History Release" Form; and
   4. A "Credit History Release" Form; and

(b) Obtain letters of recommendation by at least two (2), but no more than (4) different persons, by requesting that they complete a "Recommendation Form" supplied by the department.

(2) The recommendation forms shall be sent from the references directly to the department.

Section 3. Police Corps Selection Criteria. In addition to the requirements of 42 USC 14096, selection of Police Corps cadets shall be based upon the following criteria:

1. Academic achievement, based upon grades earned in:
   (a) High school;
   (b) Vocational school; or
   (c) College;

2. Work experience and community involvement;

3. Special interests and athletics;

4. Letters of recommendations;

5. Personal statement and essay; and

6. Personal interview with Police Corps applicant.

Section 4. Assignment of Cadets to Police Forces. (1) A Police Corps cadet shall be assigned to a geographic area in which:

(a) There is a greater need for additional law enforcement personnel; or

(b) He or she will be used more effectively.

(2) Subject to the requirements of subsection (1) of this section, a Police Corps cadet shall be assigned to:

(a) An area near his or her home; or

(b) Other requested area.

(3) Assignment of a cadet to a police agency shall be made at the time of acceptance into the Police Corps Program. The assignment to an agency shall not be changed except as follows:

(a) Prior to the start of the fourth year of undergraduate study if the sponsoring police agency determines that they will be unable to hire the cadet;

(b) After the start of the fourth year of undergraduate study and before the completion of the four (4) year service requirement, the assignment may be changed based only upon:
   1. Compelling reasons or to meet the needs of the Police Corps Program; and

2. The consent of the cadet.

(4) A Police Corps cadet shall not be assigned to served with a local police force:

(a) Whose size has declined by more than five (5) percent since June 21, 1989; or
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(1) Provide a brief summary of:
(a) What this administrative regulation does: Establishes the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(b) The necessity of this administrative regulation: The regulation is necessary so that the Department of Criminal Justice Training can fulfill its responsibility to establish, supervise, and coordinate training programs.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 15A.070(1) authorizes the Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation establishes the Department of Criminal Justice Training - Kentucky Police Corps basic training course.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the Department of Criminal Justice Training - Kentucky Police Corps Program and sets clear, reasonable and consistent requirements for application to and participation in the basic training course.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 14 local law enforcement agencies in the Commonwealth shall be affected as a result of the Department of Criminal Justice Training - Kentucky Police Corps basic training course beginning in June 2002.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that agencies should experience positive results from the implementation of this administrative regulation. Upon graduation, Kentucky Police Corps cadets will be assigned to various agencies for a period of 4 years. The Federal Police Corps Act (42 USC 14091 et seq.) authorizes the award of a scholarship to participants in the Police Corps who agree to work in a state or local police force after graduation. Additionally, each agency will receive, from the United States Department of Justice, $10,000 for each year of service, for each Police Corps graduate hired.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No additional state costs.
(b) On a continuing basis: No additional state costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds received pursuant to the Police Corps Act, and the Kentucky Law Enforcement Foundation Program Fund, which is a restricted fund.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish or increase fees.

(9) TIERING: Is tiering applied? No, tiering was not 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.

Section 5. Effective Training and Leadership. Cadets in the Kentucky Police Corps shall receive effective training and leadership.

Section 6. Refusal of Appointment or Removal. (1) The Police Corps Program may refuse to offer an appointment after completion of federal training or may remove a cadet from the program based upon:
(a) Failure to make satisfactory progress in the course of educational study;
(b) A recommendation of removal by the Commissioner of the Department of Criminal Justice Training after violation of the conduct requirements of KAR 3:100; or
(c) Other good cause.
(2) If a cadet is refused appointment or removed from training, he or she shall have the right to request a hearing pursuant to KRS Chapter 13B.

Section 7. Employment Rights of Police Corps Cadets. A police agency requesting appointment of a Police Corps cadet shall, while the cadet is serving as a member of the force:
(1) Provide the same rate of pay and benefits to the cadet as other officers with the same rank and tenure; and
(2) Recognize the same rights under applicable agreements with labor organizations as other officers with the same rank and tenure.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Application for Admission" Form, DOCJT, (1/98 Edition);
(b) "Release of Information to Agency" Form, DOCJT, (6/02 Edition);
(c) "Criminal History Release" Form, DOCJT, (6/02 Edition);
(d) "Credit History Request" Form, DOCJT, (6/02 Edition); and
(e) "Recommendation Form," DOCJT, (6/02 Edition).
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.

ROBIN COOPER, Chair
APPROVED BY AGENCY: August 14, 2002
FILED WITH LRC: August 15, 2002 at 10 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 24, 2002, at 9 a.m. in the Posey Auditorium, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing, or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Stephanie C. Bingham, General Counsel, Department of Criminal Justice Training, Funderburk Building, Richmond, Kentucky 40475-3137, phone (859) 622-5997, fax (859) 622-3162.

REGULATORY IMPACT ANALYSIS

Contact Person: Stephanie C. Bingham
FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 42 USC 14094 and 14099.
2. State compliance standards. This administrative regulation:
   (a) Provides assurances that DOCJT will work in cooperation with law enforcement agencies, advertise the assistance available under the Police Corps Program, screen and select participants in the program, and meets the requirements of 42 USC 14099;
   (b) Establishes the application process for the Police Corps Program;
   (c) Establishes the selection criteria for the Police Corps Program;
   (d) Establishes criteria for assignment of police corps cadets to police forces and requires forces to meet certain guidelines to qualify for assignment of a cadet;
   (e) Requires DOCJT to teach cadets effective training and leadership;
   (f) Establishes the requirements for refusing to offer an appointment or removing a cadet from training;
   (g) Requires police agencies to provide certain employment rights to police corps cadets that are assigned to their agency.
3. Minimum or uniform standards contained in the federal mandate. The federal statutes, 42 USC 14094 and 14099, require states to:
   (a) Provide assurances that it will work in cooperation with law enforcement agencies, advertise the assistance available under the Police Corps Program, screen and select participants in the program, and meet the requirements of 42 USC 14099;
   (b) Establish the application process for the Police Corps Program;
   (c) Establish the selection criteria for the Police Corps Program;
   (d) Establish criteria for assignment of police corps cadets to police forces and requires forces to meet certain guidelines to qualify for assignment of a cadet;
   (e) Teach cadets effective training and leadership;
   (f) Establish the requirements for refusing to offer an appointment or removing a cadet from training;
   (g) Require police agencies to provide certain employment rights to police corps cadets that are assigned to their agency.

JUSTICE CABINET
Department of Criminal Justice Training
New Administrative Regulation

503 KAR 3:100. Department of Criminal Justice Training - Kentucky Police Corps basic training course cadet conduct requirements; procedures and penalties.

RELATES TO: KRS 15A.070(1), 42 USC 14091 et seq.
STATUTORY AUTHORITY: KRS 15A.070(1), (5)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070(1) and (5) authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation establishes the conduct requirements for cadets attending the Kentucky Police Corps basic training course conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties.

Section 1. Definitions. (1) "Cadet" means a person attending the Police Corps basic training course.
   (2) "OPCLEE" means the Office of the Police Corps and Law Enforcement Education of the United States Justice Department.
   (3) "Police Corps basic training" means the 1,290 1/2 hour council approved basic training course conducted by the department.
   (4) "Police Corps Director" means the director of the Police Corps section of the department, or his designee.

Section 2. Uniforms and Operator's License Required. A cadet shall provide the uniforms required in Section 7(8) of this administrative regulation and present a valid motor vehicle operator's license to participate in the Police Corps basic training course.

Section 3. Class Coordinator. (1) The class coordinator for a Police Corps basic training class shall also serve as its ombudsman.
   (2) The class coordinator shall be available to:
      (a) Assist cadets who experience problems during Police Corps basic training;
      (b) Explain the Department of Criminal Justice Training - Kentucky Police Corps administrative regulations and position regarding cadet conduct and responsibilities; and
      (c) Assist cadets with concerns that may adversely affect them or the department.
   (3) The class coordinator shall ensure fair and equitable treatment for the cadets in his charge.

Section 4. Removing an Unqualified Cadet from Police Corps Basic Training. If a cadet is not qualified to participate in the Police Corps basic training course, he shall:
   (1) Be removed from Police Corps basic training by the:
      (a) Commissioner;
      (b) Director; or
      (d) Police Corps Director;
   (2) Receive no credit for the part of the Police Corps basic training course he has completed;
   (3) If a cadet is removed from training, pursuant to subsection (1) of this section, within thirty (30) days of the removal, he may request in writing an administrative hearing, which shall comply with KRS Chapter 133;
   (4) A cadet shall be considered unqualified if he:
      (a) Fails an incomplete or fraudulent application to attend Police Corps basic training, or otherwise fails to comply with admissions requirements;
      (b) Does not meet all requirements for Police Corps participation as defined by the OPCODEE, including:
         1. Not having received a bachelor's degree from an accredited four (4) year college or university;
         2. Having served as a sworn police officer with the power of arrest, as defined by OPCODEE;
   (c) Arrives at the beginning of the Police Corps basic training course physically unable to participate because of:
      1. Physical injury; or
      2. Being under the influence of alcohol or drugs (prescription or illicitly);
      3. Failure of the physical training entry requirements as found in 503 KAR 1:150;
      (d) Has had prior disciplinary action while at the department which would prevent participation (expelled or suspended from training), or has a pending disciplinary action which was initiated during a previous department training course;
      (e) Is unprepared to participate in training due to his arrival without the required equipment, license, uniform, or preparation.

Section 5. Gifts. Gifts from cadets to department staff members shall conform with the Executive Branch Code of Ethics (KRS 11A.040).

Section 6. Penalties for Misconduct. (1) The following penalties shall apply to a cadet's failure to meet conduct or Honor Code requirements of the department. The penalties are listed in order of decreasing severity.
   (a) Expulsion. The cadet is dismissed from the Police Corps basic training course, and all privileges are terminated. The cadet is ineligible for future Police Corps basic training courses, and may not reapply for admission to the department's basic training course for five (5) years from the date of expulsion.
   (b) Suspension. The cadet is suspended from department training for a specified period of time, not to exceed one (1) year; all privileges are rescinded during the suspension period.
   (c) Probation. The cadet is placed on probation for a specified
period of time, not to exceed the final date of the Police Corps basic training course in which he is currently enrolled. A loss of privileges may be imposed during the period of probation. A violation of any conduct or Honor Code requirement during the period of probation shall result in an extension of the period of probation, additional loss of privileges, suspension, or expulsion.

(d) Loss of privileges. The cadet's privileges as specified in the impressed penalty are rescinded for a stated period of time. The cadet's participation in training activities is not affected.

(e) Written reprimand. The cadet is reprimanded in writing for violating a conduct or Honor Code requirement.

(f) Verbal warning. The cadet is warned verbally that he has violated a conduct or Honor Code requirement.

(2) Second and subsequent violations.

(a) If a cadet has received a penalty for violating a conduct or Honor Code requirement, upon a first or second violation of any conduct or Honor Code requirement the next higher penalty shall be added to the list of penalties which may be imposed for the second violation.

(b) If a cadet has previously received two (2) penalties for violating two (2) conduct or Honor Code requirements, upon a third or subsequent violation of any conduct or Honor Code requirement the next two (2) higher penalties shall be added to the list of penalties which may be imposed for the third or subsequent violation.

(3) Giving notice of disciplinary action to cadet. The department shall give written notice to a cadet of any penalty imposed upon him.

(4) Penalty records.

(a) The department shall keep a written record of any penalty imposed on a cadet.

(b) A copy of any penalty imposed on a cadet shall be placed in his basic training file.

(c) Only the OCPLEE, the department, and the cadet shall have access to the penalty records in a cadet's basic training file unless broader access is required by law.

Section 7. Termination of Dangerous or Disruptive Situation. If the conduct or condition of a cadet constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of a department activity, a department staff member may take all reasonable steps necessary to terminate the situation.

Section 8. Conduct Requirements. A cadet attending the Police Corps basic training course shall meet the following conduct requirements:

(1) General conduct, chain of command. All communications shall follow chain of command of the department. Exceptions are the unavailability of a supervisor, or the cadet's complaint regarding a supervisor. Penalty: verbal warning or written reprimand.

(2) General conduct, insubordination. A cadet shall:

(a) Obey a lawful order from a department staff member. Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.

(b) Refrain from vulgarity, rudeness, violent, threatening, or offensive confrontation, or other disrespectful conduct directed toward a department staff member, cadet, recruit or other department trainee, or guest. Penalty: verbal warning, written reprimand, probation, or suspension.

(3) General conduct, grooming. The cadet shall be clean shaven with no facial hair longer than the bottom of the ear lobe. A mustache shall be permitted if the cadet had the mustache upon arrival and it is kept neatly trimmed. A cadet's hair shall not be unkempt or over the collar. Penalty: verbal warning or written reprimand.

(4) General conduct, alcoholic beverages and other intoxicants.

(a) A cadet shall not possess, consume nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while attending Police Corps basic training, which shall include all dates of training and periods when residing in the dormitory. A cadet shall not report to the dormitory having consumed alcoholic beverages, controlled substances, or other intoxicating substances. A cadet shall submit to testing as requested by the department to determine the presence of alcoholic beverages, controlled or other intoxicating substances at the department's expense. Testing shall be requested if a department or dormitory staff member, instructor, section supervisor, branch manager, director or commissioner has a reasonable suspicion that the cadet has violated the provisions of this section no testing may be randomly requested of all cadets. Penalty: written reprimand, loss of privileges, probation, suspension or expulsion.

(b) If a cadet has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in any training activity if he is under the influence thereof to the extent that the cadet may be impaired or may endanger himself or other persons or property. A cadet shall advise the class coordinator or the section supervisor in writing of the use of controlled substance or medication whether or not it has been prescribed by a physician. Penalty: verbal warning, written reprimand, probation, or suspension.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, or branch manager observes an unlawfully-possessed intoxicating substance, he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(5) General conduct, weapons and other dangerous devices.

(a) A cadet shall not possess deadly weapons (as defined in KRS 500.080), ammunition, destructive devices or booby trap device (as defined in KRS 224.106), hazardous substances (as defined in KRS 224.01-400), knives other than an ordinary pocket knife, fireworks, or instruments used by law enforcement for control purposes including batons, stun guns, Mace, and pepper spray, on property used by the department except under circumstances specifically authorized by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

(b) Weapons specifically designated by the department to be used for training purposes shall be stored in a vault provided by the department at all times when they are not being used directly in training activities and may be removed only for scheduled training, servicing, cleaning, or repair. Servicing, cleaning, and repairs of weapons (other than repairs which may require the expertise of a qualified gunsmith) shall be carried out only as authorized by the section supervisor or branch manager and only in the presence of a certified firearms instructor. Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director or commissioner observes an unlawfully-possessed weapon or other dangerous device he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(6) General conduct, property.

(a) A cadet shall not recklessly, negligently, or intentionally damage, destroy, fail to return, or be wasteful of property of the department or any other facility used by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(b) A cadet shall not have successfully completed Police Corps basic training, and shall not be allowed to graduate until he has returned all issued items or made satisfactory arrangements to pay for unreturned or damaged items.

(7) General conduct, conduct unbecoming a cadet.

(a) Engage in criminal activity, including acts which would constitute a felony, misdemeanor or violation, while enrolled in a Police Corps basic training course. Depending on the nature of the conduct, the cadet shall be penalized by a verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion. Additionally, the appropriate prosecutorial authority shall be notified of the activity if it constitutes a felony or Class A misdemeanor, and may be notified of other activity when appropriate.

(b) Engage in conduct which creates a danger or risk of danger to the cadet or another, possess obscene matter as defined in KRS 531.010, engage in conduct which is unreasonably annoying, engage in fighting or in violent tumultuous or threatening conduct, engage in sexual harassment or conduct which is patently offensive. Penalty: verbal warning, written reprimand, loss of privileges, proba-
tion, suspension or expulsion.
(8) Training activities, uniforms.
(a) A cadet shall maintain all issued uniforms and wear them as required by the department. Penalty: verbal warning, written reprimand, loss of privileges, or probation.
(b) Navy blue utility uniforms shall be:
1. Clean, pressed and in good condition;
2. Appropriately sized to fit the cadet and not excessively loose, baggy, or tight;
3. Not worn over a clean white tee-shirt, visible at the neck; and
4. Worn with a wide black police-type belt, clean black police-type footwear, black or navy blue socks, and when outdoors, a department cap. Penalty: verbal warning or written reprimand.
(c) All other uniforms, including physical fitness uniforms, shall be worn in a manner as directed by the department.
(d) Jewelry. The cadet may wear:
1. One (1) ring per hand. A wedding and engagement ring worn together on the left hand shall be considered one (1) ring; or
2. Necklaces if worn under the tee-shirt and not visible. Penalty: verbal warning or written reprimand.
(e) A name tag, provided by the department, shall be worn on the left shirt-pocket flap while in navy blue uniform. Penalty: verbal warning or written reprimand.
(f) Sleeves on white shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.
(g) Additional clothing may be worn during a training activity if authorized by the instructor.
(9) Training activities, absences.
(a) A cadet is absent if he is not physically present in a class or other required department activity for ten (10) minutes or more. A cadet is tardy if he is not physically present at a class or other required department activity for fewer than ten (10) minutes. A cadet shall give advance notice of an absence when possible. Penalty for an unexcused absence: verbal warning, written reprimand, loss of privileges, probation, or suspension; penalty for an unexcused tardiness: verbal warning or written reprimand.
(b) All absences from Police Corps basic training must be approved by the director, or Police Corps Director.
(c) If a cadet is absent in a class, the instructor who taught the missed unit. Failure to make up the work shall be deemed a failure for that training area.
(10) Training activities, breaks. Cadets shall be allowed a ten (10) minute break per hour of instruction if possible. Breaks shall be taken only in areas designated by the department. Penalty: verbal warning or written reprimand.
(11) Training activities, general conduct.
(a) A cadet shall be attentive during training activities. Penalty: verbal warning or written reprimand.
(b) A cadet shall not use tobacco products during, or bring food or drink into a training activity unless so permitted by the training director or commissioner. Penalty: verbal warning or written reprimand.
(c) A cadet shall not engage in conduct which creates or may create a risk of injury to others during a training session. Penalty: probation, suspension, or expulsion.
(d) A cadet shall complete assignments by the deadline established by the instructor or coordinator. Penalty: verbal warning or written reprimand.
(12) Training activities, dishonesty.
(a) A cadet shall not cheat or attempt to cheat on a test, or alter or attempt to alter a test grade or other evaluation result. A cadet shall not permit, assist or facilitate this conduct by another cadet. Penalty: suspension or expulsion.
(b) A cadet shall not cheat or attempt to cheat on any other assignment or activity, engage in any other conduct intended to gain an undeserved evaluation, or falsify a document provided to the department during Police Corps basic training. A cadet shall not permit, assist or facilitate this conduct by another cadet. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.
(13) Residence hall.
(a) During the Police Corps basic training course, when attending in Madison County, a cadet shall reside in the residence hall designated by the department.
(b) A cadet shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, and Friday or Saturday if a training session is scheduled for the following day, and remain there until 5 a.m. the next morning. Exceptions shall be approved by the class coordinator and reported in writing through channels to the director. Penalty: verbal warning, written reprimand, loss of privileges, probation.
(c) A cadet shall observe "lights out" by 12 midnight. Penalty: verbal warning or written reprimand.
(d) Each cadet shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a cadet shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. Penalty: verbal warning, written reprimand, loss of privileges.
(e) Doors shall be locked whenever a room is unoccupied. Penalty: verbal warning or written reprimand.
(f) The use of cooking appliances or space heaters is prohibited. Penalty: verbal warning, written reprimand, loss of privileges.
(g) All residence hall rooms. closets, and containers therein may be inspected by department staff for purposes of safety, sanitation and rule violations.
(h) A cadet residing at the residence hall shall not:
1. Have anyone, other than roommate, in his or her room after 9 p.m. Penalty: verbal warning or written reprimand, loss of privileges.
2. Keep pets, animals, or birds of any kind in his room. Penalty: verbal warning, written reprimand, loss of privileges.
3. Engage in dangerous, disruptive, immoral or obscene behavior. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

Section 9. Honor Code. (1) The cadet shall abide by the provisions of the Honor Code which reads as follows:
We are a dynamic team of individuals who possess a wide array of talents and strengths. In order for our team to grow and be successful, we will respect the leadership of the agency and follow directives to the best of our ability. We will make sacrifices for the benefit of the team. We will practice humility and show a spirit of compromise. As cadets of the Department of Criminal Justice Training, Police Corps basic training class, we will not lie, steal or cheat nor tolerate any among us who do.
It is our duty to keep our private lives at a high level of honor as an example to all. We will be exemplary in obeying the laws of the Commonwealth and the administrative regulations of the Department of Criminal Justice Training. Whatever we see or hear of a confidential nature or confided to us in our official capacity shall be kept confidential unless revelation is necessary in the performance of duty. We will never allow personal feelings, prejudices, ill will or friendships to influence our decisions.
We know that each of us is individually responsible for standards of professional performance. Therefore, we will make the utmost effort to improve our level of knowledge and competence.
We recognize the badge of our office as a symbol of public faith and accept it as a public trust to be held so long as we are true to the ethics of the police service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession, our law enforcement. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.
(2) The coordinator, in cooperation with the class shall designate a minimum of one (1) Honor Code representative during the first week of Police Corps basic training. The Honor Code representative may be replaced:
(a) In the case of nonperformance of duties, including conduct violations;
(b) When the coordinator, in cooperation with the class, determines that a rotating assignment as Honor Code representative is in the best interest of the class.
(3) All cadets shall report Honor Code violations to the Honor Code representative who shall report the offense to the class coordinator. The representative will recommend the penalty to be im-
posed for the violation.

(4) All disciplinary procedures contained in this administrative regulation shall apply to the Honor Code violation. The department may pursue separately any additional offenses discovered during the investigation of the Honor Code violation. The department may charge a cadet with an Honor Code violation without a prior report from the Honor Code representative. A penalty recommendation for the violation shall be solicited from the Honor Code representative.

Section 10. Department’s Responsibilities to Sponsoring Agency. In order to keep the sponsoring agency advised of the cadet’s progress and performance in Police Corps basic training so that the agency may adequately assess the cadet’s ability to perform required duties, the department shall provide the following to the police chief, sheriff or chief administrator of the cadet’s sponsoring agency:

(1) Cadet performance report which shall be completed at six (6) week intervals and shall include cadet conduct, demonstrated leadership abilities, examination scores, physical fitness scores and overall effort on performance, observed social and interpersonal skills, and appearance.

(2) Immediate notice of specific nonperformance or lack of progress.

(3) Immediate notice of any off-campus activity which reflects negatively on the profession, including the following:

(a) Disorderly conduct;
(b) Speeding; or
(c) Other behavior that gives rise to a citizen’s complaint.

(4) Written notice of any conduct or Honor Code penalty imposed upon the cadet.

(5) Notice when a cadet has been charged with a violation of a conduct or Honor Code requirement and has requested a hearing.

(6) Notice when a cadet has been removed from training pending an initial appearance before the commissioner as defined in Section 11 of this administrative regulation, or when a cadet has been removed from training pending a disciplinary hearing as defined in Section 15(3) of this administrative regulation.

Section 11. Summary Disciplinary. Except for summary discipline, no penalty shall be imposed upon a cadet unless charges have first been brought by the legal officer.

(1) The following department staff members have the authority to impose the specified penalties summarily without meeting the requirements of the formal disciplinary procedures provided by Sections 11 through 17 of this administrative regulation. To have such authority to impose summary discipline, the staff member must have reasonable grounds to believe the cadet has engaged in the misconduct:

(a) A department instructor may summarily impose a verbal warning.
(b) The section supervisor, Police Corps Director, branch manager, director, or commissioner may summarily impose a verbal warning, or written reprimand.
(c) The Police Corps Director, branch manager, director, or commissioner may summarily impose a verbal warning, written reprimand, or loss of privileges consisting only of a change in curfew.

(2) Before imposing a penalty summarily, the staff member shall give the cadet the opportunity to give an explanation.

(3) A summary imposed penalty shall be reviewed by, and may be rescinded or modified by, the immediate supervisor of the staff member imposing the penalty. The reviewer shall provide the cadet with the opportunity to give an explanation.

Section 12. Removal From Training Pending an Initial Appearance Before the Commissioner. (1) When a charge is filed against a cadet, the commissioner or director, in consultation with the Police Corps Director, may remove the cadet from some or all training until the cadet’s initial appearance before the commissioner if he has reasonable grounds to believe the alleged misconduct took place and:

(a) He has reasonable suspicion to believe the cadet would be dangerous or disruptive if not removed; or
(b) The cadet has been charged with misconduct for which suspension or expulsion is authorized, and the facts demonstrate that suspension or expulsion is the appropriate penalty should the cadet be found guilty of the conduct violation.

(2) A cadet who has been removed from training pending an initial appearance before the commissioner shall be provided the initial appearance within three (3) training days of the removal.

Section 13. Complaint. Anyone having reasonable grounds to believe that a cadet has violated any of the conduct or Honor Code requirements identified in this administrative regulation may file a complaint with the section supervisor, or Police Corps Director. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 14. Investigation. Police Corps Director or Section Supervisor. (1) If the Police Corps Director or section supervisor receives a complaint of or witnesses apparent misconduct, he shall take statements and otherwise investigate the matter.

(2) After investigating the matter, thePolice Corps Director or section supervisor shall:

(a) Take no action if none is justified by the evidence; or
(b) Impose appropriate summary discipline; or
(c) File, with the legal officer, a written request that charges be brought against the cadet. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements violated. All pertinent evidence and documents including the complaint, and statements of the cadet and witnesses shall be forwarded to the legal officer.

Section 15. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.

(2) The legal officer may make or cause further inquiry into the matter for additional information.

(3) The legal officer shall:

(a) File such charges against the cadet as he believes are justified by the evidence; or
(b) Deny the request for charges if the evidence does not support any charges. If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.

(4) The charging document shall:

(a) Be in writing;
(b) Particularly describe the alleged misconduct so as to reasonably inform the cadet of the nature of the allegation;
(c) State the time, date, and place the cadet shall make an initial appearance before the commissioner to answer the charges;
(d) Be signed by the legal officer; and
(e) Be served upon the cadet at least forty-eight (48) hours before his initial appearance before the commissioner.

Section 16. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than five (5) training days after the charges have been served on the cadet. If the cadet after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the cadet shall be notified in writing of any action taken.

(2) At the initial appearance before the commissioner:

(a) The legal officer shall:

1. Read the charges to the cadet;
2. Explain to the cadet:
(a) The charges;
(b) His right to a hearing in accordance with KRS Chapter 13B; and
(c) His right to be represented by legal counsel.
(b) The legal officer shall explain to the cadet the possible answers to the charges: admit the charges, admit the charges are true but waive a hearing, or deny the charges are true and ask for a hearing.
(c) The commissioner shall advise the cadet of the penalty which shall be imposed if the cadet admits the charges or waives a hearing. The commissioner’s recommendation regarding penalty shall be made in consultation with the Police Corps Director.
(d) The cadet shall be requested to answer the charges.
(e) If the cadet chooses to waive his rights and admits the
can fulfill its responsibility, as established in KRS 15A.070(1), to establish conduct and disciplinary requirements for the Department of Criminal Justice Training - Kentucky Police Corps basic training course.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 15A.070(1) authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. This administrative regulation enacts the conduct requirements of cadets attending the Department of Criminal Justice Training - Kentucky Police Corps basic training course, prescribing procedures for disciplinary action, and sets penalties.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation sets clear, reasonable and consistent conduct rules and disciplinary procedures for the Department of Criminal Justice Training - Kentucky Police Corps basic training course.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: Not applicable.

(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.

(d) How the amendment will assist in the effective administration of the statutes: Not applicable.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 14 local law enforcement agencies in the Commonwealth shall be affected as a result of the Department of Criminal Justice Training - Kentucky Police Corps basic training course beginning in June 2002.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: It is anticipated that agencies should experience positive results from the implementation of this administrative regulation. Upon graduation, Kentucky Police Corps cadets will be assigned to various agencies for a period of 4 years. The federal Police Corps Act (42 USC 14091 et seq.) authorizes the award of a scholarship to participants in the Police Corps who agree to work in a state or local police force after graduation. Additionally, each agency will receive, from the United States Department of Justice, $10,000 for each year of service, for each Police Corps graduate hired.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: No additional state costs. (b) On a continuing basis: No additional state costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds received pursuant to the Police Corps Act, and the Kentucky Law Enforcement Foundation Program Fund, which is a restricted fund.

(7) Provide an assessment: of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase is necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: It does not establish or increase fees.

(9) TIERING: Is tiering applied? No, tiering was not 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.
JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)

505 KAR 1:041. Repeal of 505 KAR 1:040.

RELATES TO: KRS 15A.065, 15A.067, 15A.200-245, 15A.305, 200.080 120, Chapter 800 to 645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095, and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation repeals 505 KAR 1:040 so that it can be replaced by five (5) administrative regulations, which will simplify and make more efficient future regulatory filings.

Section 1. 505 KAR 1:040, Policy and Procedures Manual, is hereby repealed.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 12, 2002 at 11 a.m.
PUBLIC HEARING A public hearing on this proposed administrative regulation shall be held on September 24, 2002, at 9 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request is made for a transcript. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation to: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 505 KAR 1:040 so that it can be replaced by five separate administrative regulations.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to replace 505 KAR 1:040 with five administrative regulations, which will make future regulatory filings and amendments to policies and procedures less complicated and more efficient.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation require the Department of Juvenile Justice to provide community and facility based services and treatment programs for juveniles adjudicated public or youthful offenders or being detained in state-operated juvenile detention facilities. The regulations replacing the one being repealed will simplify and make more efficient the process for amending the policies and procedures necessary to provide these services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulations replacing the one being repealed will simplify and make more efficient the process for amending the policies and procedures necessary to provide statewide juvenile services programs.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Businesses, organizations or local governments will be affected by this regulation. No individuals, businesses, organizations or local governments will be affected by this administrative regulation.
(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will not impact the above groups.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The implementation of this administrative regulation will result in no additional costs.
(b) On a continuing basis: The implementation of this administrative regulation will result in no additional costs.
(c) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Appropriations made by the General Assembly for the Department of Juvenile Justice to fulfill its statutory responsibilities.
(d) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.
(e) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increases any fees.
(f) TIERING: Is tiering applied? Tiering is not applied because the regulation repeals an administrative regulation and the administrative regulations replacing it set forth the policies and procedures of all offices and facilities of the Department of Juvenile Justice and will be effective statewide.

JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)


RELATES TO: KRS 15A.065, 15A.067, 200.080 to 200.120, Chapters 600 to 645
STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 200.120, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Admissions", is incorporated by reference and includes the following:
200 Classification and Assessment
200.1 Day Treatment Admissions
201 Placement
202 Waiting List
204 Daily Census and Population
206 Administrative Transfers
208 Youth Rights/Orientation
209 Access to Outside Investigative Units
210 Interstate Referrals
211 Interstate Runaways, Escapees and Absconders
212 Out-of-State Purchase of Care
213 Interstate Travel
214 Interstate Revocations and Case Closure
215 Reception/Assessment Center
216 Reception/Assessment Center Protocol for Transition

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 12, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on the proposed administrative regulation shall be held on September 24, 2002, at 9 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Anyone who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request is made for a transcript. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comment on the proposed administrative regulation to: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation will partially replace 505 KAR 1:040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures to improve conditions and services for youth housed in residential treatment facilities and otherwise served by the Department of Juvenile Justice.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to incorporate by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation require the Department of Juvenile Justice to provide community and facility based services and treatment programs for juveniles adjudicated public or youthful offenders or being detained in state-operated juvenile detention facilities. The regulation incorporates material used by the Department of Juvenile Justice to provide these mandated services.
(d) How this administrative regulation currently assists or will assist in the effective enforcement of the statutes: The Department of Juvenile Justice, through this regulation, will have continued to establish regulatory authority for the current policies and procedures relating to management procedures, support services, benefits to families and children, and youth services, and will have continued to improve conditions for youth housed in residential treatment facilities.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Businesses, organizations or local governments will be affected by this regulation. The type and number of entities affected are all families, children and adults who may be benefited by the implementation of a statewide juvenile service program through the current policies and procedures of the Department of Juvenile Justice.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will result in the provision of better services to the groups impacted.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.
(b) On a continuing basis: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.
(c) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Appropriations made by the General Assembly for the Department of Juvenile Justice to fulfill its statutory responsibilities.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation sets forth the policies and procedures of all offices and facilities of the Department of Juvenile Justice and is effective statewide.

JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)


RELATES TO: KRS 15A.065, 15A.067, 200.080 to 200.120, Chapters 600 to 645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 635.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form
materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Program Services", is incorporated by reference and includes the following:

300.1 Communication and Correspondence
300.2 Youth's Personal Belongings
300.3 Treatment Team Composition, Functioning and Responsibility
301. Individual Counseling
302 Group Counseling
303 Phase System
304 Treatment Techniques
305 Family Involvement in Treatment Process
306 Professional Oversight
307 Community Contacts: Visitation, Off-Ground Activities, Day Release and Furlough
308 Youth Council
309 Unpaid Nongovernmental Funds and Youth Activity Funds
310 Youth Chore and Work Assignments
311 Recreation
312 Behavior Management
313.1 Discipline
313.2 Disciplinary Review
314 Required Staffing for Supervision of Juveniles
315 Facility Capabilities and Staffing Requirements
316 Critical Incident Reports
317 Management of the Aggressive Youth
318 Isolation
319 Restraints
320 Searches
321 Escape/AWOL
322 Individual Client Record
323 Progress Notes
324 Log and Shift Reports
325 Grievance Procedure
326 Youthful Offender Transfer
327 Comprehensive Educational System
328 Educational/Vocational Records
329 Assessment/Vocational Assessment of Youth
330 Educational Plans
331 Aftercare/Transition Services and Educational Passport
332 Instructional Staffing
333 Instructional Services
334 Education: Student Code of Conduct and Discipline
335 Evaluation of Education and Vocational Programs
336 Library Services
337 Religious Programs
338 Educational Good Time
339 Meritorious Good Time
340 Sex Offender Treatment
341 Youthful Offender Sex Offender Risk Assessment
342 Youthful Offender Sex Offender Registration
343 Youthful Offender Parole

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RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 12, 2002 at 11 a.m.

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation will partially replace 505 KAR 1.040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures to improve conditions and services for youth housed in residential treatment facilities and otherwise served by the Department of Juvenile Justice.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to incorporate by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation require the Department of Juvenile Justice to provide community and facility based services and treatment programs for juveniles adjudicated public or youthful offenders or being detained in state operated juvenile detention facilities. The regulation incorporates material used by the Department of Juvenile Justice to provide these mandated services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The Department of Juvenile Justice, through this regulation, will have continued to establish regulatory authority for the current policies and procedures relating to management procedures, support services, benefits to families and children, and youth services, and will have continued to improve conditions for youth housed in residential treatment facilities.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing administrative regulation.
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(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Businesses, organizations or local governments will be affected by this regulation. The type and number of entities affected are all families, children and adults who may be benefited by the implementation of a statewide juvenile service program through the current policies and procedures of the Department of Juvenile Justice.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will result in the provision of better services to the groups impacted.

(5) Provide an estimate of how much it will cost to implement
VOLUME 29, NUMBER 3 – SEPTEMBER 1, 2002

this administrative regulation:
(a) Initially: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.
(b) On a continuing basis: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.

(6) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation sets forth the policies and procedures of all offices and facilities of the Department of Juvenile Justice and is effective statewide.

JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)


RELATES TO: KRS 15A.065, 15A.067, 200.080 to 200.120, Chapters 660 to 645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 605.150, 535.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Health and Safety Services", is incorporated by reference and includes the following:

400 Health Services
401 Health Services Administration/Personnel
401.1 Medical Director
402 Access to Treatment and Continuity of Care
402.1 Medical Records
404 Health Maintenance Service Delivery
404.1 Admission Screening for Physical and Mental Challenges
404.2 Ectoparasite Control
404.3 Health Assessment
404.4 Sick Call Record
404.5 Access to Diagnostic Services
404.6 Emergency Services
404.7 First Aid and First Aid Kits
404.8 Hospital Care
404.9 Psychiatric and Mental Health Services
404.10 Special Needs Treatment Plans
404.11 Parental Care
404.12 Oral Screening and Oral Care
404.13 Disease Prevention and Health Promotion
404.14 Family Planning Services
407 Pharmaceuticals
408 Drug Testing

408.1 Forensic Information
409 Substance Abuse and Chemical Dependency
410 Orthoses, Prostheses and Other Aids to Impairments
411 Notification in Emergencies
412 Sexual Assault
414 Environmental Health and Safety
415 OSHA Coordinator
416 Communicable Pathogens HIV/AIDS Infection
416.1 Infection Control and Medical Isolation
417 Suicide Prevention
422 Contraband, Seizure and Chain of Custody
423 Bed Checks
424 Emergency Plans
426 Dietary Services
427 Maintenance
427.1 Control and Use of Tools
428 Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials
429 Safety and Emergency Procedures Fire Safety
430 Pets and Domestic Animals

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RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation will partially replace 505 KAR 1:040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures to improve conditions and services for youth housed in residential treatment facilities and otherwise served by the Department of Juvenile Justice.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to incorporate by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation require the Department of Juvenile Justice to provide community and facility based services and treatment programs for juveniles adjudicated public or youthful offenders or being detained in state operated juvenile detention facilities. The regulation incorporates material used by the Department of Juvenile Justice to provide these mandated services.
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(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing administrative regulation.
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(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will result in the provision of better service to the groups impacted.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
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JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)


RELATES TO: KRS 15A.065, 15A.067, 200.080 to 200.120, Chapters 600 to 645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 200.115, 200.120, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Juvenile Services in Community", is incorporated by reference and includes the following:

- Intake, Case Registration and Planning
- Commitment
- Conviction as a Youthful Offender
- Transportation of Committed Youth
- Children's Benefits
- Title IV-E: Federal Foster Care Maintenance Payments
- Trust Funds
- Service Complaints
- Juvenile Service Case Records
- Service Recordings
- Critical Incident Reports
- Predisposition/Pre-Sentencing Investigation
- Youth Travel Permits
- Probation
- Youthful Offender Shock Probation
- Termination of Probation
- Revocation of Probation
- Out-Of-Hon Placement
- Out-Of-Hon Initial Case Planning
- Placement With Relative
- Private Child Care Referral
- Independent Living
- Residential Placement
- Placement in Psychiatric Care
- Detention
- Youth Awaiting Placement
- Youth in Placement
- Authorized leave
- Youth AWOL
- Aftercare Placement Planning
- Supervised Placement/Intensive Aftercare
- Juvenile Intensive Supervision Teams (JIST)
- Search, Seizure, Chair of Custody
- Juvenile Sexual Offender
- Sexual Offender Tracking
- Youthful Offender Sexual Offender Registration
- Discharge from Commitment

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RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation will partially replace 505 KAR 1:040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures to improve conditions and services for youth housed in residential treatment facilities and otherwise served by the Department of Juvenile Justice.

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(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Businesses, organizations or local governments will be affected by this regulation. The type and number of entities affected are all families, children and adults who may be benefited by the implementation of a statewide juvenile service program through the current policies and procedures of the Department of Juvenile Justice.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will result in the provision of better services to the groups impacted.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.

(b) On a continuing basis: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Appropriations made by the General Assembly for the Department of Juvenile Justice to fulfill its statutory responsibilities.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because the regulation sets forth the policies and procedures of all offices and facilities of the Department of Juvenile Justice and is effective statewide.

JUSTICE CABINET
Department of Juvenile Justice
(New Administrative Regulation)


RELATES TO: KRS 15A.035, 15A.067, 15A.200-245, 15A.305, 200.080 to 200.120, Chapters 650 to 645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.303, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.303(5), 605.150, 635.095 and 640.120 authorize the Justice Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference. (1) The "Department of Juvenile Justice Policy and Procedures Manual: Detention Services", is incorporated by reference and includes the following:

700 Detention Services Delivery System
701 Criteria for Admission
701.1 Census and Population Reports
702 Intake, Reception and Orientation
703 Detention Risk Assessment
704 Alternatives to Secure Detention
704.1 Supervision of Youth in Alternative Detention Programs
704.2 Revocation of Youth in Alternative Detention Programs
705 Individual Client Records
705.1 Medical Records
705.2 Progress Notes
706 Grievance Procedure
707 Bed Capacities and Staffing of Regional Juvenile Detention Facilities
708 Classification of Youth for Housing and Program Assignment
709 Security and Control
710 Shift and Log Reports
711 Transportation of Youth
712 Escape/AWOL
713 Restraints
714 Searches
715 Incident Reports
716 Behavior Management
717 Discipline and Special Behavior Management
718 Disciplinary Review
720 Programs and Services
720.1 Library Services
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720.2 Recreation and Structured Activities
720.3 Religious Programs
720.4 Youth Work Details
720.5 Social Services
720.6 Family and Community Contact
722 Nongovernmental Funds
723 Health Services
724 Suicide Prevention and Intervention
725 Educational Programming and Instructional Services
725.1 Instructional Staffing
725.2 Education Records
725.3 Educational Assessment, Planning and Transition
725.4 Evaluation of Educational Programming
726 Day Leaves
729 Release From Detention
730 Annual Inspections of Secure Juvenile Detention Facilities, Juvenile Holding Facilities and Intermittent Holding Facilities
731 Complaint Investigations of Secure Juvenile Detention Facilities, Juvenile Holding Facilities and Intermittent Holding Facilities

(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m.

RALPH E. KELLY, Ed.D., Commissioner
MICHAEL KEITH HORN, Office of General Counsel
APPROVED BY AGENCY: August 9, 2002
FILED WITH LRC: August 12, 2002 at 11 a.m.

PUBLIC HEARING A public hearing on this proposed administrative regulation shall be held on September 24, 2002, at 9 a.m. in the conference room at the Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by September 17, 2002, five working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request is made for a transcript. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to: Michael Keith Horn, Office of General Counsel, Department of Juvenile Justice, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, (502) 573-2738, FAX: (502) 573-4308.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Michael Keith Horn

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation will partially replace 505 KAR 1:040. It will amend existing policies and procedures of the Department of Juvenile Justice as well as implementing new policies and procedures to improve conditions and services for youth housed in detention facilities and otherwise served by the Department of Juvenile Justice.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to incorporate by reference into regulatory form materials used by the Department of Juvenile Justice in the implementation of a statewide juvenile services program.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes of this administrative regulation require the Department of Juvenile Justice to provide community and facility based services and treatment programs for juveniles adjudicated public or youth offenders or being detained in state operated juvenile detention facilities. The regulation incorporates material used by the Department of Juvenile Justice to provide these mandated services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The Department of Juvenile Justice, through this regulation, will have continued to establish regulatory authority for the current policies and procedures relating to management procedures, support services, benefits to families and children, and youth services, and will have continued to improve conditions for youth housed in detention facilities.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: This is not an amendment to an existing administrative regulation.
(b) The necessity of the amendment to this administrative regulation: This is not an amendment to an existing administrative regulation.
(c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment to an existing administrative regulation.
(d) How the amendment will assist in the effective administration of the statutes: This is not an amendment to an existing administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Businesses, organizations or local governments will be affected by this regulation. The type and number of entities affected are all families, children and adults who may be benefited by the implementation of a statewide juvenile service program through the current policies and procedures of the Department of Juvenile Justice.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation will result in the provision of better services to the groups impacted.

(5) Provide an estimate of how much it will cost to implement this administrative regulation: (a) Initially: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.
(b) On a continuing basis: The implementation of this administrative regulation will result in no additional costs. This regulation incorporates material already used by the Department of Juvenile Justice in the provision of statutorily mandated services.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Appropriations made by the General Assembly for the Department of Juvenile Justice to fulfill its statutory responsibilities.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees or funding will be necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees or directly or indirectly increases any fees.

TIERING: Is tiering applicable? Tiering is not applied because the regulation sets forth the policies and procedures of all offices and facilities of the Department of Juvenile Justice and is effective statewide.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Division of Health Insurance Policy and Managed Care (Repealer)

806 KAR 17:221. Repeal of 806 KAR 17:220.
RELATES TO: KRS 304.17A-260
STATUTORY AUTHORITY: KRS 13A.310, 304.2-110(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-
110(1) authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the insurance code. KRS 13A.310 requires that an administrative regulation, once adopted, cannot be withdrawn, but shall be repealed if it is desired that it no longer be effective. This administrative regulation repeals 806 KAR 17:220. Approval criteria and requirements for reentry into the Kentucky health insurance market, because KRS 304.17A-260 was repealed by 2002 Ky. Acts ch. 351, sec. 18.

Section 1. 806 KAR 17:220, Approval criteria and requirements for reentry into the Kentucky health insurance market, is hereby repealed.

JANIE A. MILLER, Commissioner and Secretary
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRC: August 14, 2002 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, at 11 a.m. (ET) 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 September 16, 2002, 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: Elizabeth A. Johnson, Counsel, Kentucky Department of Insurance, PO Box 517, Frankfort, Kentucky 40602, phone (502) 594-6032, ext. 299, fax (502) 564-1456.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Elizabeth A. Johnson, Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 806 KAR 17:220.
(b) The necessity of this administrative regulation: 806 KAR 17:220 is no longer required because KRS 304.17A-260 was repealed by 2002 Ky. Acts ch. 351, sec. 18.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation complies with KRS 13A.310 which requires that administrative regulations be repealed if they are no longer desired.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals 806 KAR 17:220 because KRS 304.17A-260 was repealed by 2002 Ky. Acts ch. 351, sec. 18.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: Not applicable.
(b) The necessity of the amendment to this administrative regulation: Not applicable.
(c) How the amendment conforms to the content of the authorizing statutes: Not applicable.
(d) How the amendment will assist in the effective administration of the statutes: Not applicable.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects approximately 32 insurers that withdrew from Kentucky's health insurance market during the period of July 15, 1993 through April 1, 1995.
(4) Provide an assessment of how the above groups or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: This administrative regulation repeals 806 KAR 17:220, Approval criteria and requirements for reentry into the Kentucky health insurance market. The statutory basis for reentry into the health insurance market has been repealed. Further, the amnesty period specified in both KRS 304.17A-260 and 806 KAR 17:220 expired on April 1, 2001. For that reason, this administrative regulation should have no impact other than providing general information.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: There will be no cost due to the implementation of this administrative regulation.
(b) On a continuing basis: On a continuing basis, the department will incur no additional expenses from the promulgation of this administrative regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding to be used for the implementation and enforcement of this administrative regulation will be the Department of Insurance budget.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No.
(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.
(9) TIERING: Is tiering applied? No tiering was applied because this administrative regulation affects all insurers meeting the underlying statutory requirements for reentry into Kentucky's health insurance market in the same manner.

CABINET FOR FAMILIES AND CHILDREN
Department for Community Based Services
Division of Policy Development
(New Administrative Regulation)

921 KAR 2:520. Work Incentive or "WIN".
RELATES TO: KRS 205.200(2), 205.211, 205.2003, 45 CFR Parts 260-265, 42 USC 601 et seq.
NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapter 205 requires the Cabinet for Families and Children to administer the public assistance programs. KRS 205.200(2) requires that the conditions of eligibility to receive public assistance be prescribed by administrative regulations in conformity with 42 USC 601 et seq. and federal regulations. KRS 205.2003 requires administrative regulations for the development of a work program for recipients of public assistance to provide for immediate employment or preparation for employment and to provide supportive services to assist in the pursuit of work and self-sufficiency. This administrative regulation sets forth the requirements for receiving the work incentive payment.

Section 1. Definitions. (1) "Benefit group" means a group that meets the eligibility requirements established in 921 KAR 2:016.
(2) "Cabinet" means the Cabinet for Families and Children.
(3) "Employed" means a person performs a physical or mental activity in exchange for direct monetary compensation.
(4) "Family Alternatives Diversion Program" or "FAD" means a money payment diversion program for families in need in accordance with 921 KAR 2:500.
(5) "Kentucky Transitional Assistance Program" or "K-TAP", means Kentucky's Temporary Assistance for Needy Families or "TANF" money payment program for a child in accordance with 921 KAR 2:006.
(6) "Overpayment" means a work incentive payment received by an individual who after an initial determination of eligibility:
(a) is determined to be ineligible for the program; and
(b) Received erroneous benefits.
(7) "Work expense" means costs or charges accumulated as a result of items or services necessary for employment.

Section 2. Eligibility for WIN. (1) To qualify for WIN, a member of the benefit group as defined in Section 1 of this administrative regulation shall:
(a) Be discontinued from K-TAP with earnings;
(b) Report and provide written verification to the cabinet within ten (10) calendar days of obtaining employment;

(c) Have an eligible child as defined in 921 KAR 2:006, Section 1;

(d) Be employed;

(e) Have a work expense;

(f) Be a resident of Kentucky; and

(g) Have total gross earned and unearned income at or below 200 percent of federal poverty level.

(2) An individual is not eligible for WIN if:

(a) Employment is obtained after the K-TAP case is discontinued; or

(b) The individual has previously received a WIN payment.

(3) An eligible recipient shall not receive K-TAP, FAD, or WIN concurrently.

Section 3. Eligibility Period. (1)(a) The potential WIN eligibility period for an approved WIN recipient shall be a nine (9) consecutive month period beginning with the first month of discontinuance of K-TAP.

(b) Eligibility shall be redetermined monthly.

(2) A recipient discontinued from K-TAP shall be eligible for one (1) lifetime WIN eligibility period.

(a) An eligible WIN recipient shall be eligible for up to nine (9) months of WIN payments.

(b) If an eligible recipient loses employment, the WIN payment shall stop unless:

1. New employment is obtained within one (1) month; and

2. Written verification is provided to the cabinet within ten (10) calendar days of obtaining new employment.

(c) If eligibility in accordance with Section 2(1) of this administrative regulation is no longer met, the WIN payment shall stop even if months are remaining in the eligibility period.

(d) If the eligible WIN recipient reapplies and is eligible for K-TAP, the WIN payment shall stop even if months remain in the WIN eligibility period.

(3) An eligible recipient shall not waive receipt of the WIN payment in order to receive the payment at a later date.

Section 4. Payment Amount and Authorization. (1) The payment amount shall be $130 per eligible adult.

(2) The first payment shall be automatically issued on the tenth day of the effective month of the discontinuance of K-TAP benefits.

(3) Each subsequent payment may be issued upon the cabinet receiving:

(a) A completed "WIN-1, Post K-TAP Work INcentive Report, First Notice", within ten (10) calendar days of issuance; or

(b) A completed "WIN-2, Post K-TAP Work INcentive Report, Second Notice", within ten (10) calendar days of issuance.

Section 5. Overpayments. (1) A WIN overpayment, as defined in Section 1 of this administrative regulation including assistance paid pending a hearing decision, shall be recovered from the adult responsible for the overpayment.

(2) An overpayment shall be recovered through:

(a) Repayment by the individual to the cabinet; or

(b) Civil action in the court of appropriate jurisdiction after:

1. Notice and an opportunity for a fair hearing as specified in 921 KAR 2:055 is given; and

2. The administrative and judicial remedies have been exhausted or abandoned.

Section 7. Hearings and Appeals. An applicant or recipient of WIN payments who is dissatisfied with an action or inaction on the part of the cabinet shall have the right to a hearing pursuant to 921 KAR 2:055.

Section 8. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "WIN-1, Post K-TAP Work INcentive Report, First Notice, edition 11/02"; and

(b) "WIN-2, Post K-TAP Work INcentive Report, Second Notice, edition 11/02".

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

DIETRA PARIS, Commissioner
VIOLA P. MILLER, Secretary
APPROVED BY AGENCY: August 12, 2002
FILED WITH LRO: August 13, 2002 at 1 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on September 23, 2002, at 9 a.m. at the Health Services Auditorium, 1st Floor, CHR Building. Individuals interested in attending this hearing shall notify this agency in writing by September 16, 2002, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made, in which case the person requesting the transcript shall be responsible for payment. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation.

Agency Contact Person: Shirley Eldridge, Coordinator
(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes criteria for implementation of a monetary incentive program for eligible K-TAP recipients whose case has been discontinued with earnings. This administrative regulation also sets forth the amount of the monetary payment to be paid.

(b) The necessity of this administrative regulation: Establishes the criteria and process to administer a monetary incentive program for eligible K-TAP recipients whose case has been discontinued with earnings.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation gives the cabinet the authority to provide monetary incentives to eligible K-TAP recipients whose cases have been discontinued with earnings. KRS 205.2003 requires administrative regulations to provide supportive services to assist in the pursuit of work and self-sufficiency.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Assists individuals leaving welfare in achieving and maintaining self-sufficiency and preventing these same individuals from returning to the welfare system. This program replaces Employment Retention Assistance or "ERA".

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 10,000 K-TAP cases.

(4) Provide an assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment: K-TAP recipients whose case has been discontinued with earnings will receive a monetary payment as reimbursement for any accumulated or paid expenses as a result of employment. This monetary payment will assist these individuals in obtaining self-sufficiency.

(5) Provide an estimate of how much it will cost to implement...
this administrative regulation:
(a) Initially: No additional funding (refer to item 6).
(b) On a continuing basis: No additional funding (refer to item 6).
(5) What is the source of the funding to be used for the implementa-
tion and enforcement of this administrative regulation: Federal
TANF Funding. No additional funding is to be utilized. This program
replaces the case management program ERA. An independent
study determined that financial supports to the working poor which
will be provided through the Work INcentive or "WIN" Program were
determined to be more effective in assisting former K-TAP recipients
to become self-sufficient.
(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement this administrative regula-
tion, if new, or by the change if it is an amendment: Funding for the
Work INcentive will be made available by discontinuing the Em-
ployment Retention Assistance Program and the work bonuses. The
creation of the Work INcentive coupled with discontinuing the Em-
ployment Retention Assistance Program and the work bonuses
makes implementing this regulation budget neutral.
(8) State whether or not this administrative regulation estab-
lishes any fees or directly or indirectly increases any fees: This ad-
ministrative regulation does not establish or increase any fees.
(5) TIERING: Is tiering applied? Tiering is not used since the
monetary incentive payment will be the same for all recipients
statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.
42 USC 602(a)(1).
3. Minimum or uniform standards contained in the federal man-
date. 42 USC 602(a)(1).
4. Will this administrative regulation impose stricter require-
ments, or additional or different responsibilities or requirements,
than those required by the federal mandate. This amendment is in
compliance with the Title IV-A State Plan.
5. Justification for the imposition of the stricter standards, or
additional or different responsibilities or requirements. None
The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 13, 2002 at 10:00 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 July 9, 2002 meeting were approved.

Present were:

Members: Representative John Arnold, Chairman; Senators Marshall Long; Joey Pendleton, Richard Roeding; Representatives Woody Allen, James Bruce and Jimmie Lee.

LRC Staff: Dave Nicholas, Donna Little, Edna Lowery, Karen Smith, Sarah Amburgey, Susan Wunderlich, Donna Kemper, and Ellen Stingley.

Guests: Diana Barber, Michael Morgan, Kentucky Higher Education Assistance Authority; Jack Damon, Department of Corrections; Elizabeth D. Baker, Lt. Joe England, Transportation Cabinet; Frank X. Delzer, Tony Oppegard, Tim Miller, Coleman England, Eugene D. Attkisson, Department of Mines and Minerals; Angela Curry, Deborah T. Eversole, Public Service Commission; Alex Reese, Cabinet for Health and Family Services; Elizabeth Caywood, Cheryl Berry, Virginia Carmack, Stephanie Brammer-Bannes, Shirley Eldridge, Karen Doyle, Kathy Adams, Cabinet for Families and Children; Kim Nelson, Kentucky Coal Association and West Kentucky Coal Association; Edwin Wyatt, Tony O'Neal, Steve Ehrle, Butch Oldham, Roger Mack Burton, United Mine Workers; Chris Sanders, Kentucky AFL-CIO; Stephen A. Sanders; Duane Childers; Ronny Pryor; Byron F. Schroedel, Melissa Byrd, Samuel Byrd, Trent M. Travis, Paramedics: Charles M. O'Neal, Patricia Bauch, Brian Bishop, Anthony D. Stratton, Kentucky Board of Emergency Medical Services; Tom Neal, Pat Burge, Jewish Hospital; Cinda Fluke, Sue McGowan, Janet MacPhee, University of Louisville Hospital; John Hultgren, STATCARE; Sarah S. Nicholson, Nancy Galvagni, Joy M. Knight, Kentucky Hospital Association; Sharon D. Perkins, Mike Swift, KAPA; Lee Brown, Kentucky EMS Academy; David L. Gray, Hardin Memorial Hospital; Bob L. Price, Rudy Garrett, Somerset Fire/EMS; Duane Lee, Georgetown/Scott County EMS; Bart Baldwin, Children's Alliance; Terry B. Fraley, Netsare Ambulance Service; Patricia K. Howard, Gayla Edlin, Kentucky Emergency Nurses' Association; Bernadette M. Sutherland, Sue Derouen, Kentucky Board of Nursing; Leila Faucette, Kentucky Coalition of Nurse Practitioners and Nurse Midwives; Sharon Eli Mercer, Barbara Hawkins, Kentucky Nurses' Association; Peter Ayers.

The Subcommittee determined that the following administrative regulations, as amended by the promulgating agency and the Subcommittee, complied with statutory requirements:

Kentucky Higher Education Assistance Authority: Commonwealth Merit Scholarship Program
11 KAR 15:080. High school reporting. High school reporting. Diana Barber, Assistant General Counsel, and Michael Morgan, Student Branch Manager, represented the Authority.

In response to questions by Senator Roeding, Mr. Morgan stated that this administrative regulation established a deadline for schools to make changes to previously reported Kentucky Educational Excellence Scholarship Program (KEES) data. This administrative regulation amended rule to require that agencies amend administration regulations to extend the deadline if the delayed reporting resulted from extenuating circumstances beyond a student's control.

This administrative regulation was amended as follows: Section 1 was amended to require corrections to the high school reports within three months after an eligible postsecondary student began enrollment at a participating institution for the first time after graduation from high school and to allow extensions for cause.

Justice Cabinet: Department of Corrections: Office of the Secretary
501 KAR 6:120. Blackburn Correctional Complex. Jack Damon, Counsel, represented the Department.

This administrative regulation was amended as follows: (1) Section 1 and various policies and procedures incorporated by reference were amended to comply with the drafting and format requirements of KRS Chapter 13A; (2) BCC 01-07-01 was amended to conform to the requirements of CPP 8.6 regarding extraordinary occurrence reports; and (3) BCC 01-13-01 was amended to conform to the requirements of CPP 1.2 regarding news releases and media interactions.

501 KAR 6:150. Eastern Kentucky Correctional Complex. This administrative regulation was amended as follows: (1) Section 1 and various policies and procedures incorporated by reference were amended to comply with the drafting and format requirements of KRS Chapter 13A; (2) EKCC 01-13-01 and 01-13-03 were amended to replace "operations manual" with "policies and procedures"; and (3) EKCC 18-13-04 was amended to conform to the requirements of CPP 13.2 regarding sick call fees.

501 KAR 8:999. Corrections secured policies and procedures. Pursuant to KRS 61.810(1)(i) and (k), KRS 61.815(2), and KRS 197.025(6), the Subcommittee went into closed session to review this administrative regulation.

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

This administrative regulation was amended as follows: Sections 2, 6, and 10 to 12 were amended to comply with the drafting and format requirements of KRS Chapter 13A.

501 KAR 1:025. Transporing hazardous materials by air or highway. In response to questions by Senator Roeding, Mr. England stated that the Department had not yet fully updated their administrative regulations in response to September 11, 2001. However, the Department had increased their safety inspections on hazardous material vehicles from three percent to fourteen percent.

In response to a question from Chairman Arnold, Mr. England stated that the Department was incorporated under the Homeland Security Act and that they interacted frequently with other involved agencies.

This administrative regulation was amended as follows: Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

Public Protection And Regulation Cabinet: Department of Mines and Minerals: Division of Explosives and Blasting
805 KAR 4:010. Licensing and classification of blasters. Frank Delzer, Commissioner, Eugene Attkisson, Counsel, and Coleman England, Assistant Director, represented the Division.

This administrative regulation was amended as follows: (1) the STATUTORY AUTHORITY paragraph was amended to include an authorizing statute; (2) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language; (3) Section 1 was amended to specify the application forms required for a "Kentucky Blaster's License" or a "Limited Kentucky Blaster's License"; and (4) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 4:040. Instrumentation. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to delete citations; (2) the STATUTORY AUTHORITY paragraph was amended to include an authorizing statute; (3) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language and to include a summary of the functions intended to be implemented, pursuant to KRS 13A.220(4)(f); and (4) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 4:100. Surface transportation of explosives. This administrative regulation was amended as follows: (1) the RELATES TO paragraph and Section 1 were amended to specify citations; (2) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include a summary of the functions intended to be implemented, pursuant to KRS 13A.220(4)(f); and (3) Section 1(2) was
amended to cite to a federal regulation which established physical fitness requirements for licensed drivers of vehicles carrying explosives; (3) Section 3 and (10) amended to cite to federal regulation which described placcards required by the U.S. Department of Transportation; (5) Section 1(11) was amended to change the number and type of fire extinguishers required for a vehicle transporting explosives; and (6) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 4:125. Firing the blast. The administrative regulations were amended as follows: (1) the NECESSITY, FUNCTION, and CONFORMITY paragraphs were amended to include a summary of the functions intended to be implemented, pursuant to KRS 13A.220(4)(f); (2) Section 1(1) was amended to specify where danger signs were required to be located; and (3) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

Sanctions and Penalties

805 KAR 8:010. Definitions for 805 KAR Chapter 8. Frank Delzer, Commissioner, Tony Oppegard, General Counsel, and Tim Miller, Kentucky State Mining Board, represented the Department. Rep. Johnnie Turner appeared in favor of these administrative regulations. Kim Nelson, Kentucky Coal Association and West Kentucky Coal Association, and Bill Caylor, Chairman, Kentucky Coal Association, appeared in opposition to these administrative regulations.

In response to questions by Senator Roeding, Mr. Oppegard stated that when the Department charged a mine owner or miner with a safety violation, due process was guaranteed to the owner or miner by numerous provisions of the governing statutes and of these administrative regulations. First, all alleged violations were adjudicated by an independent review body, the Mine Safety Review Commission. Additionally, the owner or miner had the right to conduct discovery, the right to counsel, the right to cross-examine witnesses, the right to submit a final argument to the Commission, the right to a written decision from the Commission, and the right to appeal that decision in Kentucky's judicial system.

In response to questions by Senator Pendleton, Mr. Delzer stated that these administrative regulations applied to violations rather than citations. They only applied if there was a willful intent to place a miner in imminent danger of serious injury or death.

In response to questions by Senator Pendleton, Mr. Oppegard stated that these administrative regulations embodied due process and had since their initial drafting. Due process was satisfied because the Department provided notice of an alleged violation by certified mail, and because the alleged violator, or person acting for them, had the right to conduct discovery, the right to counsel, the right to respond to the allegation, the right to a probable cause hearing, the right to discovery, and the right to a comprehensive trial by an independent review commission.

Mr. Nelson stated that the Kentucky Coal Association supported and practiced mine safety procedures. However, the Association opposed two components of these administrative regulations that did not involve miner safety: their imposition of successorship and their lack of due process. Successorship occurred when a mine was sold but prior safety violations attached to the mine and carried over to its new owner. Successorship could stifle the purchase of coal mines and reduce the viability of coal mining in Kentucky. Additionally, because there were not existing hearing procedures for a mine owner to challenge citations, there might not be hearing procedures for alleged safety violations. If the Department refused to submit a violation to the Mine Safety Review Commission, there would not be a hearing or appeals process for a miner to dispute that violation.

In response to questions by Senator Roeding, Mr. Delzer stated that under existing administrative regulations, there was not a hearing process for a mine owner or miner to challenge alleged safety violations, but there would be under these administrative regulations. Furthermore, successorship may deprecate the market value of a mine but it would not prevent the mine from being sold, even if there were three existing safety violations attached to the mine.

In response to questions by Senator Pendleton, Mr. Oppegard stated that under these administrative regulations, successorship did not occur automatically when a mine was sold. It only applied if the Department filed a successorship charge and if, after a trial, the Mine Safety Review Commission determined that a mine merely changed its name to avoid assuming liability for safety violations. In making that determination, the Commission considered eleven factors, including if there were the same owners, workforce, and equipment.

Representative Johnnie Turner stated that he understood these administrative regulations provided due process to both miners and the industry.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to specify statutory citations; (2) definitions in Section 1 were amended for specificity and to comply with KRS 13A.222(4)(d); and (3) the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs and Section 1 were amended to comply with drafting and format requirements of KRS Chapter 13A.

805 KAR 8:030. Criteria for the imposition and enforcement of sanctions against certified miners. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to specify citations; (2) the STATUTORY AUTHORITY paragraph was amended to include an additional authorizing statute; (3) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language; (4) Section 1 was amended to state that the Mine Board may issue or deny an application for reinstatement, and to delete language concerning the imposition of conditions of reinstatement; and (5) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 8:040. Criteria for the imposition and enforcement of sanctions against owners and part-owners of licensed premises. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to specify citations; (2) the STATUTORY AUTHORITY paragraph was amended to include an additional authorizing statute; (3) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language; (4) Section 1 was amended to delete language concerning the imposition of probationary periods and penalties by the Mining Board or the Department of Mines and Minerals for reinstatement purposes; (5) Section 1 was amended to specify that the burden of proof in administrative hearings was in accordance with KRS 13B.090(7); and (6) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 8:050. Criteria for the imposition and enforcement of sanctions against noncertified personnel. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to specify citations; (2) the STATUTORY AUTHORITY paragraph was amended to include an additional authorizing statute; (3) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language; (4) Section 1 was amended to delete language concerning the imposition of probationary periods and penalties by the Mining Board or the Department of Mines and Minerals for reinstatement purposes; (5) Section 1 was amended to specify that the burden of proof in administrative hearings was in accordance with KRS 13B.090(7); and (6) Section 1 was amended to comply with the drafting and format requirements of KRS Chapter 13A.

805 KAR 8:060. Criteria for the imposition and enforcement of sanctions against licensed premises. This administrative regulation was amended as follows: (1) the RELATES TO paragraph was amended to specify citations; (2) the STATUTORY AUTHORITY paragraph was amended to include an additional authorizing statute; (3) the NECESSITY, FUNCTION, and CONFORMITY paragraph was amended to include authorizing language; (4) Section 1(7) was amended to state that penalties shall not be imposed until the Mine Safety Review Commission has held a due process hearing, pursuant to KRS 351.194, to determine the question of legal successorship.

Cabinet For Health Services: Department for Public Health: Health Services and Facilities

902 KAR 20:016 & E. Hospitals; operations and services. Alex Reese, Office of Inspector General, represented the Department. Nancy Galvagni, Kentucky Hospital Association, and Anthony Stratton, Kentucky Board of Emergency Medical Services, appeared
in favor of this administrative regulation. Sharon Eli Mercer, Executive Director, Kentucky Nurses’ Association, and Patricia K. Howard, Kentucky Emergency Nurses’ Association, appeared in opposition to this administrative regulation.

Ms. Galvagni stated that the Kentucky Hospital Association supported the amendments to this administrative regulation regarding verbal orders because they increased patient safety. Additionally, the Association favored the amendment regarding paramedics performing triage in hospital emergency rooms for several reasons. The amendments conformed the administrative regulation to HB 499. The Kentucky Board of Emergency Medical Services considered performing hospital triage to be in the scope of practice for paramedics because they were trained in it under their national certification. Last, paramedics could only perform the triage if they had demonstrated competency in that skill and if the hospital’s policies and procedures authorized it.

Ms. Mercer stated that the Kentucky Nurses’ Association opposed the amendments to this administrative regulation that authorized paramedics to perform triage at hospitals because they failed to define the paramedics’ scope of practice.

Cross-examining, Ms. Howard stated that she served as both an emergency nurse and a paramedic educator. Her experience convinced her that while paramedics were a good fit for hospital emergency departments in some contexts, performing triage was not an appropriate role for them. Paramedic triage training did not include the comprehensive systematic triage approach that was required in the hospital environment.

In response to questions from Representative Lee, Ms. Howard stated that nurses were not required to receive a specific number of hours of hospital triage training. Emergency room nurses were required to have some experience in the emergency department environment and some training on applicable federal regulations, but they were not required to participate in a formal emergency nursing training course. Additionally, paramedics performing triage in hospitals would contribute to the growing shortage of pre-hospital paramedic care in Kentucky.

Mr. Stratton stated that to his knowledge as a member of the Kentucky Board of Emergency Medical Services, Kentucky did not have a shortage of pre-hospital paramedic care. Moreover, in counties without hospitals, the paramedic or other first responder was automatically performing triage anyway.

This administrative regulation was amended as follows: (1) the NECESSITY, FUNCTION, AND CONFORMITY and Sections 3 and 4 were amended for clarity and to comply with the formatting requirements of KRS Chapter 13AA; and (2) Section 4(2)(c) 4g. and 4(3)(b) were amended to emphasize that triage and medication activities of a paramedic were only those within his statutory scope of practice, and authorized by the hospital’s operating policies and procedures.

**Cabinet For Families And Children: Department of Community Based Services: Protection and Permanency: Child Welfare**

922 KAR 1:360. Private child care placement, levels of care, and payment. Karen Doyle, Acting Director, Kathy Adams, Assistant Director, and Elizabeth Caywood represented the Department. Bart Baldwin, Children’s Alliance, appeared in favor of this administrative regulation.

In response to a question by Senator Roeding, Ms. Adams stated that this administrative regulation’s referral process applied to children being placed in a residential placement or a private foster home. The process required the child’s case worker to complete an informational packet on the child and to submit it to a gatekeeper. The gatekeeper assessed the child’s needs and assigned the child a level of required care. The gatekeeper matched that level of care with a data base of available resources. The gatekeeper provided the case worker with the available appropriate placements so the case worker could make a final determination on the child’s best placement.

In response to a question by Senator Roeding, Mr. Baldwin stated that this administrative regulation had sped up the referral process. It was important not to rush that process to ensure that the child received the best possible placement for the child’s needs.

In response to a question by Senator Roeding, Ms. Doyle stated that by statute, the Department was required to exclude for-profit placement entities and child-placing agencies from the Model Program Cost Analysis computation.

This administrative regulation was amended as follows: (1) the RELATES TO, STATUTORY AUTHORITY, AND NECESSITY, FUNCTION, AND CONFORMITY paragraphs were amended to add statutory citations and to clarify the purpose of and authority for the administrative regulation; (2) Section 1 was amended to delete redundant definitions and clarify terms; (3) Section 5 was amended to remove for-profit entities and child-placing agencies from the Model Program Cost Analysis computation, in compliance with KRS 199.641; (3) Sections 1, 10, and 15 were amended to refer to changing forms incorporated by reference; (4) Section 10 was amended to clarify the approved type of accreditation organization; (5) Section 14 was amended to add procedures for informal dispute resolution; and (6) Sections 1 to 8, 10, 11, 12, 14, and 15 were amended to comply with the drafting requirements of KRS Chapter 13A.

**Day Care**

922 KAR 2:170. Stars for KIDS NOW Program for type I licensed child care centers. Karen Doyle, Acting Director, and Stephanie Brammer-Barnes represented the Department. The administrative regulations were amended as follows: (1) Section 1 was amended to delete “Level One” and “Level Two”; (2) Sections 4 and 5 were amended to allow an equivalent credential to stand for a director’s credential; and (3) Sections 1 to 7 and 13 were amended to comply with the drafting requirements of KRS Chapter 13A.

The Subcommittee determined that the following administrative regulations complied with statutory authority:

**Kentucky Higher Education Assistance Authority: Grant Programs**

11 KAR 5:130. Student application. Diana Barber, Assistant General Counsel, and Michael Morgan, Student Branch Manager, represented the Authority.

In response to a question by Senator Roeding, Mr. Morgan stated that in 2001, 38,300 students received approximately $97,000,000 of KHEAA grants and scholarships.

In response to a question by Senator Roeding, Ms. Barber stated that this administrative regulation did not increase the amount of funding required for the KHEAA grants and scholarships.

11 KAR 5:145. CAP grant award determination procedure. In response to questions by Senator Roeding, Ms. Barber stated that this administrative regulation was amended to include the “NCAA” and “Provisional quality rating certificate” and to allow an equivalent credential to stand for a director’s credential; and (3) Sections 1 to 7 and 13 were amended to comply with the drafting requirements of KRS Chapter 13A.

11 KAR 5:150. Notification of award. In response to questions by Senator Roeding, Mr. Morgan stated that the Authority used college summary files to notify institutions participating in the CAP grant program of eligible students. The eligibility reports were password protected and only available to state grant administrators.

**Commonwealth Merit Scholarship Program**

11 KAR 15:001. Definitions for 11 KAR Chapter 15. Diana Barber, Assistant General Counsel, and Michael Morgan, Student Branch Manager, represented the Authority.

The Subcommittee and the promulgating administrative agencies agreed to defer consideration of the following administrative regulations to the next meeting of the Subcommittee:

**Department Of Law: Office of the Attorney General: Consumer Protection**

40 KAR 2:001E. Definitions for 40 KAR Chapter 2.

40 KAR 2:075E. Commonwealth of Kentucky No Telephone Solicitation Calls List.

40 KAR 2:075E. Procedures and notification of violations of KRS 367.46955 and 367.170 relative to telephone solicitations.

**Racial Profiling**

40 KAR 7:010. Procedures for reporting allegations of racial profiling.
Tourism Development Cabinet: Department of Fish and Wildlife Resources: Game
  301 KAR 2:041E. Shooting preserves and foxhound training enclosures.
  301 KAR 2:081E. Pet and propagation permits.
  301 KAR 2:082E. Importing and holding exotic wildlife.
  301 KAR 2:083E. Transportation and holding of captive cervids.
  301 KAR 2:084E. Importation of game birds.

Department Of Agriculture: Livestock Sanitation
  302 KAR 20:040E. Entry into Kentucky.
  302 KAR 20:065E. Sale and exhibition of Kentucky origin livestock in Kentucky.
  302 KAR 20:066E. Chronic wasting disease surveillance in captive cervids.
  302 KAR 20:100. Garbage.
  302 KAR 20:250E. Avian influenza.

Justice Cabinet: Department of State Police: Personnel; General

Department of Criminal Justice Training: Kentucky Law Enforcement Council
  503 KAR 1:160E. Department of Criminal Justice Training - Kentucky Police Corps basic training: graduation requirements; records.

General Training Provisions
  503 KAR 3:090E. Department of Criminal Justice Training - Kentucky Police Corps Program.
  503 KAR 3:100E. Department of Criminal Justice Training - Kentucky Police corps basic training course cadet conduct requirements; procedures and penalties.

Education, Arts, And Humanities Cabinet: Kentucky Board of Education: Department of Education: Bureau of Learning Results Services: Assessment and Accountability
  703 KAR 5:070E. Procedures for the inclusion of special populations in the state-required assessment and accountability programs.

Labor Cabinet: Department of Workers' Claims
  803 KAR 25:010E. Procedure for adjustments of claims.

Public Protection And Regulation Cabinet: Public Service Commission: Utilities
  807 KAR 5:100E. Board application fees.
  807 KAR 5:110E. Board proceedings.

Kentucky Mine Safety Review Commission: Mine Safety Review
  825 KAR 1:030. Penalties for subsequent violations; criteria for modification of civil penalties and fines.

Cabinet For Health Services: Department for Public Health: State Health Plan
  902 KAR 17:041E. State Health Plan for facilities and services.

Health Services and Facilities
  902 KAR 20:380E. Operations and services; residential hospice facilities.

Department for Medicaid Services: Services
  907 KAR 1:019E. Outpatient Pharmacy Program.
  907 KAR 1:055E. Payments for primary care center, federally-qualified health center, and rural health clinic services.
  907 KAR 1:145E. Supports for community living services for an individual with mental retardation or a developmental disability.

Payment and Services
  907 KAR 3:030E. Coverage and payments for IMPACT Plus services.

Commission for Children with Special Health Care Needs: Kentucky Early Intervention System
  911 KAR 2:120E. Kentucky Early Intervention Program evaluation and eligibility.
  911 KAR 2:200E. Coverage and payment for Kentucky Early Intervention Program services.

Cabinet For Families And Children: Department of Community Based Services: Protection and Permanency; Child Welfare
  922 KAR 1:450. Standards for youth wilderness camps.

The Subcommittee adjourned at 11:35 a.m. until September 10, 2002, at 10 a.m. in Room 149 of the Capitol Annex.
COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following reports were forwarded to the Legislative Research Commission by the appropriate jurisdictional committees and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON APPROPRIATIONS AND REVENUE
Meeting of July 16, 2002

The following administrative regulation was available for consideration by the Interim Joint Committee on Appropriations and Revenue during its meeting of July 16, 2002, having been referred to the Committee on July 12, 2002, pursuant to KRS 13A.290(6):
103 KAR 1:050

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2): None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320: None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300: None

Committee activity in regard to review of the above-referenced administrative regulation is reflected in the minutes of the July 16, 2002 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.
Locator Index - Effective Dates

The Locator Index lists all administrative regulations published in VOLUME 29 of the Administrative Register from July, 2002 through June, 2003. 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 28 are those administrative regulations that were originally published in Volume 28 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2002 bound Volumes were published.

KRS Index

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 29 of the Administrative Register.

Subject Index

The Subject Index is a general index of administrative regulations published in VOLUME 29 of the Administrative Register, and is mainly broken down by agency.
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*Statement of Consideration Not Filed by Deadline*

**Found deficient by legislative committee**

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#### EMERGENCY ADMINISTRATIVE REGULATIONS:
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