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tively scheduled to meet March 13, 2007 at 9:30 a.m. in room
149 Capitol Annex. See tentative agenda on pages 2865-2869
of this Administrative Register.
The ADMINISTRATIVE REGISTER OF KENTUCKY is the monthly supplement for the 2006 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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K-TAP, Kentucky Works, Welfare to Work, State Supplementation
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Filing and Publication
Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing and comment period information, regulatory impact analysis and finding statement, fiscal note, federal mandate comparison, and incorporated material information. Those administrative regulations received by the deadline established in KRS 13A.050 shall be published in the Administrative Register.

Public Hearing and Public Comment Period
The administrative body shall schedule a public hearing on proposed administrative regulations which shall not be held before the 21st day or later than the last workday of the month of publication. Written comments shall also be accepted until the end of the calendar month in which the administrative regulation was published.

The administrative regulation shall include: the place, time, and date of the hearing; the manner in which persons may submit notification to attend the hearing and written comments; that notification to attend the hearing shall be sent no later than 5 workdays prior to the hearing date; the deadline for submitting written comments; and the name, position, address, and telephone and fax numbers of the person to whom notification and written comments shall be sent.

The administrative body shall notify the Compiler, by phone and letter, whether the hearing was held or cancelled and whether written comments were received. If the hearing was held or written comments were received, the administrative body shall file a statement of consideration with the Compiler by the fifteenth day of the calendar month following the month of publication.

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
After the public hearing and public comment period processes are completed, 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 30 days after being referred by LRC, whichever occurs first.
STATEMENT OF EMERGENCY
103 KAR 1:051E

This emergency administrative regulation is being promulgated in order to repeal administrative regulation 103 KAR 1:050 which is being replaced by five (5) new administrative regulations 103 KAR 3.010E, 103 KAR 3.020E, 103 KAR 3.030E, 103 KAR 3.040E and 103 KAR 3.050E also being promulgated as emergency administrative regulations. This administrative regulation must be filed as soon as possible in order to remove obsolete duplicative guidance also being provided by the new emergency administrative regulations. An ordinary administrative regulation is not sufficient, because conflicting emergency administrative regulations are simultaneously being filed. This emergency administrative regulation shall not be replaced by an ordinary administrative regulation.

FINANCE AND ADMINISTRATION CABINET
Office of the Secretary
(Emergency Repealer)

103 KAR 1:051E. Repeal of 103 KAR 1:050.

RELATES TO: KRS 131.130(3)
STATUTORY AUTHORITY: KRS 131.130(3)
EFFECTIVE: February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. Because of the large number of forms administered by the Department of Revenue, it has been determined that the single forms administrative regulation, 103 KAR 1:050, should be segmented into a chapter of smaller, tax area specific forms regulations. This will enable the department to monitor forms and maintain the forms manual regulations in a more efficient and effective manner. Five (5) new administrative regulations, 103 KAR 3.010, 103 KAR 3.020, 103 KAR 3.030, 103 KAR 3.040, and 103 KAR 3.050 are being promulgated to replace and update the administrative regulation hereby repealed.

Section 1. 103 KAR 1:050, Forms manual, is hereby repealed.

JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed new administrative regulation shall be held on March 28, 2007 at 10 a.m. in Room 368, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation.

A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person noted below.

CONTACT PERSON. Angela Robinson, Office of Legislative Services, Finance and Administration Cabinet, Room 195B, Capitol Annex Building, Frankfort, Kentucky 40601, phone (502) 564-4240, fax (502) 564-3894.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Angela Robinson, Office of Legislative Services.

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation repeals 103 KAR 1:050.
(b) The necessity of this administrative regulation: This regulation is needed in order to repeal the administrative regulation which will be re-promulgated as five separate administrative regulations under a new chapter of the Kentucky Administrative Regulations.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation repeals one regulation which will be replaced with 5 separate administrative regulations under a new chapter of the Kentucky Administrative Regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation repeals one regulation which will be replaced with five separate administrative regulations under a new chapter of the Kentucky Administrative Regulations.

(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: All Kentucky taxpayers and their representatives will be affected by the listing of all forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the reference forms.

(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 repealer administrative regulation will have no impact on the current practices of the above groups.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: 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 or increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? No, this administrative regulation merely repeals an administrative regulation which will be re-
placed with five administrative regulations.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Revenue will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS 131.130(3)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures or revenue for the Commonwealth or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

STATEMENT OF EMERGENCY
103 KAR 3:010E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representatives to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Emergency Administrative Regulation)

103 KAR 3:010E. General Administrative Forms manual.


STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.

Section 1. Administrative - Required Forms. (1) Revenue Form 10A001, "Request to Inspect Public Records", shall be completed by the public to request access to public records specified on the form.

(2) Revenue Form 10A020, "Waiver of Appeal Rights", shall be completed by a taxpayer to reopen an audit that has become final if the taxpayer has failed to timely file a protest with the Department of Revenue.

(3) Revenue Form 10A070, "Authorization Agreement for Electronic Funds Transfer", shall be completed by taxpayers to authorize the Department of Revenue to move funds by electronic means from taxpayer accounts to the Department of Revenue as payment for taxes.

(4) Revenue Form 10A100, "Kentucky Tax Registration Application", shall be used to apply for tax registration of the following taxes:

(a) Employer's Kentucky witholding;
(b) Corporation income;
(c) Sales and use;
(d) Consumer's use;
(e) Motor vehicle tire fee; and
(f) Transient Room Rental.

(5) Revenue Form 10A100-CS. "Kentucky Tax Registration Application", shall be used to apply for tax registration of the following taxes:

(a) Employer's Kentucky withholding;
(b) Corporation income;
(c) Sales and use;
(d) Consumer's use;
(e) Motor vehicle tire fee; and
(f) Transient Room Rental.

(6) Revenue Form 10A100-FI. "Kentucky Tax Registration Application", shall be used to apply for tax registration of the following taxes:

(a) Employer's Kentucky withholding;
(b) Corporation income;
(c) Sales and use;
(d) Consumer's use;
(e) Motor vehicle tire fee; and
(f) Transient Room Rental.

(7) Revenue Form 10A100-I. "Instructions for Kentucky Tax Registration Application", shall provide instructions for the proper completion of Revenue Form 10A100, "Kentucky Tax Registration Application", which is used to apply for withholding, corporation, sales and use taxes, consumer's use, motor vehicle tire fee, and transient room rental tax accounts.

(8) Revenue Form 10A100-CS(I). "Instructions for Kentucky Tax Registration Application", shall provide instructions for the
proper completion of Revenue Form 10A100-CS, "Kentucky Tax Registration Application", which is used to apply for withholding, corporation, sales and use taxes, consumer's use, motor vehicle title fee, and transient room rental tax accounts.

(9) Revenue Form 10A170, "Request for Notice of Administrative Regulation Filing" shall be used by individuals to request receipt of copies of ordinary administrative regulations filed with the Legislative Research Commission by the Department of Revenue.

(10) Revenue Form 10F100, "Your Rights As a Kentucky Taxpayer", shall provide the public with information describing taxpayer rights provided by KHS Chapters 131, 133 and 134.

(11) Revenue Form 12A012, "Recept of Seized Property", shall be presented for execution to the taxpayer receiving returned property from the Kentucky Department of Revenue that was previously seized for failure to pay taxes in order to establish documentation that the property was returned to the taxpayer.

(12) Revenue Form 12A018, "Kentucky Department of Revenue Offer in Settlement", shall be presented for execution to persons requesting to settle their tax liabilities for less than the deficient tax liability based upon doubt as to collectibility or doubt as to liability.

(13) Revenue Form 12A104, "Notice of Seizure", shall be presented to the owner or officer of the entity from which the Kentucky Department of Revenue is seizing property for failure to pay taxes owed to the Commonwealth.

(14) Revenue Form 12A107, "Notice of Sale", shall be presented to the owner of the seized property, the newspaper with the highest circulation for that area, and posted at the courthouse, at three (3) other public places within the county, and where the seizure was made, for the purpose of notifying the property owner, and advertising to the public the sale of the seized property.

(15) Revenue Form 12A109-1, "Release of Bank Levy", shall be presented to the bank on which the levy was served for the purpose of releasing the seized property.

(16) Revenue Form 12A109-2, "Release of Levy", shall be presented to the party on which the levy was served for the purpose of releasing the seized property.

(17) Revenue Form 12A110, "Release of Levy On Wages, Salary, and Other Income", shall be presented to an employer for the purpose of releasing a wage levy.

(18) Revenue Form 12A500, "Certificate of Partial Discharge of Tax Lien", shall be presented to anyone who makes a proper application for a lien release on a specific piece of property if the Department of Revenue's lien attaches no equity or if the equity that the lien encumbers is paid to the Department of Revenue.

(19) Revenue Form 12A501, "Certificate of Subordination of Kentucky Finance and Administration Tax Lien", shall be presented to any person who requests that the Department of Revenue subordinates its lien position to a new mortgage and demonstrates that the subordination is in the Commonwealth's best interest.

(20) Revenue Form 12A502, "Application for Certificate of Subordination of Kentucky Revenue Lien", shall be presented to anyone who requests to have the Department of Revenue subordinate its lien position to a new mortgage.

(21) Revenue Form 12A503, "Application for Specific Lien Release", shall be presented to anyone who requests that the Department of Revenue release its tax lien so that a specific piece of property can be sold.

(22) Revenue Form 12A504, "Personal Assessment of Corporate Officer", shall be presented to a corporate officer for the purpose of establishing responsibility of payment of trust taxes owed to the Commonwealth.

(23) Revenue Form 12A505, "Waiver Extending Statutory Period for Assessment of Corporate Officer", shall be presented to the corporate officers for the purpose of entering into a payment agreement to pay the trust taxes owed to the Commonwealth, and the terms of the payment agreement shall extend past the statutory period for assessing responsible corporate officers.

(24) Revenue Form 12A506, "Waiver Extending Statutory Period for Collections", shall be presented to the taxpayer for the purpose of extending the period in which the liability can be collected.

(25) Revenue Form 12A507, "Table for Figuring the Amount Exempt From Levy On Wages, Salary, and Other Income", shall be presented to employers with a wage levy on an employee for the purpose of calculating the dollar amount of wages due to the employee.

(26) Revenue Form 12A509-1, "Notice of Tax Due", shall be presented for the purpose of assessing an officer of a corporation who is personally liable for trust taxes owed to the Commonwealth.

(27) Revenue Form 12A509-2, "Notice of Tax Due", shall be presented for the purpose of assessing an officer of a corporation who is personally liable for Gasoline and Special Fuels taxes owed to the Commonwealth.

(28) Revenue Form 12A509-3, "Notice of Tax Due", shall be presented for the purpose of assessing a manager or partner of a limited liability company who is personally liable for trust taxes owed to the Commonwealth.

(29) Revenue Form 12A509-4, "Notice of Tax Due", shall be presented for the purpose of assessing a manager or partner of a limited liability company who is personally liable for Gasoline and Special Fuels taxes owed to the Commonwealth.

(30) Revenue Form 12A513, "Corporation Nexus Questionnaire", shall be presented to companies who are unsure if they have a Kentucky tax presence for the purpose of establishing nexus with the state.

(31) Revenue Form 12A514, "Questionnaires for Persons Relative to a Notice of Assessment", shall be presented to an officer of a corporation for the purpose of resolving responsibility of the trust taxes owed to the Commonwealth.

(32) Revenue Form 12A517, "Notice of State Tax Lien", shall be presented to the county clerk for appropriate recording and to the taxpayer against whom the lien is filed for the purpose of filing and recording the tax lien in the county clerk's office and giving notification to the taxpayer.

(33) Revenue Form 12A518, "Certificate of Release of Tax Lien", shall be presented to the county clerk and to the taxpayer against whom the tax lien is filed for the purpose of releasing the lien and notifying the taxpayer of the release.

(34) Revenue Form 12A636, "Statement of Financial Condition for Individuals", shall be presented to individuals requesting to make payments or settle their tax liability to the Commonwealth for the purpose of establishing the financial ability to make payments or settle.

(35) Revenue Form 12A638,(1), "Instructions for Completing Statement of Financial Condition for Individuals", shall provide instructions for completing Revenue Form 12A638.

(36) Revenue Form 12A639, "Statement of Financial Condition for Business", shall be presented to business owners requesting to make payments or settle a tax liability to the Commonwealth for the purpose of establishing the financial ability to make payments or settle.

(37) Revenue Form 12A639(1), "Instructions for Completing Statement of Financial Condition for Businesses", shall provide instructions for completing Revenue Form 12A639.

(38) Revenue Form 12B019, "Notice of Levy on Wages, Salary, and Other Income", shall be presented to employers for the purpose of levying wages from an employee who owes taxes to the Kentucky Department of Revenue.

(39) Revenue Form 12B020, "Notice of Levy", shall be presented to banks for the purpose of levying bank accounts of taxpayers who owe taxes to the Kentucky Department of Revenue.

(40) Revenue Form 21A020, "Request for Copy of Tax Refund Check", shall be completed and submitted to the Department of Revenue in order to obtain a copy of a cashed refund check.

(41) Revenue Form 30A006, "Temporary Vendor Sales and Use Tax Return/Processing Document", shall be used to register temporary vendors who do business in the Commonwealth of Kentucky.

(42) Revenue Form 31A001, "Vendor Contact Authorization", shall be used by a Department of Revenue representative to obtain permission from a taxpayer to contact his vendors concerning the issuance of exemption certificates.

(43) Revenue Form 31A004, "Auditor Record of Money Receipt Issued", shall be used by the taxpayer and the auditor to acknowledge payment of taxes determined to be tentative due at the time of an audit.
Revenue Form 31A012, *Interstate Sales/Income Tax Questionnaire*, shall be used to establish possible taxing jurisdiction for sales and use tax and income tax for the states of Ohio and Indiana.

Revenue Form 31A014, *SEATA - Southeastern Association of Tax Administrators Nexus Questionnaire*, shall be used to establish possible taxing jurisdiction for sales and use tax and income tax for the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, Virginia and West Virginia.

Revenue Form 31A020, *Office of Field Operations Request for Copy of Tax Return(s)*, shall be used by Department of Revenue representatives to obtain permission from a taxpayer to release tax returns.

Revenue Form 31A149, *Agreement Fixing Period of Limitation Upon Assessment of Sales, Use or Severance Tax*, shall be completed by a taxpayer and a representative of the Kentucky Department of Revenue whereby both parties consent and agree that certain sales, use or severance tax deficiencies or overpayments for specific periods may be assessed or refunded beyond the normal four (4) year statute of limitations.

Revenue Form 31A685, *Authorization to Examine Bank Records*, shall be used by the Department of Revenue to obtain permission from a taxpayer to examine records in connection with transactions at the taxpayer's bank.

Revenue Form 31A725, *Statute of Limitations Agreement*, shall be completed by a taxpayer and a representative of the Kentucky Department of Revenue whereby both parties consent and agree that certain income tax deficiencies or overpayments for specific periods may be assessed or refunded beyond the normal four (4) year statute of limitations.

**Section 2. Incorporation by Reference.** (1) The following material is incorporated by reference:

(a) Administrative - referenced material:

1. Revenue Form 10A001, *Request to Inspect Public Records*, February, 1997;
4. Revenue Form 10A100, *Kentucky Tax Registration Application*, June, 2005;
5. Revenue Form 10A100-CS, *Kentucky Tax Registration Application*, August, 2006;
6. Revenue Form 10A100-Fi, *Kentucky Tax Registration Application*, November, 2006;
7. Revenue Form 10A100-I, *Instructions for Kentucky Tax Registration Application*, June, 2005;
8. Revenue Form 10A100-CSI, *Instructions for Kentucky Tax Registration Application*, June, 2005;
10. Revenue Form 10F100, *Your Rights as a Kentucky Taxpayer*, October, 2006;
18. Revenue Form 12A500, *Certificate of Partial Discharge of Tax Lien*, June, 2006;
22. Revenue Form 12A504, *Personal Assessment of Corporate Officer*, June, 2003;
25. Revenue Form 12A507, *Table for Figuring the Amount Exempt from Levy on Wages, Salary, and Other Income*, November, 2006;
27. Revenue Form 12A508-2, *Notice of Tax Due*, February, 2003;
30. Revenue Form 12A513, *Corporation Nexus Questionnaire*, October, 2006;
31. Revenue Form 12A514, *Questionnaires for Persons Relative to a Notice of Assessment*, August, 1996;
32. Revenue Form 12A517, *Notice of State Tax Lien*, October, 2004;
34. Revenue Form 12A636, *Statement of Financial Condition for Individuals*, July, 2004;
38. Revenue Form 12B019, *Notice of Levy on Wages, Salary, and Other Income*, September, 2004;
40. Revenue Form 21A020, *Request for Copy of Tax Refund Check*, October, 2006;
41. Revenue Form 30A006, *Temporary Vendor Sales and Use Tax Return/Processing Document*, December, 2006;
42. Revenue Form 31A001, *Vendor Contact Authorization*, July, 2006;
43. Revenue Form 31A004, *Auditor Record of Money Receipt Issued*, July, 2006;
44. Revenue Form 31A012, *Interstate Sales/Income Tax Questionnaire*, July, 2006;
45. Revenue Form 31A014, *SEATA - Southeastern Association of Tax Administrators Nexus Questionnaire*, July, 2006;
46. Revenue Form 31A200, *Office of Field Operations Request for Copy of Tax Return(s)*, March, 2006;
47. Revenue Form 31A149, *Agreement Fixing Period of Limitation Upon Assessment of Sales, Use or Severance Tax*, July, 2006;
49. Revenue Form 31A725, *Statute of Limitations Agreement*, July, 2006;

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40602, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.
CONTACT PERSON. R. Mack Gillen, Executive Director, Office of Processing and Enforcement, Department of Revenue, Finance and Administration Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-3227, fax (502) 564-9555.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: R. Mack Gillen, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required revenue forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.

(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: 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: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions will have to be taken by the taxpayers or local governments to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There would be no cost incurred by the taxpayer or local government.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Access to forms and instructions will enable taxpayers to comply with tax laws.

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

(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.

(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.

TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Revenue will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS 131.130(3).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures or revenue for the Commonwealth or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Expenditures (+/-):
Other Explanation:

STATEMENT OF EMERGENCY
103 KAR 3:020E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representatives to comply with Kentucky tax laws. As an ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. This emergency administrative regulation is identical to this emergency administrative regulation.
FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Emergency Administrative Regulation)

103 KAR 3:020E. Sales and Telecommunications Forms manual.

RELATES TO: KRS 61 870-61,884, 131,020, 131,030, 131,041-131,081, 131,081, 131,110, 131,130, 131,155, 131,170, 131,181, 131,183, 131,190, 131,190(1), 134,580, 136,600-136,660, 139,070, 139,085, 139,170, 139,185, 139,210, 139,230, 139,240, 139,250, 139,260, 139,270, 139,470, 139,480, 149,400-149,455, 150,545, 150,550, 150,560, 150,570, 150,580, 150,590, 150,600(1), 150,770(2), 144,132, 154,45-090, 154,45-110, 160,613-160,617, 224,01-310, 247,920

STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Sales and Use Taxes and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.

Section 1. Sales and Use Tax - Required Forms. (1) Revenue Form 51A101, "Sales and Use Tax Permit", shall be conspicuously displayed by the sales and use tax permit holder at the location for which the permit was issued.

(2) Revenue Form 51A102, "Kentucky Sales and Use Tax Worksheet", shall be submitted to the Department of Revenue by a Kentucky sales and use tax permit holder to report total receipts, itemized deductions, amount subject to Kentucky use tax and total amount of Kentucky sales and use tax due for a particular reporting period.

(3) Revenue Form 51A102E, "Kentucky Sales and Use Tax Worksheet - Electronic Funds Transfer", shall be submitted to the Department of Revenue by a Kentucky sales and use tax permit holder who remits payment via electronic funds transfer to report total receipts, itemized deductions, amount subject to Kentucky use tax and total amount of Kentucky sales and use tax due for a particular reporting period.

(4) Revenue Form 51A103, "Kentucky Accelerated Sales and Use Tax Worksheet", shall be completed by a Kentucky sales and use tax permit holder who has been designated as an accelerated filer to report total receipts, itemized deductions, amount subject to use tax, and total amount of sales and use tax due.

(5) Revenue Form 51A103E, "Kentucky Accelerated Sales and Use Tax Worksheet - Electronic Funds Transfer", shall be submitted on a monthly basis by a Kentucky sales and use tax permit holder to report total receipts, itemized deductions, amount subject to use tax, and total amount of sales and use tax due on an accelerated basis and remitted via electronic funds transfer.

(6) Revenue Form 51A105, "Resale Certificate", shall be presented to a seller by a Kentucky sales and use tax permit holder to claim that the tangible personal property purchased from the seller will be:

(a) Resold in the regular course of business;
(b) Leased or rented; or
(c) Used as raw material, industrial supply or industrial tool.

(7) Revenue Form 51A109, "Application for Energy Direct Pay Authorization (Sales and Use Tax and Utility Gross Receipts License Tax)", shall be filed with the Department of Revenue by a manufacturer, processor, miner or refiner to apply for an energy direct pay authorization.

(8) Revenue Form 51A110, "Direct Pay Authorization", shall be presented to a Kentucky seller and use tax permit holder by a company authorized to report and pay directly to the Department of Revenue the sales or use tax on all purchases of tangible personal property, excluding energy and energy-producing fuels.

(9) Revenue Form 51A111, "Certificate of Exemption Machinery for New and Expanded Industry", shall be presented to a Kentucky sales and use tax permit holder by a manufacturer or producer processor to claim exemption from sales and use tax.

(10) Revenue Form 51A112, "Application for Direct Pay Authorization", shall be submitted by a registered sales and use tax permit holder wishing to obtain a direct pay authorization.

(11) Revenue Form 51A113, "Kentucky Consumer's Use Tax Worksheet", shall be completed by a registered consumer's use tax permit holder and submitted to the Department of Revenue on a regular basis to report the amount of purchases subject to Kentucky use tax.

(12) Revenue Form 51A113(0), "Consumer's Use Tax Return", shall be completed by a person storing, using, or otherwise consuming tangible personal property in Kentucky who is not registered for a consumer's use tax permit number.

(13) Revenue Form 51A115, "Order for Selected Sales and Use Tax Publications", shall be presented to the Department of Revenue by anyone who wishes to order selected sales and use tax forms and regulations.

(14) Revenue Form 51A125, "Application for Purchase Exemption Sales and Use Tax", shall be presented to the Department of Revenue by a resident 501(c)(3) charitable, educational, or religious institution; historical sites; and units of federal, state, or local governments to apply for a sales and use tax exemption on purchases of tangible personal property and certain services to be utilized in the exempt entity's function.

(15) Revenue Form 51A126, "Purchase Exemption Certificate", shall be presented to a retailer by a resident charitable, educational or religious institution or Kentucky historical site to claim exemption from sales and use tax on purchases of tangible personal property or services.

(16) Revenue Form 51A127, "Out-of-State Purchase Exemption Certificate", shall be presented to a retailer by an out-of-state agency or institution that is qualified for exemption in their state of residence.

(17) Revenue Form 51A128, "Solid Waste Recycling Machinery Exemption Certificate", shall be presented to a retailer by a business or organization that claims exemption from sales and use tax on the purchase, lease or rental of machinery or equipment to be primarily used for recycling purposes to collect, source separate, compress, bale, shred or otherwise handle waste material.

(18) Revenue Form 51A129, "Kentucky Sales and Use Tax Energy Exemption Annual Return", shall be submitted to the Department of Revenue by a Kentucky energy direct pay holder to reconcile the actual amount of sales and use tax due on purchases of energy and energy-producing fuels to the total amount of sales and use tax paid based upon previous estimates of tax due.

(19) Revenue Form 51A130, "Kentucky Sales and Use Tax Monthly Aviation Fuel Tax Credit Schedule of Qualified Certified Air Carriers", shall be completed by a qualified certified air carrier on a monthly basis to claim an aviation fuel tax credit against the company's sales and use tax liability for the month.

(20) Revenue Form 51A131, "Kentucky Sales and Use Tax Monthly Aviation Fuel Dealer Supplementary Schedule", shall be completed by aviation fuel dealers selling aviation fuel in order to determine the sales and use tax collected and remitted on the sale of aviation fuel, including jet fuel.

(21) Revenue Form 51A132, "Kentucky Sales and Use Tax Equine Breeders Supplementary Schedule", shall be completed by an equine breeder to report taxable receipts from equine breeding fees.

(22) Revenue Form 51A135, "Kentucky Sales Tax Motor Vehicle Sales Supplementary Schedule", shall be completed by motor vehicle dealers who collect Kentucky sales tax on the sale of motor vehicles to residents of states who subject Kentucky residents to sales upon the purchase of motor vehicles in their states.

(23) Revenue Form 51A143, "Purchase Exemption Certificate - Watercraft Industry", shall be presented to a retailer by a purchaser to claim exemption from sales and use tax on the purchase of tangible personal property that will be used for the direct operation of watercraft in the activity of transporting property or in conveying persons for hire.

(24) Revenue Form 51A149, "Certificate of Exemption for Pollution Control Facilities", shall be presented to a retailer by a holder of a pollution control tax exemption certificate or jointly by a contractor and the holder of a pollution control tax exemption certifi-

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cated to claim exemption from sales and use tax on the purchase of materials and equipment that will become part of a certified pollution control facility.

(25) Revenue Form 51A150, "Aircraft Exemption Certificate", shall be presented to a retailer by a purchaser to claim exemption from sales and use tax on the purchase of parts for the aircraft, and supplies that will be used for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire.

(26) Revenue Form 51A151, "Enterprise Zone Sales and Use Tax Exemption Certificate for Qualified Businesses Machinery and Equipment", shall be presented in duplicate to a retailer by an enterprise zone business to claim exemption from sales and use tax on the purchase of machinery and equipment to be used in a designated enterprise zone.

(27) Revenue Form 51A152, "Enterprise Zone Sales and Use Tax Exemption Certificate for Building Materials", shall be presented to a retailer by a purchaser to claim exemption from sales and use tax on the purchase of building materials to be used in remodeling, rehabilitation, or new construction in an enterprise zone.

(28) Revenue Form 51A154, "Certificate of Exemption Out-of-State Delivery for Aircraft, All Terrain Vehicle (ATV), Mobile/Manufactured Homes, Campers, Boats, Motors or Trailers", shall be completed in triplicate by the seller and buyer when the sale of the tangible personal property occurs and the seller makes delivery of the tangible personal property out of state, and also completes the affidavit portion of this certificate within two (2) days from the time of delivery to claim that the property was purchased exempt from sales tax and delivered immediately out of state not to return to Kentucky for use.

(29) Revenue Form 51A157, "Certificate of Exemption - Water Used in Raising Equine", shall be presented to a retailer by a person regularly engaged in raising equine as a business to claim exemption for the purchase of water used for raising equine.

(30) Revenue Form 51A158, "Farm Exemption Certificate", shall be presented to a retailer by a person regularly engaged in the occupation of tilling and cultivating the soil for the production of crops, raising and feeding livestock or poultry; or raising and feeding llamas, alpacas, rattle, buffalos, aquatic organisms, or cervids to claim exemption from sales and use tax on the purchase of certain tangible personal property.

(31) Revenue Form 51A159, "On-Farm Facilities Certificate of Exemption for Materials, Machinery and Equipment", shall be presented to a retailer by a farmer or jointly by a farmer and a contractor to claim exemption from sales and use tax on the purchase of materials, machinery and equipment which will be incorporated into the construction of a new on-farm facilities exempt under the provisions of KRS 139.480.

(32) Revenue Form 51A160, "Application for Truck Part Direct Pay Authorization", shall be filed with the Department of Revenue by the owner or a motor vehicle, including a titled unit, qualifying for the repair and replacement part exemption provided under KRS 139.480(32)(a) to apply for the truck part direct pay authorization.

(33) Revenue Form 51A161, "Truck Part Direct Pay Authorization", shall be issued by the Department of Revenue to authorize motor carriers to report and pay directly to the department the sales and use tax on all purchases of repairs and replacement parts for motor vehicle repair and replacement parts directly to the charter bus carriers without receipt of sales and use tax.

(34) Revenue Form 51A162, "Kentucky Sales and Use Tax Truck Part Direct Pay Authorization (TP DPA) Purchase Report", shall be filed annually by motor carriers using the truck part direct pay authorization to report purchases of repair and replacement parts for motor vehicle for the previous calendar year.

(35) Revenue Form 51A163, "Application for Charter Bus Part Direct Pay Authorization", shall be filed with the Department of Revenue by the operator of a charter bus qualifying for the repair and replacement part exemption provided under KRS 139 480(32)(b) to apply for a charter bus direct pay authorization.

(36) Revenue Form 51A164, "Charter Bus Direct Pay Authorization", shall be issued by the Department of Revenue to authorize charter bus carriers to report and pay directly to the Department the sales and use tax on all purchases of repair and replacement parts for charter buses, and to authorize retailers to sell charter bus repair and replacement parts directly to the charter bus carriers without receipt of sales and use tax.

(37) Revenue Form 51A165, "Kentucky Sales and Use Tax Chang Bus Direct Pay Authorization (CB DPA) Purchase Report", shall be filed annually by charter bus carriers using the charter bus direct pay authorization to report purchases of repair and replacement parts for charter vehicles for the previous calendar year.

(38) Revenue Form 51A200, "Application for Kentucky Enterprise Initiative Act (KEIA) Tax Refund Program", shall be used by qualified businesses to apply for a refund of sales and use tax paid on purchases of materials used in an approved project.

(39) Revenue Form 51A205, "Kentucky Sales and Use Tax Instructions", shall be used by Kentucky sales and use tax permit holders as a guide in filing their sales and use tax returns and maintaining permit account information.

(40) Revenue Form 51A209, "Sales and Use Tax Refund Application", shall be completed by a Kentucky sales and use tax permit holder and submitted to the Department of Revenue within four (4) years from the date the tax was paid for a refund of sales and use tax previously paid by the permit holder.

(41) Revenue Form 51A216, "Application for Pollution Control Tax Exemption Certificate", shall be completed by a business, governmental unit or institution to apply for a sales and use tax exemption on purchases of tangible personal property used to control or abate pollution.

(42) Revenue Form 51A222, "Certificate of Exemption for Alcohol Production Facilities", shall be presented to a retailer by a holder of an alcohol production tax exemption certificate or jointly by a contractor and the holder of an alcohol production tax exemption certificate to claim exemption from sales and use tax on materials and equipment that will become a part of an alcohol production facility as provided by KRS Chapter 247.

(43) Revenue Form 51A223, "Application for Alcohol Production Facility Tax Exemption Certificate", shall be completed by a business seeking exemption from sales and use tax on the purchase of materials and equipment that will become a part of an alcohol production facility as provided by KRS Chapter 247.

(44) Revenue Form 51A228, "Pollution Control Tax Exemption Certificate", shall be issued by the Department of Revenue to a business who has qualified for certain sales and use tax, corporation income, corporation license, and property tax benefits.

(45) Revenue Form 51A227, "Certificate of Resale (Schools)", shall be issued to a retailer by an exempt nonprofit elementary or secondary school or the organizations they sponsor or that are affiliated with them to claim an exemption from sales and use tax on the purchase of tangible personal property. If the proceeds from the resale of the property is used solely for the benefit of the elementary or secondary schools or their students.

(46) Revenue Form 51A228, "Application for Fluidized Bed Combustion Technology Tax Exemption Certificate", shall be completed by a business, governmental unit or organization and submitted to the Department of Revenue to apply for a sales and use tax exemption on the purchase of equipment and materials used in fluidized bed combustion technology.

(47) Revenue Form 51A229, "Fluidized Bed Combustion Technology Tax Exemption Certificate", shall be issued by the Department of Revenue to a business, governmental unit or organization to advise that they qualify for corporation license tax, property tax, and sales and use tax benefits.

(48) Revenue Form 51A241, "Registration for the Kentucky Sales and Use Tax Refund for Motion Picture and Television Production Companies", shall be completed by a motion picture production company and submitted to the Department of Revenue to register for a sales and use tax refund.

(49) Revenue Form 51A242, "Application for Sales and Use Tax Refund for Motion Picture Production Company", shall be completed by a registered motion picture production company and submitted to the Department of Revenue within sixty (60) days after completion of the filming or production of the motion picture in Kentucky to request a refund of the Kentucky sales and use tax paid on purchases of tangible personal property made in connection with filming and producing motion pictures in Kentucky.
(50) Revenue Form 51A250, "Application for Transient Merchant Permit", shall be completed by a transient merchant and filed with the clerk in the county in which the business is to be conducted, or if an urban county government, with the officer of the government who has responsibility for the issuance of business permits and licenses to obtain a permit before conducting any business in Kentucky.

(51) Revenue Form 51A260, "Streamlined Sales Tax Agreement - Certificate of Exemption", shall be presented to a seller by a purchaser to claim that tangible personal property purchased from the seller qualifies for exemption.

(52) Revenue Form 51A270, "Certificate of Sales Tax Paid on the Purchase of a Motor Vehicle", shall be issued by motor vehicle dealers to a non-resident purchaser of a motor vehicle on which the Kentucky sales tax has been paid.

(53) Revenue Form 51F008, "Federal Government Exemption from Kentucky Sales and Use Tax Notification", shall be issued by the Department of Revenue to a federal government unit which in turn is presented to a retailer by the federal government unit to claim exemption from sales and use tax on purchases of tangible personal property to be used in the exempt governmental function.

(54) Revenue Form 51F009, "Purchase Exemption Notification", shall be issued by the Department of Revenue to a resident nonprofit charitable, educational or religious institution to advise the entity of the assigned purchase exemption number. Additional information concerning the exemption from sales and use tax.

(55) Revenue Form 51F010, "Energy Direct Pay Authorization: Notification", shall be issued by the Department of Revenue to advise a Kentucky sales and use tax permit holder that it has been authorized to purchase energy and energy-producing fuels without paying or reimbursing the vendor for the sales and use tax and that they are required to report and pay directly to the Department of Revenue the sales and use tax on that portion of the cost price which is subject to tax pursuant to KRS 139.480(3).

Section 2. Telecommunications Provider Tax - Required Forms.

(1) Revenue Form 75A001, "Telecommunications Tax Receipts Certification Form", shall be used by city and county taxing jurisdictions to certify tax receipts for prior fiscal year if applicable.

(2) Revenue Form 75A002, "Telecommunications Provider Tax Return", shall be used by telecommunications providers to report gross revenues subject to the excise tax and gross revenues tax, and by consumers to report retail purchases of multi-channel video programming services to report the tax due.

(3) Revenue Form 75A002 (f), "Instructions For Telecommunications Provider Tax Return", shall be used by telecommunications providers as a guide in filing their telecommunications provider tax return.

(4) Revenue Form 75A005, "Telecommunications Tax Complaint Form", shall be submitted to the Department of Revenue by local taxing authorities who express disagreement with the distribution of telecommunications tax to their jurisdiction.

(5) Revenue Form 75A900, "Telecommunications Tax Application", shall be used by telecommunications providers to register with the Department of Revenue.

Section 3. Incorporation by Reference (I) The following material is incorporated by reference:

(a) Sales and use tax - referenced material:
1. Revenue Form 51A101, "Sales and Use Tax Permit", September, 2004;
2. Revenue Form 51A102, "Kentucky Sales and Use Tax Worksheet", January, 2007;
4. Revenue Form 51A103, "Kentucky Accelerated Sales and Use Tax Worksheet", January, 2007;
5. Revenue Form 51A103E, "Kentucky Accelerated Sales and Use Tax Worksheet - Electronic Funds Transfer", January, 2007;
7. Revenue Form 51A109, "Application for Energy Direct Pay Authorization (Sales and Use Tax and Utility Gross Receipts License Tax)", September, 2005;
8. Revenue Form 51A110, "Direct Pay Authorization", August, 1997;
11. Revenue Form 51A113, "Kentucky Consumer’s Use Tax Worksheet", July, 2005;
12. Revenue Form 51A113(0), "Consumer’s Use Tax Return", August, 2005;
13. Revenue Form 51A115, "Order for Selected Sales and Use Tax Publications", February, 2006;
14. Revenue Form 51A125, "Application for Purchase Exemption Sales and Use Tax", February, 1993;
15. Revenue Form 51A126, "Purchase Exemption Certificate", August, 2004;
19. Revenue Form 51A130, "Kentucky Sales and Use Tax Monthly Aviation Fuel Tax Credit Schedule of Qualified Certified Air Carriers", August, 2005;
22. Revenue Form 51A135, "Kentucky Sales Tax Motor Vehicle Sales Supplemental Schedule", August, 2006;
24. Revenue Form 51A149, "Certificate of Exemption for Pollution Control Facilities", January, 2007;
28. Revenue Form 51A154, "Certificate of Exemption Out-of-State Delivery for Aircraft, All Terrain Vehicle (ATV), Mobile/Manufactured Homes, Campers, Boats, Motors or Trailers", January, 2005;
30. Revenue Form 51A158, "Farm Exemption Certificate", January, 2007;
34. Revenue Form 51A162, "Kentucky Sales and Use Tax Truck Part Direct Pay Authorization (TCP DPA) Purchase Report", October 2003;
39. Revenue Form 51A205, "Kentucky Sales and Use Tax Instructions", July, 2005;
40. Revenue Form 51A209, "Sales and Use Tax Refund Application", March, 2005;
41. Revenue Form 51A216, "Application for Pollution Control
Tax Exemption Certificate*, March, 2003;
42. Revenue Form 51A222, "Certificate of Exemption for Alcohol Production Facilities", January, 2007;
44. Revenue Form 51A226, "Pollution Control Tax Exemption Certificate", March, 2003;
45. Revenue Form 51A227, "Certificate of Resale (Schools)", August, 1984;
48. Revenue Form 51A241, "Registration for the Kentucky Sales and Use Tax Refund for Motion Picture and Television Production Companies", February, 1987;
49. Revenue Form 51A242, "Application for Sales and Use Tax Refund for Motion Picture Production Company", January, 1987;
50. Revenue Form 51A250, "Application for Transient Merchant Permit", April, 2005;
52. Revenue Form 51A270, "Certificate of Sales Tax Paid on the Purchase of a Motor Vehicle", August, 2006;
53. Revenue Form 51F008, "Federal Government Exemption Form for Kentucky Sales and Use Tax Notification", December, 1998;
54. Revenue Form 51F009, "Purchase Exemption Notification", December, 1998;
(b) Telecommunications provider tax - referenced material:
1. Revenue Form 75A001, "Telecommunications Tax Receipts Certificate Form", November, 2003;
2. Revenue Form 75A002, "Telecommunications Provider Tax Return", December, 2003;
3. Revenue Form 75A002 (I), "Instructions For Telecommunications Provider Tax Return", July, 2006;
4. Revenue Form 75A005, "Telecommunications Tax Complaint Form", October, 2005;
5. Revenue Form 75A000, "Telecommunications Tax Application", December, 2005;
(b) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.
JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.
CONTACT PERSON: Richard Dobson, Executive Director, Office of Sales and Excise Taxes, Department of Revenue, Finance and Administration Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-5523, fax (502) 564-2908.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Richard Dobson, Executive Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Sales and Use Tax and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of the Sales and Use Tax and the Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required revenue forms used in the administration of the Sales and Use Tax and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.
(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: 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.
(2) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent it administers the referenced forms.
(3) Provide an analysis of how the entities identified in question (2) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions will have to be taken by the taxpayers or local governments to comply with this administrative regulation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no anticipated cost incurred by the taxpayer or local government.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): None.
(4) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.
(5) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:
Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.
(7) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees.
(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT
1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Revenue will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(3).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures or revenue for the Commonwealth or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanations:

**STATEMENT OF EMERGENCY**

103 KAR 3:030E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

**FINANCE AND ADMINISTRATION CABINET**
Department of Revenue
(New Emergency Administrative Regulation)

103 KAR 3:030E. Property and Severance Forms manual.


**STATUTORY AUTHORITY:** KRS 131.130(3)

**EFFECTIVE:** February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms, used in the administration of Property and Severance Taxes by the Department of Revenue.

Section 1. Property Tax - Required Forms. (1) Revenue Form 61A200, "Property Tax Forms and Instructions for Public Service Companies 2006", shall be filed by public service companies with the Department of Revenue reporting company name, location and other pertinent filing information.

(2) Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", shall be filed by public service companies with the Department of Revenue, reporting the System and Kentucky original cost, total depreciation and depreciated cost for all operating and non-operating property types as of the end of the taxable year.

(3) Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", shall be filed by public service companies with the Department of Revenue, reporting the assessed value of all Kentucky apportioned and regular licensed motor vehicles, railroad carlines and commercial watercraft as of the end of the year.

(4) Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (balance sheet) as of December 31 for the system operating unit including Kentucky.

(5) Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (income statement) for 12 months ending December 31 for the system operating unit including Kentucky.

(6) Revenue Form 61A200(E), "Filing Extension Application", shall be used by public service companies to request an extension of time to file the public service company tax return.

(7) Revenue Form 61A200(G), "Report of Capital Stocks", shall be filed by public service companies with the Department of Revenue, reporting an analysis of their capital stocks as of the end of the taxable year.

(8) Revenue Form 61A200(H), "Report of Funded Debt", shall be filed by public service companies with the Department of Revenue reporting an analysis of their debt as of the end of the taxable year.

(9) Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting a summary of the business activity within each taxing district.

(10) Revenue Form 61A200(J), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue reporting a summary of the amount of operating and nonoperating property owned or leased in this state, by each county, city and special district.

(11) Revenue Form 61A200(K), "Operating Property Listing by Taex Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue, reporting an inventory of the amount and kind of operating property, owned or leased, located in this state, for each county, city and special taxing district.

(12) Revenue Form 61A200(K2), "Nonoperating/Nonutility Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue reporting an inventory of the amount and kind of nonoperating property owned or leased, located in this state, for each county, city and special taxing district.

(13) Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", shall be filed by interstate, noncarrier, public service companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(14) Revenue Form 61A200(M), "Report of Property and Busi-
ness Factors for Interstate Railroad and Sleeping Car Companies", shall be filed by interstate railroad and sleeping car companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(15) Revenue Form 61A200(N), "Report of Leased Real Property - Kentucky Operating Leases", shall be filed by public service companies with the Department of Revenue, reporting all leased property and the terms of the lease.

(16) Revenue Form 61A200(O), "Railroad Private Car Mileage Report", shall be filed by railroad car line companies with the Department of Revenue reporting the name and address of the company and the mileage in Kentucky.

(17) Revenue Form 61A200(Q), "Supplemental Report of Operations for Contained and Residential Landfills", shall be filed by landfills with the Department of Revenue, reporting historic, current, and projected operational information.

(18) Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", shall be filed by public service companies with the Department of Revenue, reporting certified pollution control equipment, the original cost and the net book value.

(19) Revenue Form 61A200(S), "Filing Requirements for Commercial Passenger and Cargo Airlines", shall be filed by passenger and cargo airline companies with the Department of Revenue, reporting statistical information about all owned and leased aircraft.

(20) Revenue Form 61A200(U), "Industrial Revenue Bond Property", shall be filed by a public service company to list real and tangible personal property purchased with an industrial revenue bond.

(21) Revenue Form 61A202, "2006 Public Service Company Property Tax Return for Railroad Car Line" shall be filed by railroad car line companies with the Department of Revenue, classifying the railcars by type and reporting cost, age, and mileage for each railcar.

(22) Revenue Form 61A207, "Nonresident Watercraft Property Tax Return", shall be filed by nonresident watercraft owners which do not fall under the filing requirements of KRS 136.120, with the Department of Revenue, reporting the watercraft's book value, original cost, and total Kentucky mileage.

(23) Revenue Form 61A209, "Public Service Company Sales", shall be filed by public service companies with the Department of Revenue, reporting any full or partial sale or purchase of assets of the public service company.

(24) Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs" shall be filed by public service companies with the Department of Revenue reporting all motor vehicles owned or leased within Kentucky.

(25) Revenue Form 61A211(L), "Instructions for Enclosed Form 61A211", shall provide instructions for completing "Revenue Form 61A211, Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs".

(26) Revenue Form 61A230, "Notice of Assessment for Public Service Company", shall be sent by the Department of Revenue to the taxpayer notifying him of the final assessment of the public service company property.

(27) Revenue Form 61A240, "Notice of Assessment for Public Service Company", shall be sent by the Department of Revenue notifying him of a tentative assessment of the public service company property. This notice shall inform the taxpayer of the protest period.

(28) Revenue Form 61A250, "Notice of Assessment for Public Service Company on the Taxpayer's Claim of Value", shall be sent by the Department of Revenue notifying the taxpayer of his claim of assessed value on public service company property.

(29) Revenue Form 61A255, "Public Service Company Property Tax Statement", shall be used by the counties, schools, and special districts to bill public service companies for local property taxes.

(30) Revenue Form 61A500, "2007 Tangible Personal Property Tax Form and Instructions for Communications Service Providers and Multi-channel Video Programming Service Providers", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, reporting all tangible personal property.

(31) Revenue Form 61A500(H), "Report of Total Tangible Property in Kentucky", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky original cost, depreciation, and net book value of each class of tangible personal property.

(32) Revenue Form 61A500(I), "Summary of Gross Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky original cost by taxing jurisdiction.

(33) Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky reported value by taxing jurisdiction.

(34) Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue; containing an inventory of the amount and kind of personal property owned and located in Kentucky by taxing jurisdiction.

(35) Revenue Form 61A507, "Nonresident Watercraft Property Tax Statement", shall be used by county clerks and local tax jurisdictions to bill assessments of nonresident watercraft personal property.

(36) Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", shall be filed by distilleries with the Department of Revenue to report inventory as of January 1.

(37) Revenue Form 61A508-S1, "Schedule 1 Department of Property Valuation Cost of Production Schedule", shall be filed by distilleries with the Department of Revenue, reporting the average cost per gallon of production.

(38) Revenue Form 61A508-S2, "Schedule 2 Department of Property Valuation Storage of Cost Schedule", shall be filed by distilleries with the Department of Revenue, reporting average per barrel storage cost.

(39) Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales", shall be filed by distilleries with the Department of Revenue, reporting the date of the sale or purchase, the number of barrels, age, and the price.

(40) Revenue Form 61A508-S4, "Schedule 4", shall be filed by distilleries with the Department of Revenue, reporting the fair cash value for case goods and other inventory reported on Form 61A508.

(41) Revenue Form 61A509, "Distilled Spirits or Telecommunications Property Tax Statement", shall be used by county clerks and local tax jurisdictions to bill assessments of distilled spirits and telecommunications personal property.

(42) Revenue Form 61F007, "Notification for Protesting Commercial Watercraft Assessments", shall inform taxpayers of the protest procedures on Commercial Watercraft assessments.

(43) Revenue Form 61F008, "Notification for Protesting Railroad Carine Assessments", shall inform taxpayers of the protest procedures on Railroad Carine assessments.

(44) Revenue Form 61F009, "Notification for Protesting Public Service Company Property Assessments", shall inform taxpayers of the protest procedures on Public Service Company Property Tax assessments.

(45) Revenue Form 61F010, "Notification for Protesting Distilled Spirits", shall inform taxpayers of the protest procedures on Distilled Spirits assessments.

(46) Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice" shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities and registration renewal deadline.

(47) Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice" shall be issued by the Department of Revenue to notify motor vehicle and boat owners of their delinquent ad valorem property tax liabilities.

(48) Revenue Form 62A008, "Motor Vehicle Tax Notice" shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities.

(49) Revenue Form 62A009, "Map Sales Invoice Form", shall
be provided to the customer by the Department of Revenue as a receipt for payment of maps purchased.

(50) Revenue Form 62A010, "Notice for Boat Transfer", shall be issued to January 1 owners of boats transferred during the calendar year informing them of the ad valorem tax due on the transferred boat.

(51) Revenue Form 62A013, "Application for Assessment Moratorium Certificate", shall be filed by property owners seeking an assessment moratorium on qualifying existing property undergoing repair, rehabilitation or restoration. The form shall be filed with the proper administering agency of the county in which the property is located, thirty (30) days prior to restoration or repair.

(52) Revenue Form 62A015, "Motor Vehicle and Watercraft Property Tax Rate Certification", shall be submitted annually to the Department of Revenue by motor vehicle and watercraft taxing jurisdictions to certify the rates established by the taxing jurisdiction for motor vehicles and watercraft.

(53) Revenue Form 62A016, "Quietus" shall be issued by the Department of Revenue to certify that a county clerk is in good standing with regard to the conduct of ad valorem property tax collection duties.

(54) Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills" shall be completed by the Department of Revenue and county clerk to certify the total number of motor vehicle and boat accounts for a given county and determine the county clerk's compensation for making tax bills.

(55) Revenue Form 62A018, "School Taxing Jurisdiction - Motor Vehicle and Watercraft Property Tax Rate" shall be completed by the Department of Revenue to list the motor vehicle and watercraft property tax rates for each school taxing jurisdiction.

(56) Revenue Form 62A019, "Distributions of Ad Valorem Tax to the Fiscal Courts" shall be completed by the Department of Revenue to list the fiscal year ad valorem property tax distributions to the various county fiscal courts.

(57) Revenue Form 62A020, "Intercounty Property Tax Collections", shall be completed by the Department of Revenue to list distributions of ad valorem property tax made to Individual taxing jurisdictions.

(58) Revenue Form 62A023, "Application for Exemption from Property Taxation" shall be filed by organizations, other than institutions of religion seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the Department of Revenue.

(59) Revenue Form 62A023-R, "Application for Exemption from Property Taxation for Religious Organizations" shall be filed by institutions of religion seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the Department of Revenue.

(60) Revenue Form 62A030, "Request for Reproduction of PVA Public Records", shall be submitted to request copies of documents required to be retained by the PVA.

(61) Revenue Form 62A037, "Mail Back Card Department of Property Valuation", shall be filed by property owners, other than the owners of mobile homes, to report information regarding their property to the Department of Revenue in order to ensure assessment quality.

(62) Revenue Form 62A039, "Mail Back Card Department of Property Valuation for Mobile Manufactured Home", shall be filed by owners of mobile homes to report information regarding their property to the Department of Revenue in order to ensure assessment quality.

(63) Revenue Form 62A044, "Affidavit for Correction/Exoneration of Motor Vehicle/Boat Property Tax", shall be completed by the owner of a vehicle or boat, at the property valuation administrator's office in order to correct owner or vehicle/boat information in the ad valorem tax computer system. The PVA shall present the form to the county clerk when a tax refund is authorized.

(64) Revenue Form 62A200, "2007 Unmined Coal Property Tax Information Return", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting tax information.

(65) Revenue Form 62A200A, "Schedule A Fee Property Ownership", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(66) Revenue Form 62A200B, "Schedule B Mineral Property Ownership (Coal Only)", shall be filed by owners or lessees of unmined coal with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(67) Revenue Form 62A200C, "Schedule C Leased Property", shall be filed by all lessees and sublessees with the Department of Revenue, reporting a property schedule for each parcel leased from another party and outlined on the lessee map.

(68) Revenue Form 62A200D, "Schedule D Property or Stock Transfers" shall be filed by both purchasers and sellers of unmined mineral property with the Department of Revenue, reporting details of the transaction.

(69) Revenue Form 62A200E, "Schedule E Lease Terminations, Transfers or Assignments", shall be filed by lessors or lessees of unmined minerals, with the Department of Revenue, reporting the parcel number, date lease was terminated and the reason for termination.

(70) Revenue Form 62A200F, "Schedule F Farm Exception to Unmined Minerals Tax", shall be filed by surface owners, who own the mineral rights in their entirety and are engaged primarily in farming, to be exempted from the unmined minerals tax.

(71) Revenue Form 62A200G, "Schedule G Geological Information by County", shall be filed by owners or lessees of unmined mineral property, with the Department of Revenue, reporting exploration and analytical information.

(72) Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", shall be filed by taxpayers with the property valuation administrator, if appealing their assessment on real property.

(73) Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll" shall be filed by the property valuation administrator by the first Monday in April, showing a recapitulation of property assessments by type of property and by taxing district. This form shall also be known as "first recap".

(74) Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes" shall be filed by the property valuation administrator within six (6) days of the conclusion of the real property tax roll inspection period, showing all changes made since the submission of Revenue Form 62A304. This form shall also be known as "final recap" or "second recap".

(75) Revenue Form 62A307, "Property Owner Conference Record", shall be used by the property valuation administrator to document a property owners appeal conference. The property owner or his representative shall be asked to sign the record and shall be given a copy of the record.

(76) Revenue Form 62A323, "Record of Additions and Deletions" shall be used by the PVA to report all real property additions and deletions for a particular assessment year.

(77) Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", shall be filed by life insurance companies doing business in Kentucky, with the Department of Revenue, reporting the fair cash value of the company's intangible property, both taxable and exempt, and the aggregate amount.

(78) Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", shall be filed by property owners seeking an exemption from property taxes under Ky. Const. Sec. 170. This application shall be filed with the property valuation administrator of the county in which the residential unit is located.

(79) Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", shall be mailed to the property owner by the property valuation administrator notifying him of the assessment amount and of his appeal rights.

(80) Revenue Form 62A353, "Notice of Listing of Omitted Real Property", shall be mailed by the property valuation administrator to the property owner. This document shall notify the property owner that his omitted property has been listed and assessed and of his appeal rights.

(81) Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", shall be sent
from the Board of Assessment Appeals to the property owner to inform him of their ruling.

(62) Revenue Form 62A359, "Sheriff's Report of Tax Claims Purchased for Taxing Districts", shall be used by the sheriffs to report delinquent real estate tax bills that were purchased by the sheriffs on behalf of the taxing districts.

(63) Revenue Form 62A359-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent real estate tax bills is accurate.

(64) Revenue Form 62A360, "Order Correcting Erroneous Assessment for All Minerals", shall be issued to the collection agency (county sheriff or clerk) and taxpayer correcting an erroneous mineral property tax assessment.

(65) Revenue Form 62A362, "Sheriff's Report of Delinquent Taxpayers", shall be used by the sheriff to report delinquent tangible property tax bills.

(66) Revenue Form 62A382-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent tangible property tax bills is accurate.

(67) Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", shall be submitted by the county clerk in order to receive payment of one (1) dollar for each omitted property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(68) Revenue Form 62A365, "Nonresidency Affidavit", shall be filed as proof of nonresidency in Kentucky as of January 1, for ad valorem tax purposes.

(69) Revenue Form 62A366, "Order Correcting Erroneous Assessment", shall be filed by the property valuation administer with the sheriff, to correct an error made in an assessment of property.

(70) Revenue Form 62A366-D, "Order Correcting Erroneous Delinquent Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in a delinquent assessment of property.

(71) Revenue Form 62A366-R, "Exoneration Form for Property Tax Refund" shall be filed a by taxpayer for refunds of property tax.

(72) Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills" shall be used by property valuation administrator to prepare additional/supplemental tax bills.

(73) Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", shall be provided to assess the PVA with the preparation of additional or supplemental tax bills.

(74) Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections" shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1997 tax year only.

(75) Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections" shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for tax years after 1997.

(76) Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1996 and earlier tax years.

(77) Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", shall be used by the sheriff to report all exceptions made to the tax bills by the property valuation administrator.

(78) Revenue Form 62A372-A, "Certification", shall be used by the sheriff to affirm that the list of exceptions is accurate.

(79) Revenue Form 62A378, "Report of Location of Mobile Homes", shall be filed by every person providing rental space for mobile homes and house trailers. This form shall be filed with the property valuation administrator of the county in which the park is located.

(80) Revenue Form 62A379, "Listing of Omitted Real Property", shall be used by a taxpayer to voluntarily list any property previously omitted from the tax roll or shall be used by a property valuation administrator to list any involuntary omitted property.

(81) Revenue Form 62A384C, "Clay Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing clay property, reporting owner's name and address, percent ownership, product tons, and royalty rate.

(82) Revenue Form 62A384-C, "Instructions to Complete Clay Property Tax Return for 2007 Tax Year", shall be used by owners and lessees of land containing mineable clay minerals to file Revenue Form 62A384.

(83) Revenue Form 62A384-G, "Natural Gas Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing developed natural gas properties, reporting the location of the property, total yearly gas production, number of producing wells, and the total dollar value of production.

(84) Revenue Form 62A384-G-C, "Instructions for Gas and Oil Property Tax Returns", shall be provided to filers of gas and oil property tax returns instructing filers of the acceptable method of completing the gas and oil property tax return.

(85) Revenue Form 62A384L, "Limestone and Sand and Gravel Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing limestone, sand or gravel properties reporting mineral location, type of mining and production in the last three (3) years.

(86) Revenue Form 62A384-Q, "Oil Property Tax Return Lease Report", shall be filed with the Department of Revenue by all persons, corporations, businesses and partnerships owning, leasing or having knowledge of developed oil properties to report developed oil property in Kentucky.

(87) Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", shall be used by sheriffs to acknowledge receipt of the county's property tax bills and to document the total tax amount to be collected for each taxing district.

(88) Revenue Form 62A385-A, "Sheriff's Receipt For Unpaid And Partially Paid Tax Bills", shall be used by incoming sheriffs to give receipt to the outgoing sheriff for the unpaid and partially paid tax bills outstanding when he assumes office.

(89) Revenue Form 62A394, "Sheriff's Monthly Report of Motor Vehicle Property Tax Collections" shall be submitted by the county clerk to the Department of Revenue and local taxing jurisdictions to report ad valorem property tax collections for the month.

(90) Revenue Form 62A398, "Property Valuation Administrator's Bond" shall be completed by Property Valuation Administrators evidencing surety with the Commonwealth and a local school board and affirming a commitment to fulfill the duties of the office.

(91) Revenue Form 62A399, "Notice To Appear in Circuit Court", shall be served to a person who is indebted to another person who has a delinquent tax liability.

(92) Revenue Form 62A400, "Notice of Distrain", shall be sent by the sheriff to notify persons in possession of personal property belonging to a delinquent taxpayer that this property is subject to distrain in order to settle the tax liability.

(93) Revenue Form 62A401, "Final Notice Before Distrain", shall be sent by the sheriff to the owner of real and personal property omitted from the tax roll.

(94) Revenue Form 62A405, "Notice of Sale of Tax Bill", shall be sent by the county attorney to the owner of real property to notify that a certificate of delinquency has been issued against the property.

(95) Revenue Form 62A500, "2007 Tangible Personal Property Tax Return", shall be filed by owners or lessees of tangible personal property, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting taxpayer information, original cost of tangible property and reported value of tangible property.

(96) Revenue Form 62A500-A, "2007 Tangible Personal Property Tax Return (Aircraft Assessments Only)", shall be filed by owners or lessees of aircraft not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the federal registration number, make and model, and taxpayer's value for each aircraft.

(97) Revenue Form 62A500-C, "Consignment Tangible Personal Property Tax Return", shall be filed by persons in possession of consigned inventory, that has not been reported on Revenue
Form 62A500, with either the property valuation administrator of the county of taxable situs or the Department of Revenue, reporting consignor information and consigned inventory information. 

(119) Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return" shall be filed by lessees of tangible personal property held under a lease or a sublease, and by persons who report the property on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting lessor information and equipment information.

(120) Revenue Form 62A500-S1, "Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return" shall be filed by automobile dealers, dealers with new boat and marine equipment held under a floor plan or dealers with new farm machinery held under a floor plan with the Property Valuation Administrator of each county or with the Department of Revenue, containing a detailed listing of property reported on line 34 of the Tangible Personal Property Tax Return.

(121) Revenue Form 62A500-W, "2007 Tangible Personal Property Tax Return (Documented Watercraft)" shall be filed by owners or lessees of documented vessels not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the coast guard number, make and model and taxpayer's value for each watercraft.

(122) Revenue Form 62A600, "Domestic Savings and Loan Tax Return", shall be filed with the Department of Revenue by savings and loans operating solely in Kentucky, reporting the balances in their capital accounts.

(123) Revenue Form 62A601, "Foreign Savings and Loan Tax Return", shall be filed with the Department of Revenue by foreign savings and loans authorized to do business in this state, reporting the balances in their capital accounts.

(124) Revenue Form 62A601-S2, "Schedule B, Computation of Exempt Securities", shall be filed with the Department of Revenue, by taxpayers filing Revenue Form 62A600 or 62A601, reporting the market value of U.S. government securities.

(125) Revenue Form 62A850, "Bank Deposits Tax Return" shall be filed with the Department of Revenue by financial institutions, reporting the amount of its deposits as of the preceding January 1.

(126) Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", shall be filed by the local taxing district with the Department of Revenue to notify the Department of Revenue of the rate set on bank deposits.

(127) Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", shall be filed with the Department of Revenue, by financial institutions, reporting all deposits located within the state as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation.

(128) Revenue Form 62A863-A, "Schedule A, Summary of Deposits", shall be filed with the Department of Revenue, by financial institutions filing Revenue Form 62A863, to summarize deposits.

(129) Revenue Form 62A872, "Intangible Property Assessment Notice for Prepayment of Estates", shall be sent by the Department of Revenue to the taxpayer notifying him of the assessed value of intangible property in the settlement of an estate.

(130) Revenue Form 62A880, "Personal Property Assessment", shall be sent by the Department of Revenue to the owner of omitted personal property notifying him of the value assessed by the department as well as all applicable penalties and interest.

(131) Revenue Form 62B003, "Unmined Coal Tax Notice (Owner)", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in unmined coal property.

(132) Revenue Form 62B011, "Limestone, Sand, or Gravel Tax Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in limestone, sand or gravel property.

(133) Revenue Form 62B012, "Oil Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in oil property.

(134) Revenue Form 62B013, "Clay Property Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in clay property.

(135) Revenue Form 62B015, "Gas Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in gas property.

(136) Revenue Form 62F003, "Appeals Process for Real Property Assessments", shall be an informational brochure on the procedure to follow to appeal an assessment on real property.

(137) Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", shall be used by the PVA to establish fees to be charged for the cost of reproduction, creation, or other acquisition of records.

(138) Revenue Form 62F020, "Deeds/Transfers and Property Taxes", shall be an informational brochure on Kentucky's property tax system, sales and transfers of property and the requirements for preparing a deed.

(139) Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", shall be filed with the county clerk by any taxpayer who wishes to appeal his assessment on real property.

(140) Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", shall inform taxpayers, subject to intangible property tax on the value of their capital stock, of those institutions which issue obligations that are exempt from state ad valorem taxation.

Section 2. Severance Taxes - Required Forms. (1) Revenue Form 55A001, "Application for Certificate of Registration for Coal Severers and/or Processors" shall be used by the Department of Revenue to register businesses that sever or process coal.

(2) Revenue Form 55A003, "Certificate of Registration Severance Taxes", shall be used by the Department of Revenue to register coal severance taxpayers.

(3) Revenue Form 55A004, "Coal Severance Tax Seller's Certificate", shall be filed by the taxpayer to verify purchase coal deductions.

(4) Revenue Form 55A100, "Coal Tax Return", shall be filed monthly by the taxpayer to report production and tax due.

(5) Revenue Form 55A100, "Part IV & V - Schedule IV of Coal Sales (Continuation)" shall be used by the taxpayer to report additional coal sales if there is no room on the return. "Part V of Coal Sales (Continuation) for Thin Seam Coal Tax Credit", shall be used by the taxpayer to apply for tax credit for underground mining of thin seam coals.

(6) Revenue Form 55A101, "Coal Tax Return Instructions", shall be included with the coal tax return mailed to the taxpayer to assist in the completion of his return.

(7) Revenue Form 55A131, "Credit Memorandum", shall be used by the department to issue a credit to the taxpayer for an overpayment rather than a refund.

(8) Revenue Form 55A209, "Severance Tax Refund Application", shall be used by the taxpayer for the purpose of requesting a refund of tax overpaid.

(9) Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", shall be used by persons dealing in minerals, natural gas and natural gas liquids who wish to register with the Department of Revenue to acquire an account number.

(10) Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", shall be used by registered natural gas and natural gas liquids taxpayers monthly to report production and tax due.

(11) Revenue Form 56A101, "Minerals Tax Return", shall be used by registered mineral taxpayers monthly to report production and tax due.

(12) Revenue Form 56A106, "Minerals Tax Certificate of Exemption", shall be used by mineral taxpayers to claim exemptions from the minerals tax for minerals purchased for the maintenance of a privately maintained but publicly dedicated road.

(13) Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", shall be used by mineral taxpayers to compute gross value of minerals to be allocated and to show the allocation by county of the gross value of
minerals severed in Kentucky and also shall be used by taxpayer for showing minerals that are purchased from others for processing by the taxpayer.

(14) Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", shall be used by natural gas taxpayers to show details of all natural gas extracted in Kentucky and sold to nonconsumers and also shall be used by natural gas taxpayers to allocate the natural gas to the county or counties where the natural gas or natural gas liquids were located prior to extraction.

(15) Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer From Kentucky Producers", shall be used by natural gas taxpayers who are first purchasers of natural gas to show gross value by county or counties from which the natural gas was extracted.

(16) Revenue Form 56A110, "Attachment C Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", shall be used by mineral taxpayers that sever clay to compute tax due.

(17) Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", shall be used by registered crude petroleum transporter's for reporting gross value and tax due.

(18) Revenue Form 56A113, "Minerals Tax Credit for Limitation in Interstate Commerce", shall be used by mineral taxpayers for the purpose of determining the eligibility for the minerals tax credit.

(19) Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", shall be used by crude petroleum transporter's who wish to acquire an account number with the Kentucky Department of Revenue.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Property tax - referenced material:
1. Revenue Form 61A200, "Property Tax Forms and Instructions for Public Service Companies", November, 2006;
2. Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", November, 2006;
3. Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", November, 2006;
4. Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", November, 2006;
5. Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", November, 2006;
6. Revenue Form 61A200(E), "Filing Extension Application", November, 2006;
7. Revenue Form 61A200(G), "Report of Capital Stocks", November, 2006;
9. Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", November, 2006;
10. Revenue Form 61A200(J), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", November, 2006;
11. Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", November, 2006;
12. Revenue Form 61A200(K2), "Nonoperating/Nonutility Property Listing by Taxing Jurisdiction", November, 2006;
13. Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for all Interstate Companies", November, 2006;
14. Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", November, 2006;
15. Revenue Form 61A200(N), "Report of Leased Real Property, Kentucky Operating Leases", November, 2006;
18. Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", November, 2006;
19. Revenue Form 61A200(S), "Filing Requirements for Commercial Passenger and Cargo Airlines", November, 2006;
20. Revenue Form 61A200(U), "Industrial Revenue Bond Property Tax Return", November, 2006;
22. Revenue Form 61A207, "Nonresident Watercraft Property Tax Return", November, 2006;
23. Revenue Form 61A209, "Public Service Company Sales", November, 2006;
24. Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Situs", November, 2006;
25. Revenue Form 61A211(I), "Instructions for Enclosed Form 61A211", November, 2006;
26. Revenue Form 61A230, "Notice of Assessment for Public Service Company", August, 2006;
27. Revenue Form 61A240, "Notice of Assessment for Public Service Company", August, 2006;
28. Revenue Form 61A250, "Notice of Assessment for Public Service Company", August, 2006;
30. Revenue Form 61A500, "2007 Tangible Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", November, 2006;
31. Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", November, 2006;
32. Revenue Form 61A500(L), "Summary of Gross Personal Tangible Property Listing by Taxing District", November, 2006;
33. Revenue Form 61A504(H), "Summary of Reported Personal Tangible Property Listing by Taxing District", November, 2006;
34. Revenue Form 61A504(K), "Personal Tangible Property Listing by Taxing District", November, 2006;
35. Revenue Form 61A507, "Nonresident Watercraft Property Tax Statement", January, 2006;
37. Revenue Form 61A508-S1, "Schedule 1 Department of Property Valuation Cost of Production Schedule", November, 2005;
38. Revenue Form 61A508-S2, "Schedule 2 Department of Property Valuation Storage Cost Schedule", November, 2005;
40. Revenue Form 61A508-S4, "Schedule 4", November, 2005;
41. Revenue Form 61A509, "Distilled Spirits or Telcos Property Tax Statement", January, 2006;
42. Revenue Form 61F007, "Notification for Protesting Commercial Watercraft Assessments", August, 2006;
43. Revenue Form 61F008, "Notification for Protesting Railroad Car Line Assessments", August, 2006;
44. Revenue Form 61F009, "Notification for Protesting Public Service Company Property Assessments", August, 2006;
45. Revenue Form 61F010, "Notification for Protesting Distilled Spirits", August, 2006;
46. Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", December, 2006;
47. Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax - Second Notice", December, 2006;
49. Revenue Form 62A009, "Map Sales Invoice Form", July, 2006;
50. Revenue Form 62A010, "Notice for Boat Transfer", December, 2006;
52. Revenue Form 62A015, "Motor Vehicle and Watercraft Property Tax Rate Certification", 1999;
53. Revenue Form 62A016, "Quietus", 1999;
54. Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills", 1999;  
56. Revenue Form 62A019, "Distributions of Ad Valorem Tax to the Fiscal Courts", 1999;  
57. Revenue Form 62A020, "Intercounty Property Tax Collections", 1999;  
58. Revenue Form 62A023, "Application for Exemption from Property Taxation", September, 2005;  
60. Revenue Form 62A020, "Request for Reproduction of PVA Public Records", February, 2006;  
61. Revenue Form 62A037, "Mail Back Card Department of Property Valuation", April, 1998;  
62. Revenue Form 62A039, "Mail Back Card Department of Property Valuation for Mobile Manufactured Home", February, 2000;  
64. Revenue Form 62A200, "2007 Unmined Coal Property Tax Information Return", December, 2006;  
65. Revenue Form 62A200A, "Schedule A Fee Property Ownership", December, 2006;  
66. Revenue Form 62A200B, "Schedule B Mineral Property Ownership (Coal Only)", December, 2006;  
68. Revenue Form 62A200D, "Schedule D Property or Stock Transfers", December, 2006;  
69. Revenue Form 62A200E, "Schedule E Lease Terminations, Transfers or Assignments", December, 2006;  
70. Revenue Form 62A200F, "Schedule F Farm Exception to Unmined Minerals Tax", December, 2006;  
71. Revenue Form 62A200G, "Schedule G Geological Information by County", December, 2006;  
72. Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", September, 2005;  
73. Revenue Form 62A304, "Property Valuation Administrator's Recapitulation of Real Property Tax Roll", August, 2005;  
74. Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes", August, 2005;  
75. Revenue Form 62A307, "Property Owner Conference Record", September, 2005;  
76. Revenue Form 62A323, "Record of Additions and Deletions", September, 2005;  
79. Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", April, 2005;  
80. Revenue Form 62A353, "Notice of Listing of Omitted Real Property", September, 2005;  
81. Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", August, 2006;  
83. Revenue Form 62A359-A, "Certification", February, 2006;  
84. Revenue Form 62A360, "Order Correcting Erroneous Assessment for All Minerals", July, 2006;  
86. Revenue Form 62A362-A, "Certification", February, 2006;  
87. Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", February, 2006;  
88. Revenue Form 62A365, "Nonresidency Affidavit", November, 2002;  
89. Revenue Form 62A366, "Order Correcting Erroneous Assessment", September, 2005;  
91. Revenue Form 62A366R, "Exoneration Form for Property Tax Reappraisal", September, 2005;  
98. Revenue Form 62A372-A, "Certification", February, 2006;  
100. Revenue Form 62A379, "Listing of Omitted Real Property", February, 2006;  
104. Revenue Form 62A384-O, "Instructions for Gas and Oil Property Tax Returns", January, 2006;  
111. Revenue Form 62A395, "Property Valuation Administrator's Bond", November, 2006;  
112. Revenue Form 62A399, "Notice to Appear in Circuit Court", August, 1983;  
113. Revenue Form 62A400, "Notice of Distraint", August, 1983;  
117. Revenue Form 62A500-A, "2007 Tangible Personal Property Tax Return (Aircraft Assessments Only)", November, 2006;  
118. Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", November, 2006;  
120. Revenue Form 62A500-S, "Dealers Inventory Listing for Line 54 Tangible Personal Property Tax Return", October, 2005;  
121. Revenue Form 62A500-W, "2007 Tangible Personal Property Tax Return (Documented Watercraft)", November, 2006;  
122. Revenue Form 62A600, "Domestic Savings and Loan Tax Return", November, 2006;  
123. Revenue Form 62A601, "Foreign Savings and Loan Tax Return", November, 2006;  
125. Revenue Form 62A850, "Bank Deposits Tax Return", November, 2006;  
126. Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", September, 2004;  
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129. Revenue Form 62A872, "Intangible Property Assessment Notice for Prepayment of Estates", March, 1999;
130. Revenue Form 62A880, "Personal Property Assessment", February, 2004;
131. Revenue Form 62B003, "Unmined Coal Tax Notice (Owner)", July, 2004;
132. Revenue Form 62B011, "Limestone, Sand, or Gravel Tax Notice", July, 2005;
133. Revenue Form 62B012, "Oil Assessment Notice", July, 2006;
135. Revenue Form 62B015, "Gas Assessment Notice", July, 2006;
137. Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", May, 2002;
139. Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", February, 2006, and
140. Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", September, 2004;
(b) Several forms referenced in the regulations:
   1. Revenue Form 55A001, "Application for Certificate of Registration for Coal Severers and/or Processors", December, 2006
   2. Revenue Form 55A003, "Certificate of Registration - Severance Taxes", December, 2006
   4. Revenue Form 55A100, "Coal Tax Return", July, 2004
   5. Revenue Form 55A101, "Part IV - Schedule of Coal Sales (Continuation)" and "Part V - Schedule for Thin Seam Coal Tax Credit", August, 2005
   7. Revenue Form 55A131, "Credit Memorandum", December, 2006
   10. Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", July, 2004
15. Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer from Kentucky Producers", January, 2005
19. Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", December, 2006;
   (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.
CONTACT PERSON: Thomas Crawford, Assistant Director, Division of Local Valuation, Office of Property Valuation, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, phone (502) 564-8338.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Thomas Crawford, Assistant Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe the forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(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: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: As forms are changed, the manuals in which copies of all forms listed in this regulation are maintained will be updated
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred by complying with this regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All taxpayers and the administering agencies will benefit by having access to a centralized listing of the most current forms in use.
(5) Provide an estimate of how much it will cost the administra-
vte body to implement this administrative regulation:
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.
(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT
1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue, Office of Property Valuation, Division of Local Valuation, Division of State Valuation and Division of Mineral & GIS Services. The division level shall be responsible for the creation and updating of forms.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(1)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No change.
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No change.
   (c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the department.
   (d) How much will it cost to administer this program for subsequent years? The same administrative cost will be absorbed in the normal operating budget of the department.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

   Revenues (+/-):
   Expenditures (+/-):
   Other Explanation: N/A

STATEMENT OF EMERGENCY
103 KAR 3:040E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient because the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation
(New Emergency Administrative Regulation)


STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Income Taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2006 Kentucky Corporation Income Tax Return", shall be used by a C corporation to determine corporation income tax due in accordance with KRS 141.040 for years beginning in 2006.

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocaton", shall be used by a corporation doing business within and without of Kentucky to apportion and allocate net income to Kentucky in accordance with KRS 141.120.

(3) Revenue Form 41A720AMC, "Schedule AMC, Alternative Minimum Calculation", shall be used by a corporation doing business in Kentucky to compute the corporate Alternative Minimum Calculation tax on Kentucky gross receipts and Kentucky gross profits.

(4) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax Credit Biodiesel", shall be used by a taxpayer claiming a Biodiesel tax credit allowed by KRS 141 423.

(5) Revenue Form 41A720BIO (K-1), "Schedule BIO (K-1), Distributive Share of Approved Biodiesel and/or Blended Biodiesel Tax Credit", shall be used by a general partnership to report the distributive share of Biodiesel Tax Credit to general partners.

(6) Revenue Form 41A720CC "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720-Cf, "Schedule Cf, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(8) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(9) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(10) Revenue Form 41A720ES, "Form 720ES, 2007 Kentucky
Corporation Income Tax Estimated Tax Voucher*, shall be used by a corporation to submit payments of estimated corporation income tax as required by KRS 141.044.

(11) Revenue Form 41A720EEC, "Schedule EEC, Enterprise Zone Tax Credit", shall be used by a qualified taxpayer to determine the Enterprise Zone Tax Credit allowed in accordance with KRS 154.45-090.

(12) Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or partnership to determine the credit allowed by KRS 141.0202.

(13) Revenue Form 41A720I, "Instructions, 2006 Kentucky Corporation Income Tax Return", shall be used by a corporation to file its 2006 Kentucky Corporation Income Tax Return and related schedules.

(14) Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

(15) Revenue Form 41A720KR-C, "Schedule KR-C, Kentucky Consolidated Return Schedule Continuation Sheet", shall be used by a corporation filing a nexus consolidated return as a continuation of Revenue Form 41A720KR.

(16) Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", shall be used by a C corporation with a current year net operating loss or net operating loss carry-forward.

(17) Revenue Form 41A720P, "Application for Single Form 720S, Kentucky Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720S, Kentucky Corporation Income Tax Return, other forms commonly used by a C corporation in conjunction with Form 720S and Instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".

(18) Revenue Form 41A720R, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation or partnership to determine the credit against income tax liability allowed by KRS 141.395.

(19) Revenue Form 41A720R (K-1), "Schedule QR (K-1), Pro Rata/Distributive Share of Approved Qualified Research Facility Tax Credit", shall be used by a general partnership to compute each of its partners' share of income tax credit for qualified costs of research facilities.

(20) Revenue Form 41A720RC, "Schedule RC, Application for Income Tax Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or major recycling project. This form shall also be used by an individual, corporation, fiduciary, or partnership to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(21) Revenue Form 41A720RC(C), "Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or partnership to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

(22) Revenue Form 41A720RC(R), "Instructions for Schedule RC", shall be used by taxpayers requesting approval of a recycling, composting equipment, or major recycling project.

(23) Revenue Form 41A720-RC (K-1), "Schedule RC (K-1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", shall be used by a general partnership to report each of its partners pro rata or distributive share of approved income tax credit for the purchase and installation of recycling or composting equipment. This form shall also be used by general partners to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(24) Revenue Form 41A720RC-R, "Schedule RC-R, Kentucky Disposition of Recycling or Composting Equipment Schedule", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period and report the reported on applicable tax return.

(25) Revenue Form 41A720RC-R (K-1), "Schedule RC-R (K-1), Pro Rata/Distributive Share of Disposition of Recycling and/or Composting Equipment Tax Credit/Recapture", shall be used by a general partnership to report each of its partners' proportionate share of recycling or composting equipment disposed of before the end of the recapture period.

(26) Revenue Form 41A720S, "Form 720S, 2006 Kentucky Corporation Income Tax Return", shall be used by an S corporation to determine the amount of corporation income tax due in accordance with KRS 141.040 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2006.

(27) Revenue Form 41A720S(K), "Instructions for 2006 Kentucky Corporation Income Tax Return", shall be used by an S corporation to file its 2006 Kentucky Corporation Income Tax Return and related schedules.

(28) Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2006 Kentucky Shareholder's Share of Income, Credits, Deductions, etc.", shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder should report for Kentucky income tax purposes. Instructions shall be included on the back of the form to assist the shareholder in preparing their Kentucky individual income tax return.

(29) Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation Income Tax Return", shall be used by a corporation to request a six (6) month extension of time to file its Kentucky Corporation Income Tax Return. Instructions shall be included on the back of the form.

(30) Revenue Form 41A720S(P), "2006 Kentucky Corporation Income Tax Form Packet", shall provide in a single packet Form 720S, Kentucky Corporation Income Tax Return, other forms commonly used by an S corporation in conjunction with Form 720S and Instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".

(31) Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation to summarize tax credits claimed and shall be attached to the corporation income tax return.

(32) Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", shall be used by an entity claiming a tax credit provided by KRS 141.418.

(33) Revenue Form 41A720VERB (K-1), "Schedule VERB (K-1), Distributive Share of Approved Voluntary Environmental Remediation Tax Credit", shall be used by a general partnership to allocate the distributive share of credit to its general partners.

(34) Revenue Form 41A720VERB-S, "Schedule VERB-S, Voluntary Environmental Remediation 4n Tax Credit (Brownfield) Expenditure Summary Schedule", shall be used by a taxpayer to list the expenditures incurred at a qualifying voluntary environment remediation project in a substantially similar form.

(35) Revenue Form 41A720AM, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005, as previously filed.

(36) Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", shall be used by a corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

(37) Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax Return", shall be used by a corporation to amend its Kentucky Corporation Income Tax Return for periods beginning in 2005, as previously filed.

(38) Revenue Form 41A720S, "Schedule S, Underpayment of Estimated Tax By Corporations", shall be used by a corporation to document that it meets the exception to the estimated tax underpayment penalty, if its prior year tax liability was equal to or less than $25,000 and estimated tax equals or exceeds the prior year tax as provided by KRS 141.542 and KRS 141.590.

(39) Revenue Form 41A720S, "Instructions for Filing Corporation Estimated Income Tax Voucher", shall include instructions used by a corporation to determine the amount of estimated corporation income tax that is required to be paid in accordance with KRS 141.044.

(40) Revenue Form 41A720S, "Form 8903-K, Kentucky Do
mestic Production Activities Deduction", shall be used by a corpo-
ration to determine the Domestic Production Activities Production
amount for Kentucky corporation income tax purposes and shall be
attached to the corporation income tax return;
(41) Revenue Form 41A720-S16, "Schedule KREDA, Tax
Credit Computation Schedule (For A KREDA Project of Corpora-
tions)", shall be used by a corporation which has a Kentucky Rural
Economic Development Act (KREDA) project to determine the
credit allowed against the Kentucky corporation income tax liability
in accordance with KRS 141.347. Instructions shall be included on
the back of the form.
(42) Revenue Form 41A720-S17, "Schedule KREDA-T, Track-
ning Schedule for A KREDA Project", shall be used by a corporation
which has a Kentucky Rural Economic Development Act (KREDA)
project to maintain a record of the debt service payments, wage
assessment fees and income tax credits for the duration of the
project. Instructions shall be included on the back of the form.
(43) Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax
Credit Computation Schedule (For A KREDA Project of a General
Partnership)", shall be used by a general partnership which has a Ken-
tucky Rural Economic Development Act (KREDA) project to deter-
mine the credit allowed against the Kentucky Income tax liability
in accordance with KRS 141.347. Instructions shall be included on
the back of the form.
(44) Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit
Computation Schedule (For A KIDA Project of Corporations)", shall
be used by a corporation which has a Kentucky Industrial Develop-
ment Act (KIDA) project to determine the credit allowed against
its Kentucky corporation income tax liability in accordance with KRS
141.400. Instructions shall be included on the back of the form.
(45) Revenue Form 41A720-S21, "Schedule KIDA-T, Track-
ning Schedule for A KIDA Project", shall be used by a corporation
which has a Kentucky Industrial Development Act (KIDA) project to
maintain a record of the debt service payments and income tax credits
for the duration of the project. Instructions shall be included on the
back of the form.
(46) Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax
Credit Computation Schedule (For A KIDA Project of a General Part-
nership)", shall be used by a general partnership which has a Ken-
tucky Industrial Development Act (KIDA) project to determinethe
credit allowed against the Kentucky Income tax liability in accord-
cence with KRS 141.400. Instructions shall be included on the back of
the form.
(47) Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit
Computation Schedule (For A KIRA Project of Corporations)", shall
be used by a corporation which has a Kentucky Industrial Revitali-
zation Act (KIRA) project to determine the credit allowed against
the Kentucky corporation income tax liability in accordance with
KRS 141.403. Instructions shall be included on the back of the form.
(48) Revenue Form 41A720-S25, "Schedule KIRA-T, Track-
ning Schedule for A KIRA Project", shall be used by a corporation
which has a Kentucky Industrial Revitalization Act (KIRA) project to
maintain a record of the approved costs, wage assessment fees and
income tax credits for the duration of the project. Instructions shall
be included on the back of the form.
(49) Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax
Credit Computation Schedule (For A KIRA Project of a General Part-
nership)", shall be used by a general partnership which has a Ken-
tucky Industrial Revitalization Act (KIRA) project to determine the
credit allowed against the Kentucky Income tax liability in accord-
cence with KRS 141.403. Instructions shall be included on the back of
the form.
(50) Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit
Computation Schedule (For A KJDA Project of Corporations)", shall
be used by a corporation which has a Kentucky Jobs Develop-
ment Act (KJDA) project to determine the credit allowed against
the Kentucky corporation income tax liability in accordance with
KRS 141.407. Instructions shall be included on the back of the form.
(51) Revenue Form 41A720-S28, "Schedule KJDA-T, Track-
ning Schedule for A KJDA Project", shall be used by a company which
has a Kentucky Jobs Development Act (KJDA) project to maintain
a record of the approved costs, wage assessment fees, in-lieu-of
credits and income tax credits for the duration of the project. In-
structions shall be included on the back of the form.
(52) Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax
Credit Computation Schedule (For A KJDA Project of Corporations)", shall
be used by a corporation which has a Kentucky Jobs Develop-
ment Act (KJDA) project to determine the credit allowed against the Kentucky income tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.
(53) Revenue Form 41A720-S35, "Schedule KRA, Tax Credit
Computation Schedule (For A KRA Project of Corporations)", shall
be used by a corporation which has a Kentucky Reinvest-
ment (KRA) project to compute the allowable KRA credit allowed against the Kentucky corporation income tax liability.
(54) Revenue Form 41A720-S37, "Schedule KRA-T, Track-
ning Schedule For A KRA Project", shall be used by a company which
has entered into a Kentucky Reinvestment (KRA) Act project to
maintain a record of the balance of approved costs and income tax
credits for the duration of the agreement.
(55) Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit
Computation Schedule (For A KEOZ Project of Corporations)", shall
be used by a company which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against the Kentucky corporation income tax liability.
(56) Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax
Credit Computation Schedule (For A KEOZ Project of a General Part-
nership)", shall be used by any general partnership which has entered
into a Kentucky Economic Opportunity Zone (KEOZ) Act project to
determine the credit allowed against the Kentucky income tax liabil-

(57) Revenue Form 41A720-S42, "Schedule KEOZ-T, Track-
ning Schedule for a KEOZ Project", shall be used by any company
which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and income tax credits for the duration of the agreement.
(58) Revenue Form 41A725, "Form 725, 2006 Kentucky Single
Member LLC Individually Owned Corporation Income Tax Return",
shall be used by a single member individually-owned LLC to file a
corporation tax return in accordance with KRS 141.040.
(59) Revenue Form 41A725CP, "Schedule CP Form 725, 2006
Kentucky Single Member LLC Individually Owned Composite Re-
turn Schedule", shall be used by a single member individual with
multiple LLC entities to file corporation tax returns in accordance with KRS 141.040.
(60) Revenue Form 41A725l, "Instructions, 2006 Kentucky
Single Member LLC Individually Owned Corporation Income Tax
Return", shall be used by single member LLC individually-owned to file a 2006 Kentucky corporation Income tax return and related schedules.
(61) Revenue Form 41A725KCR, "Schedule KCR (Form 725),
Kentucky Nexus Consolidated Return Schedule", shall be used by
a single member limited liability company individually owned and
filing a nexus consolidated return to show the income or loss com-
putation of each entity included in the nexus consolidated return.
(62) Revenue Form 41A725, KCR-C, "Schedule KCR-C (Form
725), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", shall be used as needed by a single member limited liability company and filing a Revenue Form 41A725KCR.
(63) Revenue Form 41A725NOL, "Schedule NOL (Form 720S,
725 or 765), Net Operating Loss Schedule Pass-Through Entities",
shall be filed by a corporation filing Form 720S, Form 725 or Form
765 and having a current year net operating loss or a net operating
loss carry forward.
(64) Revenue Form 41A725(P), "2006 Kentucky Single Mem-
ber LLC Individually Owned Corporation Income Tax Return Forms and Instructions", shall provide, in a single packet Form 725, Ken-
tucky Single Member LLC Individually Owned Corporation Income Tax Return, other forms commonly used by corporations in conjunc-
tion with Form 725, and Instructions for filing these forms. The
packet shall also contain a brochure entitled "Your Rights as a Ken-
tucky Taxpayer".

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(65) Revenue Form 41A750, "Business Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine the excise tax due in accordance with KRS 155.170.

(66) Revenue Form 41A765, "Form 785, 2006 Kentucky Partnership Income Tax Return, LLC, LLP, and LP Taxed as a Corporation", shall be used by a partnership organized as an LLC, LLP, or LP to file a corporation tax return in accordance with KRS 141.040.

(67) Revenue Form 41A765(l), "Instructions, 2006 Kentucky Partnership Income Tax Return (LLC, LLP, and LP Taxed as a Corporation)", shall be used by a partnership organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes. Instructions shall be included on the back of the form to assist the partner in preparing their Kentucky individual income tax return.

(68) Revenue Form 41A765(K-1), "Schedule K-1 (Form 785), 2006 Partner's Share of Income, Credits, Deductions, Etc.", shall be used by a partnership organized as a LLC, LLP, or LP to report to the partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes. Instructions shall be included on the back of the form to assist the partner in preparing their Kentucky individual income tax return.

(69) Revenue Form 41A765KCR-C, "Schedule KCR-C (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule", shall be used by an S corporation or partnership organized as an LLC, LLP, or LP to file a nexus consolidated return to show the income or loss of each entity included in the nexus consolidated return.

(70) Revenue Form 41A765KCR-C, "Schedule KCR-C (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule", shall be used by an S corporation or partnership organized as a LLC, LLP, or LP to file a nexus consolidated return to show the income or loss of each entity included in the nexus consolidated return.

(71) Revenue Form 41A765(P), "2006 Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax Return Forms and Instructions", shall provide in a single packet Form 765, 2006 Kentucky Partnership (LLC, LLP, or LP) Income Tax Return, Form 40A727, and Form 785, 2006 Kentucky Nexus Consolidated Return Schedule, and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".

(72) Revenue Form 41A851-K, "Form 851-K, Kentucky Affiliations and Payments Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Form 720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax being paid for each corporation if payment is being submitted by a single check.

(73) Revenue Form 41A851-N, "Form 851-N, Kentucky Affiliations and Payments Schedule (Form 720S, 725 or 765)", shall be used by a corporation filing Form 720S, Form 725 or Form 765 and filing a nexus consolidated return to be attached to the tax return filed by the parent entity. Revenue to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax being paid for each corporation if payment is being submitted by a single check.

(74) Revenue Form 42A799, "Kentucky Information Return", shall be used by a corporation, in accordance with KRS 141.150 and 103 KAR 19:030, to report distributions of assets as a result of dissolution or liquidation. A separate form shall be prepared for each payee and filed with the Department of Revenue, and a copy shall be provided to the payee.

(75) Revenue Form 42A799-S1, "Form 796, Annual Information Return", shall be used by a corporation, in accordance with KRS 141.150 and 103 KAR 19:030, to summarize the reports of distributions of assets as a result of dissolution or liquidation.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes" shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2006 Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) months extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A200 (PTE-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income", shall be used by a general partnership doing business in Kentucky to report the Kentucky income tax withheld on each nonresident individual partner whose net distributive share income is at least $1,000.

(5) Revenue Form 40A201 (740NP-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report", shall be used by a general partnership doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual partners.

(6) Revenue Form 40A727, "Kentucky Income Tax Forms Request", shall be used by a taxpayer or tax preparer to order individual income tax forms.

(7) Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", Instructions for employers containing forms used for withholding and reporting Kentucky income tax withholding.

(8) Revenue Form 42A003(T), "2007 Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees Kentucky income tax withholding each pay period.

(9) Revenue Form 42A740, "2006 Kentucky Individual Income Tax Return Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(10) Revenue Form 42A740-A, "Schedule A, Form 740, 2006 Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2006.

(11) Revenue Form 42A740ES, "2007 Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with quarterly estimated tax.

(12) Revenue Form 42A740-EZ, "2007 Kentucky Individual Income Tax Return for Single Persons with No Dependents", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(13) Revenue Form 42A740(I), "2006 Kentucky Individual Income Tax Instructions for Form 740 and 740EZ", shall be used by resident individuals to file the 2006 Kentucky Individual Tax Return and related schedules.

(14) Revenue Form 42A740-J (10-05), "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(15) Revenue Form 42A740-KNOI, "Schedule KNOI, 2006 Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(16) Revenue Form 42A740-M, "Schedule M, 2006 Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(17) Revenue Form 42A740-NP, "2006 Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(18) Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2006 Kentucky Schedule A Itemized Deductions", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2006.

(19) Revenue Form 42A740-NP-ME, "Schedule ME, 2006 Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2006.

(20) Revenue Form 42A740-NP(l), "Instructions for 2006 Kentucky Form 740-NP, Nonresident or Part-Year Resident Income
Tax Return*, shall be completed by nonresident or part-year resident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.


(22) Revenue Form 42A740-S10, "Instructions for 2006 Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", packet containing forms and instructions shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2006.

(23) Revenue Form 42A704-EX, "2006 Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", packet containing forms and instructions shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2006.

(24) Revenue Form 42A740-P, "Schedule P, Form 740, 2006 Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2006.

(25) Revenue Form 42A740-UTC, "Schedule UTC, Form 740 Unemployment Tax Credit", shall be completed by individuals and attached to Form 740, or Form 740-NP to provide the Department for Employment Services Certificate Numbers in support of credit claimed for hiring an unemployed person.

(26) Revenue Form 42A740-X, "Amended Kentucky Individual Income Tax Return for Tax Years 2005 and 2006", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return with tax years beginning in 2005 and 2006.

(27) Revenue Form 42A740-XP, "Amended Kentucky Individual Income Tax Return for Tax Years 2003 and 2004", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return with tax years beginning in 2003 and 2004.

(28) Revenue Form 42A740-S1, "Form 2210-K, 2006 Underpayment of Estimated Tax by Individuals", shall be filed by individuals to request a waiver of estimated tax penalty or to compute and self-assess an estimated tax penalty for tax year beginning in 2006.

(29) Revenue Form 42A740-S4, "2007 Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2007.

(30) Revenue Form 42A740-S18, "5882-K, 2006 Kentucky Passive Activity Loss Limitations", shall be completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(31) Revenue Form 42A740-S21, "4972-K, 2006 Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to their individual income tax return.

(32) Revenue Form 42A740-S22, "8453-K, 2006 Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(33) Revenue Form 42A740-S23, "740-V, 2006 Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(34) Revenue Form 42A740-S24, "8853-K, 2006 Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on their individual Kentucky income tax return.

(35) Revenue Form 42A741, "Form 741, 2006 Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax due to the trust and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(36) Revenue Form 42A741-D, "Schedule D, Form 741, 2006 Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(37) Revenue Form 42A741-I, "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2006 Form 741.

(38) Revenue Form 42A741-K-1, "Schedule K-1, Form 741, 2006 Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filled by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(39) Revenue Form 42A765-5P, "Form 765-5P, 2006 Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2006.

(40) Revenue Form 42A765-5P(), "Instructions, 2006 Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(41) Revenue Form 765-5P-K-1, "Kentucky Schedule K-1, Form 765-5P, 2006 Partner's Share of Income, Credits, Deductions, etc.", shall be filled by the general partnership with Form 765-5P to report each general partner's share of income, deductions, and credits.

(42) Revenue Form 765-5P-P, "2006 Kentucky General Partnership Income Return Forms and Instructions", shall provide in a single packet Form 765-5P, Kentucky General Partnership Tax Return. Other forms commonly used by general partnerships in conjunction with Form 765-5P and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".

(43) Revenue Form 42A765-S1, "2006 Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects. Instructions shall be included on the back of the form.

(44) Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(45) Revenue Form 42A801(D), "Form K-1, Amended Kentucky Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

(46) Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers who remit taxes withheld electronically to report wages and tax withheld for the filing period.

(47) Revenue Form 42A802, "W-2, 2006 Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2006.

(48) Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(49) Revenue Form 42A803(D), "Form K-3, Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconcile wages and taxes reported.

(50) Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfer", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(51) Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employer's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax withheld from wages each pay period.

(52) Revenue Form 42A804-A, "Form K-4A, Kentucky Revenue Cabinet Withholding Exemptions for Excess Itemized Deductions", shall be used by an employee to determine additional withholding exemptions.
(53) Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employers to inform employers of special tax exempt status.

(54) Revenue Form 42A806, "Transmitter Report for Filing Kentucky Wage Statements", shall be used by employers annually to submit Forms W-2/K-2 Wage and Tax Statements.

(55) Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employers working at Fort Campbell, Kentucky to inform employers of special tax exempt status.

(56) Revenue Form 42A808, "Authorization to Submit Employee's Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", shall be used by employers to request authorization to annually submit wages and tax statements via Kentucky Department of Revenue Web site.

(57) Revenue Form 42A809, "Certificate of Nonresidency", shall be completed by employees to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(58) Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", shall be used by individuals to submit sworn statement concerning residency status.

(59) Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(60) Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(61) Revenue Form 42A813, "KDJA Annual Report", shall be completed by employers to report KDJA employee wage assessment fee information to the Department of Revenue.

(62) Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(63) Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withheld tax paid.

(64) Revenue Form 42A816, "KEOZ Annual Report", shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(65) Revenue Form 42D003, "2006 Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wage and tax statements.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Corporation Income taxes - referenced material:
   1. Revenue Form 41A720, "Form 720, 2006 Kentucky Corporation Income Tax Return", 2006;
   4. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax Credit Biodiesel", October, 2006;
   5. Revenue Form 41A720BIO (K-1), "Schedule BIO (K-1), Distributive Share of Approved Biodiesel and/or Blended Biodiesel Tax Credit", October, 2006;
   6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October, 2006;
   7. Revenue Form 41A720-Cl, "Schedule Cl, Application for Coal Incentive Tax Credit", October, 2006;
   11. Revenue Form 41A720EZC, "Schedule EZC, Enterprise Zone Tax Credit", October, 2006;
   12. Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October, 2006;
   15. Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule Continuation Sheet", October, 2006;
   18. Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October, 2006;
   19. Revenue Form 41A720QR (K-1), "Schedule QR (K-1), Pro Rata/Distributive Share of Approved Qualified Research Facility Tax Credit", October, 2006;
   20. Revenue Form 41A720RC, "Schedule RC, Application for Income Tax Credit for Recycling and/or Composting Equipment or Major Recycling Project", October, 2006;
   21. Revenue Form 41A720RC(C), "Schedule RC - Part I Continuation", October, 2006;
   22. Revenue Form 41A720RC(I), "Instructions For Schedule RC", October, 2006;
   23. Revenue Form 41A720RC (K-1), "Schedule RC (K-1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", October, 2006;
   25. Revenue Form 41A720RC-R (K-1), "Schedule RC-R (K-1), Pro Rata/Distributive Share of Disposition of Recycling and/or Composting Equipment Tax Credit/Recapture", October, 2006;
   28. Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2006 Kentucky Shareholder's Share of Income, Credits, Deductions, Etc.", 2006;
   30. Revenue Form 41A720SP, "2006 Kentucky Corporation Income Tax Forms and Instructions", October, 2006;
   31. Revenue Form 41A720TCs, "Schedule TCS, Tax Credit Summary Schedule", October, 2006;
   32. Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", October, 2006;
   33. Revenue Form 41A720VERB (K-1), "Schedule VERB (K-1), Distributive Share of Approved Voluntary Environmental Remediation Tax Credit", October, 2006;
   34. Revenue Form 41A720VERB-S, "Schedule VERB-S, Voluntary Environmental Remediation Tax Credit (Brownfield) Expenditure Summary Schedule", October, 2006;
   35. Revenue Form 41A720AM, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", for periods beginning on or after January 1, 2005, November, 2006;
   36. Revenue Form 41A720AM, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return" for periods beginning prior to January 1, 2005, November, 2006;
   37. Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax return", for periods beginning on or after January 1, 2005, November, 2006;
   38. Revenue Form 41A720S-1, "Form 2220-K, Underpayment of Estimated Tax by Corporations", October, 2006;
   41. Revenue Form 41A720S-16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", October, 2006;
   42. Revenue Form 41A720S-17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October, 2006;
   43. Revenue Form 41A720S-18, "Schedule KREDA-SP, Tax
28. Revenue Form 42A740-S1, "Form 2210-K, Underpayment of Estimated Tax by Individuals", 2006;
29. Revenue Form 42A740-S4, "Instructions for Filing Estimated Tax Vouchers", October, 2006;
30. Revenue Form 42A740-S18, "Form 8582-K, Kentucky Passive Activity Loss Limitations", 2006;
31. Revenue Form 42A740-S21, "Form 4972-K, Kentucky Tax on Lump-Sum Distributions", 2006;
32. Revenue Form 42A740-S22, "Form 8453-K, Kentucky Individual Income Tax Declaration for Electronic Filing", 2006;
33. Revenue Form 42A740-S23, "Form 740-V, Kentucky Electronic Payment Voucher", 2006;
34. Revenue Form 42A740-S24, "Form 8863-K, Kentucky Education Tuition Tax Credit", 2006;
35. Revenue Form 42A741, "Form 741, 2006 Kentucky Fiduciary Income Tax Return", 2006;
37. Revenue Form 42A741-(G), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October, 2006;
38. Revenue Form 42A741-(K-1), "Schedule K-1, Form 741, 2006 Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2006;
40. Revenue Form 42A765-GP(G), "Instructions, 2006 Kentucky General Partnership Income Return", October, 2006;
41. Revenue Form 765-GP (K-1), "Kentucky Schedule K-1 Form 755-GP, 2006 Partner's Share of Income, Credits, Deductions, etc.", 2006;
42. Revenue Form 765-GP (K), "2006 Kentucky General Partnership Income Return Forms Instructions", 2006;
43. Revenue Form 42A785-S1, "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October, 2006;
44. Revenue Form 42A801, "Form K-1, Kentucky Employer's Return of Income Tax Withheld", February, 2004;
45. Revenue Form 42A801-D, "Form K-1, Amended Kentucky Employer's Return of Income Tax Withheld", August, 2006;
46. Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet Electronic Funds Transfer", February, 2004;
47. Revenue Form 42A802, "Form W-2, 2006 Wage and Tax Statement", 2006;
49. Revenue Form 42A803-D, "Form K-3, Amended Kentucky Employer's Return of Income Tax Withheld", August, 2006;
50. Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet Electronic Funds Transfer", February, 2001;
51. Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", April, 2005;
52. Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", August, 2006;
53. Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", April, 2006;
54. Revenue Form 42A806, "Transmitter Report for Filing Kentucky Wage Statements", October, 2004;
55. Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August, 2006;
56. Revenue Form 42A808, "Authorization to Submit Employee's Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March, 2006;
57. Revenue Form 42A809, "Certificate of Nonresidence", August, 2006;
58. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April, 1998;
59. Revenue Form 42A811, "KREDA Annual Report", November, 2006;
60. Revenue Form 42A812, "KIDA Annual Report", November, 2006;
61. Revenue Form 42A813, "KIDA Annual Report", November, 2006;
62. Revenue Form 42A814, "KIRA Annual Report", November, 2006;
63. Revenue Form 42A815, "Withholding Tax Refund Application", August, 2006;
64. Revenue Form 42A816, "KEOZ Annual Report", November, 2006; and

(1) This material must be inspected, copied or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 5 p.m.

JOHN P. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.
CONTACT PERSON: Gary Morris, Office of Income Taxation, Department of Revenue, 200 Fair Oaks, Station 51, Frankfort, Kentucky 40601, phone (502) 564-5485, fax (502) 564-3392.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Gary Morris, Office of Income Taxation

Provision of a brief summary of:

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting or estimating corporation tax, reporting or estimating individual tax, or withholding individual income tax for tax years beginning in 2006.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order to provide taxpayers necessary tax forms for reporting and paying their corporation, individual, and withholding taxes for tax years beginning in 2006.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe tax forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating forms by reference.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation prescribes forms to be used by taxpayers to report and pay corporation taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

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

List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual and corporate taxpayers are affected by this administrative regulation.

Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Individual and corporate taxpayers will use the forms contained in this administrative regulation to report, pay, and withhold taxes due pursuant to KRS Chapter 141 for tax years beginning in 2006.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The cost of filing tax returns contained in this administr-
tive regulation with the Commonwealth of Kentucky should be comparable to filing tax returns with surrounding states.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? The forms contained in this administrative regulation should simplify and expedite the reporting and paying of taxes required by KRS Chapter 141.

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

(a) Initially: The cost of printing and designing the forms.

(b) On a continuing basis: Forms are updated each year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Funds will be provided by the Department of Revenue.

(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 additional funding will be required to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied as the forms included in this administrative regulation apply to all taxpayers taxed pursuant to KRS Chapter 141.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Finance and Administration Cabinet, Department of Revenue.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS Chapter 131.130(3).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This administrative regulation will not increase revenues or expenses, but will expedite the collection of taxes provided by KRS Chapter 141.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No additional revenue will be collected as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

**STATEMENT OF EMERGENCY**

103 KAR 3:050E

This emergency administrative regulation is being promulgated in order to provide Kentucky taxpayers the forms and information necessary to comply with Kentucky tax laws. This administrative regulation must be filed as soon as possible in order to incorporate by reference such tax forms and instructions as may be needed by taxpayers and their representative to comply with Kentucky tax laws. An ordinary administrative regulation is not sufficient, be-

cause the public relies on these forms and instructions in order to make timely and accurate filing of tax returns and payment of the correct amount of tax due. This emergency administrative regulation shall be replaced by an ordinary administrative regulation which is being filed with the Regulations Compiler along with this emergency administrative regulation. The ordinary administrative regulation is identical to this emergency administrative regulation.

FINANCE AND ADMINISTRATION CABINET

Department of Revenue

(New Emergency Administrative Regulation)

103 KAR 3:050E. Miscellaneous Taxes Forms manual.


STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: February 1, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Taxes, Telecommunications Excise and Gross Revenues Tax, Severance Taxes, and Property Taxes.

Section 1. Alcoholic Beverage Tax. (1) Revenue Form 73AS04, "Acknowledgment of Tax Liability on Imported Alcoholic Beverages", shall be used by persons importing distilled spirits, wine and malt beverages into Kentucky through the United States Bureau of Customs for personal consumption in this state to acknowledge liability for the alcoholic beverage excise tax.

(2) Revenue Form 73AS25, "Monthly Report of Distillers, Rectifiers or Bottlers", shall be used by distillers, rectifiers, or bottlers of distilled spirits to report liability for distilled spirits excise tax and wholesale sales tax.

(3) Revenue Form 73AS26, "Wholesaler's Monthly Distilled Spirits Tax Report", shall be used by wholesalers of distilled spirits to report liability for distilled spirits excise tax, wholesale sales tax, and case sales tax.

(4) Revenue Form 73AS27, "Wholesaler's List of Individual Spirits Shipments Acquired", shall be used by wholesalers of distilled spirits to itemize monthly receipts of distilled spirits from all sources.
(5) Revenue Form 73A529, "Consignor's report of Alcoholic Beverages Shipped", shall be used by consignor of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(6) Revenue Form 73A530, "Consignor's Report of Alcoholic Beverages Shipped", shall be used by consignor of distilled spirits to report wine to report trafficking in alcoholic beverages during the previous month.

(7) Revenue Form 73A531, "Transporter's Report of Alcoholic Beverages Delivered", shall be used by transporters of distilled spirits, wine, and malt beverages to report shipments of alcoholic beverages delivered into the state during the previous month.

(8) Revenue Form 73A535, "Report on Destruction of Alcoholic Beverages", shall be used by governmental officials to certify quantities of tax-paid alcoholic beverages no longer suitable for consumption that are destroyed in the officials' presence.

(9) Revenue Form 73A575, "Wholesaler's Monthly Wine Tax Report", shall be used by wine wholesalers to report liability for wine excise tax and wine wholesale sales tax.

(10) Revenue Form 73A578, "Vintner's Wine Report", shall be used by vintners to report liability for wine excise tax and wine wholesale sales tax.

(11) Revenue Form 73A577, "Wholesaler's List of Individual Wine Shipments Acquired", shall be used by wine wholesalers to report shipments of wine received during the previous month.

(12) Revenue Form 73A626, "Brewer's Monthly Report Schedule", shall be used by brewers of malt beverages to report sales and contribution of malt beverages into Kentucky.

(13) Revenue Form 73A627, "Beer Distributor's Monthly Report", shall be used by beer distributors to report shipments of malt beverages received during the previous month.

(14) Revenue Form 73A628, "Distributor's Monthly Malt Beverage Excise Tax and Wholesale Sales Tax Report", shall be used by distributors of malt beverages to report liability for malt beverage excise tax and malt beverage wholesale sales tax.

(15) Revenue Form 73A629, "Beer Distributor's Sale to Federal Agencies", shall be used by beer distributors to report shipments of malt beverages to federal agencies.

Section 2. Bank Franchise Tax - Required Forms. (1) Revenue Form 73A800, "Kentucky Registration Application for Bank Franchise Tax", shall be used by financial institutions which are regularly engaged in business in Kentucky to register for the Kentucky Bank Franchise Tax.

(2) Revenue Form 73A801 (F), "2006 Kentucky Bank Franchise Tax Forms and Instructions Packet", shall be used by financial institutions to register for the Kentucky Bank Franchise Tax, to determine the net capital and annual tax due, and to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

(3) Revenue Form 73A801, "2006 Bank Franchise Tax Return", shall be used by financial institutions to determine the net capital and Kentucky Bank Franchise Tax due for the calendar year 2006.

(4) Revenue Form 73A802, "Application for Ninety (90) Day Extension of Time to File Kentucky Bank Franchise Tax Return", shall be used by financial institutions to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

Section 3. Cigarette Tax - Required Forms. (1) Revenue Form 73A181, "Cigarette Sales Application", shall be used by persons interested in acting as a cigarette wholesaler, subjobber, vending machine operator, transporter, or unclassified acquirer to apply for the necessary license.

(2) Revenue Form 73A190, "Cigarette License", shall be used by the Department of Revenue to give evidence to cigarette wholesalers, subjobbers, vending machine operators, transporters, and unclassified acquirers that they have been granted the appropriate license.

(3) Revenue Form 73A404, "Cigarette Stamps Order Form", shall be used by licensed cigarette wholesalers or unclassified acquirers to order cigarette tax stamps.

(4) Revenue Form 73A406, "Cigarette Tax Credit Certificate", shall be used by the Department of Revenue to give credit to a licensed cigarette wholesaler or unclassified acquirer for cigarette tax stamps returned or destroyed.

(5) Revenue Form 73A409, "Cigarette Evidence/Property Receipt", shall be used by compliance officers and the property owner to acknowledge custody of seized goods.

(6) Revenue Form 73A420, "Monthly Report of Cigarette Wholesaler", shall be used by a licensed cigarette wholesaler to report cigarette inventory, tax stamp reconciliation, and liability for cigarette administration and enforcement fee and to report cigarettes that were purchased from manufacturers and importers of cigarettes who did not sign the Master Settlement Agreement (non-participating manufacturers).

(7) Revenue Form 73A420(1), "Instructions for Monthly Report of Cigarette Wholesaler" shall be used by cigarette wholesalers and nonparticipating manufacturers to file Revenue Form 73A420.

(8) Revenue Form 73A421, "Cigarette Inventory Floor Tax", shall be used by cigarette retailers or licensees to report cigarette inventories and the one-time inventory floor tax.

(9) Revenue Form 73A422, "Monthly Report of Other Tobacco Products and Snuff", shall be used by cigarette licensees to report gross receipts from other tobacco products, total units of snuff sold, and tax liability.

(10) Revenue Form 73A423, "Monthly Report of Cigarette Papers", shall be used by vendors or wholesalers to file the taxes owed on rolling papers sold.

(11) Revenue Form 73B401, "Cigarette Tax Credit Claim Writsouled's Affidavit", shall be signed by a licensed cigarette wholesaler attesting that the reported tax evidence did/did not have the twenty-seven (27) cents surtax paid on it.

Section 4. Health Care Provider Tax. (1) Revenue Form 73A060, "Health Care Provider Tax Return" shall be used by taxpayers to file the gross revenues and compute the tax for the health care provider tax.

(2) Revenue Form 73A060(I), "Instructions-Kentucky Health Care Provider Tax Return" shall be used by the taxpayers to determine if the service they provide is taxable, what tax rate is applicable, and which line to use for reporting.

(3) Revenue Form 73A061, "Kentucky Health Care Provider Application for Certificate of Registration" shall be completed by the taxpayer to register for the health care provider tax.

Section 5. Inheritance Tax - Required Forms. (1) Revenue Form 92A120-S, "Inheritance and Estate Tax-Short Form" shall be used by the personal representative or beneficiary of a resident estate to establish the appropriate inheritance and estate tax due the Commonwealth.

(2) Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", shall be used by the personal representative or beneficiary of a resident estate to establish there is no inheritance and estate tax due the Commonwealth.

(3) Revenue Form 92A121, "Acceptance of Inheritance and Estate Tax Return", shall be sent by the inheritance and estate tax section to the personal representative or beneficiary of an estate to certify that all death taxes due the Commonwealth have been paid.

(4) Revenue Form 92A200, "Kentucky Inheritance and Estate Tax Return", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance and estate tax due the Commonwealth.

(5) Revenue Form 92A201, "Kentucky Inheritance Tax Return - No Tax Due", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish that there is no inheritance and estate tax due the Commonwealth.

(6) Revenue Form 92A202, "Kentucky Estate Tax Return", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the estate tax due the Commonwealth.

(7) Revenue Form 92A204, "Real Estate Valuation Information Form", shall be used by the personal representative or beneficiary of an estate to establish the taxable value of real estate for inheritance tax purposes.

(8) Revenue Form 92A205, "Kentucky Inheritance Tax Return (Simplified Format)" shall be used by the personal representative or beneficiary of a small or uncomplicated resident or nonresident
estate to establish the inheritance and estate tax due the Commonwealth.

(9) Revenue Form 92A926, "Notice of Benefits Paid by Employer/Insurance Company", shall be used by insurance companies to notify the Department of Revenue when proceeds of a life insurance policy are paid following a death.

(10) Revenue Form 92A926, "Evection to Defeat the Payment of Inheritance Tax through Installments", shall be used by the beneficiary or beneficiaries of an estate to defer the payment of inheritance tax through installments.

(11) Revenue Form 92A929, "Notice of Agricultural and Horticultural Inheritance Tax Lien", shall be used to request the county clerk place a lien on a particular piece of real estate due to the personal representative, on behalf of an estate, electing the use of agricultural or horticultural value.

(12) Revenue Form 92A930, "Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien", shall be used by the inheritance and estate tax section to request the county clerk release the five (5) year lien that guaranteed collection of tax if terms of agreement are not met or if the five (5) years has expired.

(13) Revenue Form 92A931, "Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien", shall be used by the inheritance and estate tax section to request the county clerk to do a partial release of the five (5) year lien that guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years has expired.

(14) Revenue Form 92A932, "Receipt of Inheritance and Estate Taxes", shall be given to the taxpayer when tax payment is received in the office.

(15) Revenue Form 92A936, "Election to Qualify Terminable Interest Property and/or Power of Appointment Property", shall be used by a personal representative or beneficiary to elect to qualify terminable interest property or power of appointment property if proper criteria exists.

(16) Revenue Form 92F001, "Blanket Lien Release", notice shall be used to access lock boxes without requiring written consent or presence of the Department of Revenue or local PVA official and provides a blanket lien release on all property owned by any decedent.

(17) Revenue Form 92F101, "A Guide to Kentucky Inheritance and Estate Taxes", shall be used by the general public for information purposes concerning Kentucky inheritance and estate tax.

Section 6. Insurance Tax - Required Forms. (1) Revenue Form 74A100, "Insurance Premiums Tax Return", shall be used by domestic and foreign life insurance companies, stock insurance companies other than life, and foreign mutual companies other than life to report liability for domestic and foreign life insurance tax, other life insurance tax, fire insurance tax and retaliatory taxes and fees.

(2) Revenue Form 74A101, "Insurance Tax Return - Domestic Mutual, Domestic Mutual Fire, or Cooperative and Assessment Fire Insurance Premiums Companies", shall be used by domestic mutual, domestic mutual fire or cooperative and assessment fire insurance companies to report liability for premiums tax on amounts paid to authorized and unauthorized reinsurance companies.

(3) Revenue Form 74A105, "Unauthorized Insurance Tax Return", shall be used by insurers not authorized to conduct business in the Commonwealth of Kentucky by the Department of insurance to report liability for insurance premiums tax.

(4) Revenue Form 74A106, "Insurance Premiums Tax Return - Captive Insurer", shall be completed by domestic and foreign insurance companies to report captive insurance tax.

(5) Revenue Form 74A110, "2007 Kentucky Estimated Insurance Premiums Tax", shall be used by insurance companies to remit estimated premiums tax payments.

(6) Revenue Form 74A116, "Tax Election for Domestic Life Insurance Companies", shall be used by domestic life insurance companies to make an irrevocable election to pay state capital and reserves tax, premiums tax, and the county and city capital and reserves tax or to pay state premiums tax and local government premiums tax.

(7) Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(8) Revenue Form 74A118, "Monthly Insurance Surcharge Report", shall be used by domestic, foreign and alien insurers, other than life and health insurers, to report liability for insurance premium surcharge.

Section 7. Legal Process - Required Forms. (1) Revenue Form 73A200, "County Clerk's Monthly Report of Legal Process Tax Receipts", shall be used by the county clerks to report the county's liability for the legal process tax and spouse abuse shelter fund.

(2) Revenue Form 73A201, "Quarterly Report of Affordable Housing Trust Fund Fee", shall be used by the county clerks to report the county's liability for the affordable housing trust fund fee.

Section 8. Marijuana and Controlled Substance - Required Forms. (1) Revenue Form 73A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", shall be used by the Kentucky Department of Revenue to provide persons ordering marijuana and controlled substance tax stamps with the appropriate instructions on affixing the stamps.

(2) Revenue Form 73A702, "Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax", shall be used by law enforcement officials to notify the Kentucky Department of Revenue and county clerk of the seizure of marijuana and other controlled substances.

(3) Revenue Form 73A703, "Marijuana or Controlled Substance Stamp Order Form", shall be used by taxpayers to order stamps for marijuana or controlled substances.

Section 9. Motor Fuels - Required Forms. (1) Revenue Form 72A404, "Motor Fuels Tax Watercraft Refund Bond", shall be used by approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the public boat dock refund applicant was entitled.

(2) Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", shall be used by a public boat dock to make application.

(3) Revenue Form 72A006, "Motor Fuel Tax Refund Application - Public Boat Dock", shall be used by a public boat dock refund applicant to make application for refund of liquid fuel tax on purchases of liquid fuel delivered directly to the fuel tanks attached to the watercraft and used exclusively in watercraft motors.

(4) Revenue Form 72A010, "Motor Fuel Tax Refund Permit Holder's Bond", shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the public boat dock refund applicant was entitled under KRS 138.344 to 138.335.

(5) Revenue Form 72A011, "Petroleum Storage Tank Environmental Assurance Fee Monthly Report", shall be used by licensed gasoline or special fuels dealers to report and remit monthly petroleum storage tank environmental assurance fee amounts due.

(6) Revenue Form 72A052, "Kentucky Motor Fuel Tax Refund Permit", shall be used by the Department of Revenue to issue Kentucky Motor Fuels Tax Refund Permits.

(7) Revenue Form 72A053-A, "Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels", shall be used by Kentucky Motor Fuels Tax Refund Permit holders to apply for refund of Kentucky motor fuel tax paid on nonhighway motor fuel.

(8) Revenue Form 72A005, "Aviation Gasoline Tax Refund Bond", shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the aviation gasoline refund applicant was entitled.

(9) Revenue Form 72A066, "Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft", shall be used by an aviation gasoline refund applicant to make application for refund of Kentucky tax paid on gasoline used in operation of aircraft.

(10) Revenue Form 72A067, "Application for Approval to Receive a Refund of Aviation Motor Fuels", shall be used by aviation
(11) Revenue Form 72A071, "Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicab)", shall be used by a surety company authorized to write such policies to establish surety obligation upon the payment to the Commonwealth of any refunds to which a city and suburban bus, nonprofit bus, senior citizen transportation or taxicab refund applicant was entitled.

(12) Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation and Taxicab Companies", shall be used by refund applicants to make application for a refund of tax on motor fuels consumed by city and suburban buses, nonprofit buses, senior citizen transportation, and taxicabs.

(13) Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicabs", shall be used by refund applicants to make application for approval to receive a refund of tax on motor fuels consumed by city and suburban buses, nonprofit buses, senior citizen transportation, and taxicabs.

(14) Revenue Form 72A075, "Receipts of Unreported Alcohol or Other Additives", shall be used by licensed gasoline dealers to report receipt of unreported alcohol or other additives.


(16) Revenue Form 72A078, "Statement of Claim for Accountable Loss of Motor Fuel", shall be used by licensed gasoline or special fuels dealers to make claim for accountable loss of motor fuel.

(17) Revenue Form 72A080, "Report of Gasoline Received from Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report gasoline received from licensed Kentucky dealers on the gasoline dealer's monthly report.

(18) Revenue Form 72A081, "Report of Gasoline Imported from Other States" shall be used by licensed gasoline dealers to report gasoline imported from other states, on the gasoline dealer's monthly report.

(19) Revenue Form 72A061-P, "Purchaser's Report Gasoline Imported Into Kentucky (Kentucky Tax Paid to Supplier)", shall be used by licensed gasoline dealers to report gasoline imported into Kentucky if the Kentucky tax was paid to the supplier, on the gasoline dealer's monthly report.

(20) Revenue Form 72A081-S, "Supplier's Report Gasoline Imported Into Kentucky (Kentucky Tax Paid by Supplier)", shall be used by licensed gasoline dealers to report gasoline imported into Kentucky if the Kentucky tax was paid by the supplier, on the gasoline dealer's monthly report.

(21) Revenue Form 72A082, "Report of Gasoline imported", shall be used by licensed gasoline dealers to report gasoline imported.

(22) Revenue Form 72A083, "Report of Gasoline Received from Terminal or Refinery", shall be used by licensed gasoline dealers to report gasoline received from terminal or refinery, on the licensed gasoline dealer's monthly report.

(23) Revenue Form 72A084, "Report of Gasoline Exported", shall be used by licensed gasoline dealers to report gasoline exported, on the gasoline dealer's monthly report.

(24) Revenue Form 72A085, "Report of Gasoline Sold to Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report gasoline sold to licensed Kentucky dealers, on the gasoline dealer's monthly report.

(25) Revenue Form 72A086, "Report of Gasoline Withdrawals from Terminal Storage", shall be used by licensed gasoline dealers to report gasoline withdrawals from terminal storage, on the gasoline dealer's monthly report.

(26) Revenue Form 72A087, "Report of Gasoline Withdrawals to Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report withdrawals of gasoline to licensed Kentucky dealers, on the gasoline dealer's monthly report.

(27) Revenue Form 72A088, "Report of Gasoline Withdrawals Exported or Sold for Export", shall be used by licensed gasoline dealers to report withdrawals of gasoline exported or sold for export, on the gasoline dealer's monthly report.

(28) Revenue Form 72A089, "Licensed Gasoline Dealer's Monthly Report", shall be used by licensed gasoline dealers to report and remit monthly gasoline tax.

(29) Revenue Form 72A090, "Gasoline Dealer's Monthly Terminal Storage Report", shall be used by licensed gasoline dealers to report monthly terminal storage activity, on the gasoline dealer's monthly report.

(30) Revenue Form 72A091, "Gasoline Schedule of Sales Qualifying for Agricultural Tax Credit", shall be used by gasoline dealers to claim a credit for gasoline sold for agricultural purposes to holders of Kentucky motor fuels tax refund permits.

(31) Revenue Form 72A098, "Transporter's Report of Motor Fuel Delivered", shall be used by licensed transporters to report monthly motor fuel deliveries.

(32) Revenue Form 72A103, "Licensed Gasoline Dealer's Estimated Tax Payment", shall be used by licensed gasoline dealers to report and remit estimated gasoline tax monthly payments.

(33) Revenue Form 72A107, "Licensed Special Fuels Dealer's Monthly Report of Special Fuels Sales to U.S. Government", shall be used by licensed special fuels dealers to report special fuels sales to U.S. government, on the special fuels dealer's monthly report.

(34) Revenue Form 72A110, "Certification of Motor Fuels Nonhighway Use", shall be used by qualifying entities to certify the nonhighway use of special fuels. The certification shall be maintained by the licensed special fuels dealer.

(35) Revenue Form 72A124, "Report of Kerosene and Other Receipts Received and Blended", shall be used by licensed special fuels dealers to report kerosene received and blended, on the licensed special fuels dealer's monthly report.

(36) Revenue Form 72A127, "Special Fuels Dealer's Schedule of Sales Qualifying for State or Local Government Agency Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to state or local government agencies for nonhighway special fuels use for a specific monthly period.

(37) Revenue Form 72A128, "Special Fuels Dealer's Schedule of Sales Qualifying for Nonprofit Religious, Charitable or Educational Organization Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to nonprofit religious, charitable or education organizations for nonhighway special fuels use for a specific monthly period.

(38) Revenue Form 72A129, "Special Fuels Schedule of Sales Qualifying for Commercial Off-Road Use Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels sold for commercial off-road use to holders of Kentucky motor fuels tax refund permits who issued to the dealer a Certification of Motor Fuels Nonhighway Use, Form 72A110.

(39) Revenue Form 72A131, "Special Fuels Schedule of Sales Qualifying for Agricultural Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to motor fuels tax refund permit holders for agricultural special fuels use for a specific monthly period.

(40) Revenue Form 72A132, "Special Fuels Schedule of Sales Qualifying for Residential Heating Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to consumers for heating a personal residence for a specific monthly period.

(41) Revenue Form 72A135, "Application for Kentucky Motor Fuels Tax Refund Permit", shall be used by a person desiring to qualify for a refund of motor fuel excise tax paid for nonhighway use.

(42) Revenue Form 72A138, "Licensed Special Fuels Dealer's Monthly Report", shall be used by a licensed special fuels dealer to report the total special fuels gallons received and distributed for a specific monthly period.

(43) Revenue Form 72A153, "Report of Special Fuels Received from Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to list every special fuels shipment originating in Kentucky from another licensed special fuels dealer for a specific monthly period.
(44) Revenue Form 72A154, "Report of Special Fuels Imported from Other States", shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state sources on which the Kentucky special fuels excise tax was not precollected by the supplier for a specific monthly period.

(45) Revenue Form 72A155, "Purchaser's Report Special Fuels Imported (Kentucky Tax Paid to Supplier)", shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state terminals on which the Kentucky special fuels excise tax was paid to the supplier for a specific monthly period.

(46) Revenue Form 72A154-S, "Supplier's Report Special Fuels Imported (Kentucky Tax Paid by Supplier)", shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state terminals on which the Kentucky special fuels excise tax was charged to the dealer's customer for a specific monthly period.

(47) Revenue Form 72A155, "Report of Special Fuels Exported or Sold for Export", shall be used by a licensed special fuels dealer to list every shipment exported to another state for a specific monthly period.

(48) Revenue Form 72A156, "Report of Special Fuels Sold to Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to report all special fuels shipments sold to other licensed special fuels dealers for a specific monthly period.

(49) Revenue Form 72A159, "Report of Special Fuels Sold for Exclusive Use by Railroad Companies for Nonhighway Purposes", shall be used by a licensed special fuels dealer to report all special fuels shipments sold to a valid Motor Fuels Tax Refund Permit holder for exclusive use by railroad companies for nonhighway purposes for a specific monthly period.

(50) Revenue Form 72A160, "Licensed Special Fuels Dealer's Estimated Tax Payment", shall be used by a licensed special fuels dealer to report the special fuels tax liability for a specific monthly period and calculate ninety-five (95) percent of the applicable tax due for remittance by the due date.

(51) Revenue Form 72A161, "Monthly Report Liquefied Petroleum Gas Dealer", shall be used by a licensed liquefied petroleum gas dealer to report all gallons of liquefied petroleum gas dispensed into the fuel tanks of licensed motor vehicles for a specific monthly period.

(52) Revenue Form 72A162, "Report of Liquefied Petroleum Gas Motor Fuels", shall be used by a licensed liquefied petroleum gas dealer to list every shipment of liquefied petroleum gas placed into the fuel tank of a licensed motor vehicle for a specific monthly period.

(53) Revenue Form 72A170, "Special Fuels Dealer's Monthly Terminal Storage Report", shall be used by a licensed special fuels dealer to summarize all Kentucky terminal receipt and disbursement activity for a specific monthly period.

(54) Revenue Form 72A171, "Report of Special Fuels Imported", shall be used by a licensed special fuels dealer to list all shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(55) Revenue Form 72A172, "Report of Special Fuels Received from Terminal or Refinery", shall be used by a licensed special fuels dealer to list all shipments received from other Kentucky terminals and placed into Kentucky terminal storage for a specific monthly period.

(56) Revenue Form 72A173, "Report of Special Fuels Withdrawals to Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to list all shipments withdrawn from other licensed special fuels dealers for a specific monthly period.

(57) Revenue Form 72A174, "Report of Special Fuels Withdrawals Exported or Sold for Export", shall be used by a licensed special fuels dealer to provide a list of every shipment withdrawn from terminal storage and exported to another state for a specific monthly period.

(58) Revenue Form 72A175, "Report of Special Fuels Withdrawals from Terminal Storage", shall be used by a licensed special fuels dealer to provide total gallon withdrawals from its terminal storage facility or facilities for a specific monthly period.

(59) Revenue Form 72A200, "Special Fuels Dealer's Schedule of Dyed Diesel Credits and Tax Due", shall be used by licensed special fuels dealers to report the total dyed diesel gallons received and distributed for a specific monthly period.

(60) Revenue Form 72A210, "Report of Dyed Diesel Received from Licensed Kentucky Dealers", shall be used by licensed special fuels dealer to list every dyed diesel shipment originating in Kentucky from another licensed special fuels dealer for a specific monthly period.

(61) Revenue Form 72A211, "Report of Dyed Diesel Imported from Other States", shall be used by licensed special fuels dealer to list all dyed diesel shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(62) Revenue Form 72A215, "Report of Kerosene and Other Unclassified and Blended with Diesel", shall be used by licensed special fuels dealers to report kerosene and any other receipts received or blended with dyed diesel.

(63) Revenue Form 72A220, "Dyed Diesel Monthly Terminal Storage Report", shall be used by licensed special fuels dealers to summarize all dyed diesel Kentucky terminal receipts and disbursements activity for a specific monthly period.

(64) Revenue Form 72A221, "Report of Dyed Diesel Imported", shall be used by licensed special fuels dealers to list all dyed diesel shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(65) Revenue Form 72A222, "Report of Dyed Diesel Received from Terminal or Refinery", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel received from a terminal or refinery located in Kentucky into terminal storage.

(66) Revenue Form 72A223, "Report of Dyed Diesel Withdrawals to Licensed Kentucky Dealers", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals from terminal storage going to licensed Kentucky dealers.

(67) Revenue Form 72A224, "Report of Dyed Diesel Withdrawals Exported or Sold for Export", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals either exported or sold for export from terminal storage.

(68) Revenue Form 72A225, "Report of Dyed Diesel Withdrawals from Terminal Storage", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals from terminal storage.

(69) Revenue Form 72A230, "Report of Dyed Diesel Exported or Sold for Export", shall be used by licensed special fuels dealers to report dyed diesel gallons exported or sold for export into another state.

(70) Revenue Form 72A231, "Report of Dyed Diesel Sold to Licensed Kentucky Dealers", shall be used by licensed special fuels dealers to report dyed diesel sold to licensed Kentucky dealers.

(71) Revenue Form 72A232, "Statement of Claim for Accountable Loss of Dyed Diesel", shall be used by licensed special fuels dealers to report approved accountable loss of dyed diesel gallons.

(72) Revenue Form 72A233, "Report of Dyed Diesel Sold for Exclusive Use by Railroad Companies for Nonhighway Purposes", shall be used by licensed special fuels dealers to report dyed diesel sold for exclusive use by railroad companies for nonhighway purposes.


(74) Revenue Form 72A240, "Special Fuels Dealer's Schedule of Dyed Diesel Sales Qualifying for Nonhighway Use Tax Credit", shall be used by licensed special fuels dealers to report dyed diesel sold for nonhighway use.

(75) Revenue Form 72A300, "Tax Registration Application for Motor Fuel License", shall be used by the applicant to register for a gasoline dealer's, special fuels dealer's, liquefied petroleum gas dealer's or motor fuel transporter's license.

(76) Revenue Form 72A301, "Motor Fuels License Bond", shall be executed by a corporation authorized to transact surety business in Kentucky on behalf of a licensee to insure payment of taxes, penalties, and interest for which a dealer or transporter may
become liable.

(77) Revenue Form 72A302, "Motor Fuels License", shall be used by the Department of Revenue to issue a license to the qualified applicant in gasoline, special fuels, motor fuels transporter, or liquefied petroleum gas dealer.

(78) Revenue Form 72A303, "Election Application/Cancellation Form", shall be used by gasoline and special fuels dealers to elect to pledge a financial instrument other than a corporate surety bond.

Section 10. Motor Vehicle Usage Tax - Required Forms. (1) Revenue Form 71A010, "Motor Vehicle Usage Tax-Vehicle Condition Refund Application", shall be used by a taxpayer to apply for a refund of motor vehicle usage tax paid under KRS 136.160(16) based on the condition of the vehicle.

(2) Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle", shall be presented to the county clerk to establish taxable value upon the first registration or transfer of a motor vehicle for motor vehicle usage tax purposes.

(3) Revenue Form 71A101, "Motor Vehicle Usage Tax Multi-purpose Form", shall be presented to the county clerk by a vehicle owner to:
   (a) Claim one (1) of several exemptions;
   (b) Establish "retail price" if prescribed by the department; or
   (c) Establish "retail price" of new vehicles with equipment or adaptive devices added to facilitate or accommodate handicapped persons.

(4) Revenue Form 71A102, "Questionnaire", shall be completed by selected motor vehicle buyers and sellers providing specific information regarding a vehicle transaction.

(5) Revenue Form 71A151, "Enterprise Zone Motor Vehicle Usage Tax Exemption Certification" shall be presented to the county clerk by a certified resident of an enterprise zone to claim exemption from the motor vehicle usage tax upon the first registration or transfer of a motor vehicle.

(6) Revenue Form 71A174, "County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report", shall be submitted to the Department of Revenue by a county clerk as a recapitulation form to list all motor vehicle usage tax receipts, adjusted for corrections and commissions for a given week.

(7) Revenue Form 71A174-A, "County Clerk's Recapitulation of Motor Vehicle Usage Tax - Intern Report", shall be submitted to the Department of Revenue by a county clerk to report motor vehicle usage tax collections if an extension of time to file the computer generated weekly recapitulation report is requested.

(8) Revenue Form 72A007, "Affidavit of Nonhighway Use", shall be used by taxpayers attesting that a motor vehicle will not be operated upon Kentucky's public highways.

(9) Revenue Form 73A054, "Kentucky Application For Dealer Loaner/Rental Vehicle Tax", shall be used by motor vehicle dealers to register to participate in the Loaner/Rental Vehicle Tax program.

(10) Revenue Form 73A055, "Monthly Report For Dealer Loaner/Rental Vehicle Tax", shall be used by motor vehicle dealers to report tax due on vehicles dedicated for use in the Loaner/Rental Vehicle Tax program.

(11) Revenue Form 73A070, "Motor Vehicle Usage Tax Request for Extension of Deposit/ACH Call-in", shall be used by county clerks for extension of ACH call-in deposits.

Section 11. Racing Taxes - Required Forms. Revenue Form 73A100, "Racetrack Par-Mutual and Admissions Report", shall be used by race tracks licensed by the Kentucky Racing Commission to report liability for the pari-mutuel tax and to report admissions to the race track.

Section 12. Transient Room Tax - Required Forms. Revenue Form 73A850, "Transient Room Tax Monthly Return", shall be used by all persons, companies, corporations, groups or organizations doing business as motor courts, motels, hotels, inns, tourist camps, or like or similar accommodations businesses (excluding campgrounds) to report the taxable rent amount and transient room tax liability.

Section 13. Utility Gross Receipts License Tax - Required Forms. (1) Revenue Form 73A900, "Utility Gross Receipts License Tax Application", shall be used by utility service providers, consumers, and Energy Direct Pay (EDP) account holders to apply for a utility gross receipts license tax account number.

(2) Revenue Form 73A901, "Utility Gross Receipts License Tax Return", shall be used by UGRRL account number holders to report total gross receipts, school district allocation, and tax liability.

(3) Revenue Form 73A901(i), "Instructions for Utility Gross Receipts License Tax Return", shall be used by UGRRL account number holders to complete the Utility Gross Receipts License Tax Return.

(4) Revenue Form 73A902, "Utility Gross Receipts License Tax (UGRL) Energy Exemption Annual Return", shall be used by UGRRL account number holders to apply for an exemption from the utility gross receipts license tax.

(5) Revenue Form 73A902-V, "Kentucky Utility Gross Receipts License Tax Payment Voucher", shall be used by UGRRL account number holders to remit payment of the utility gross receipts license tax.

Section 14. Waste Tire Tax - Required Form. Revenue Form 73A051, "Motor Vehicle Tire Fee Report", shall be used by businesses making retail sales of new motor vehicle tires to report liability for motor vehicle tire fees and to report the number of waste tires received from customers.

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

(a) Alcoholic beverage tax - referenced material:

- Revenue Form 73A628, "Distributor's Monthly Malt Beverage Excise Tax and Wholesale Sales Tax Report", November, 2006, and

(b) Bank franchise tax - referenced material.


(c) Cigarettes tax - referenced material:

- Revenue Form 73A181, "Cigarette Licenses and Other Tobacco Product Account Number Application", December, 2006.
- Revenue Form 73A190, "Cigarette License", April, 1988.
- Revenue Form 73A404, "Cigarette Tax Stamps Order
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Form*, November, 2005;
4. Revenue Form 73A406, "Cigarette Tax Credit Certificate", May, 2005;
5. Revenue Form 73A409, "Cigarette Evidence/Property Receipt", November, 2003;
8. Revenue Form 73A421, "Cigarette Inventory Floor Tax", May, 2005;
10. Revenue Form 73A423, "Monthly Report of Cigarette Papers", June, 2006; and
11. Revenue Form 73B401, "Cigarette Tax Credit Claim Wholesaler's Affidavit", November, 2006;
(d) Health care provider tax - referenced material:
1. Revenue Form 73A060, "Health Care Provider Tax Return", July, 2005;
2. Revenue Form 73A060(1), "Instructions - Kentucky Health Care Provider Application for Certificate of Registration", December, 2006;
(e) Inheritance tax - referenced material:
1. Revenue Form 92A120-S, "Inheritance and Estate Tax Return-Short Form", May, 1995;
2. Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", October, 1992;
5. Revenue Form 92A201, "Kentucky Inheritance Tax Return No Tax Due", July, 2003;
7. Revenue Form 92A204, "Real Estate Valuation Information Form", July, 2003;
8. Revenue Form 92A205, "Kentucky Inheritance Tax Return (Simplified Format)", July, 2003;
12. Revenue Form 92A301, "Certificate of Payment of the Agricultural and Horticultural Inheritance Tax Lien", July, 1983;
13. Revenue Form 92A332, "Receipt of Inheritance and Estate Taxes", December, 1984;
14. Revenue Form 92A336, "Election to Qualify Terrestrial Interest Property and/or Power of Appointment Property", May, 1995;
15. Revenue Form 92F001, "Blanket Lien Release", July, 2003; and
(f) Insurance tax - referenced material:
1. Revenue Form 74A100, "Insurance Premiums Tax Return", November, 2005;
5. Revenue Form 74A110, "2007 Kentucky Estimated Insurance Premiums Tax", November, 2006;
7. Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurers", July, 2000, and
(g) Legal process - referenced material:
1. Revenue Form 75A200, "County Clerk's Monthly Report of Legal Process Tax Receipts", November, 2006; and
2. Revenue Form 75A201, "Quarterly Report of Affordable Housing Trust Fund Fee", June, 2006;
(h) Marijuana and controlled substance - referenced material:
1. Revenue Form 75A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", November, 2006;
2. Revenue Form 75A702, "Notice of Tax Lien KRS 138 870 Marijuana and Controlled Substance Tax", June, 2001; and
3. Revenue Form 75A703, "Marijuana or Controlled Substance Stamp Order Form", November, 2006;
(i) Motor fuels - referenced material:
1. Revenue Form 72A004, "Motor Fuels Tax Watercraft Refund Bond", August, 2006;
2. Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", August, 2006;
6. Revenue Form 72A052, "Kentucky Motor Fuels Tax Refund Permit", August, 2006;
10. Revenue Form 72A067, "Application for Approval to Receive a Refund of Aviation Motor Fuels", August, 2006;
11. Revenue Form 72A071, "Motor Fuels Tax Refund Bond - City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs", October, 2005;
12. Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation and Taxicab Companies", August, 2005;
13. Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicabs", October, 2006;
14. Revenue Form 72A075, "Receipts of Unreported Alcohol or Other Additives", August, 2005;
17. Revenue Form 72A080, "Report of Gasoline Received From Licensed Kentucky Dealers", October, 2006;
18. Revenue Form 72A081, "Report of Gasoline Imported from Other States", October, 2006;
22. Revenue Form 72A083, "Report of Gasoline Received from Terminal or Refinery", October, 2006;
3. Revenue Form 73A901, "Instructions for Utility Gross Receipts License Tax Return", January, 2006;
5. Revenue Form 73A902-V, "Kentucky Utility Gross Receipts License Tax Payment Voucher", August, 2005; and
6. Revenue Form 73F010, "Utility Gross Receipts License Tax", March, 2005; and

(m) Waste tire tax - referenced material:

(2) This material may be Inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.
CONTACT PERSON: Richard Dobson, Executive Director, Office of Sales and Excise Taxes, Department of Revenue, Finance and Administration Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-5523, fax (502) 564-2906

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Richard Dobson, Executive Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues Tax, Severance Taxes and Property Taxes.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS 13A.110 which requires that forms that require to be submitted by a regulated entity shall be included in an administrative regulation.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues Tax, Severance Taxes and Property Taxes.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms administered by the Department of Revenue used in the administration of miscellaneous taxes other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues Tax, Severance Taxes and Property Taxes.

(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: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation or enforcement of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. All entities identified in question (3) shall use the forms listed in this regulation for tax compliance purposes.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3) None of the entities identified in question (3) will incur additional costs as the result of this regulation.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Consistency in compliance with the statutes.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue, Office of Sales and Excise Taxes, Division of Miscellaneous Taxes, Road Fund Branch, Miscellaneous Tax Branch, Motor Vehicle Usage Tax Section, Motor Fuels Tax Audit Section, Motor Fuels Tax Compliance, Finance Tax Section, and the Excise Tax Section. The section level shall be responsible for creation and updating of forms.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 131.130(1)
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No change
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No change
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No change.
(c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the Department.
(d) How much will it cost to administer this program for subsequent years? The same administrative cost will be absorbed in the normal operating budget of the Department.

Note: If specific dollar estimates cannot be determined, provide
a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):  
Expenditures (+/-):  
Other Explanation:

STATEMENT OF EMERGENCY  
803 KAR 2:308E

This emergency administrative regulation requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, the regulation must be amended to include revisions made to 29 C.F.R. 1910.134, Respiratory Protection. This emergency administrative regulation also updates the regulation to meet KRS Chapter 13A considerations. It is necessary to promulgate this emergency administrative regulation in order to comply with 29 C.F.R. Part 1953 which requires that Kentucky's occupational safety and health program to be at least as effective as the Occupational Safety and Health Administration's program. 29 C.F.R. Part 1953 requires that Kentucky adopt changes to 29 C.F.R. 1910.1001, 1910.1017, 1910.1018, 1910.1027, 1910.1024, 1910.1029, 1910.1043, 1910.1045, 1910.1047, 1910.1048, and 1910.1052, no later than February 24, 2007. In order to allow the employers affected by this regulation time to familiarize themselves with the new provisions, this emergency administrative regulation will not go into effect and will not be enforced until February 24, 2007. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be identical to and will be filed simultaneously with this emergency administrative regulation.

ERNIE FLETCHER, Governor  
LLOYD CRESS, Deputy Secretary  
For TERESA HILL, Secretary  
PHILLIP J. ANDERSON, Chairman  

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET  
Department of Labor  
Office of Occupational Safety and Health  
(Emergency Amendment)

803 KAR 2:308E.  
Personal protective equipment.

RELATES TO: KRS Chapter 338, 29 C.F.R. Part 1910  
STATUTORY AUTHORITY: KRS 338.051(3), 338.061[-29 C.F.R. Part 1910]  
EFFECTIVE: February 15, 2007  
NECESSITY, FUNCTION, AND CONFORMITY: [EO-2004-731, effective July 9, 2004], created the Environmental and Public Protection Cabinet, abolished the Labor Cabinet, and created the Department of Labor within the Environmental and Public Protection Cabinet. [KRS 338.051(3) authorizes the Kentucky Occupational Safety and Health Standards Board to adopt occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. [KRS 338.061(3) provides that the board may incorporate by reference established federal standards and national consensus standards.] The following administrative regulation establishes the personal protective equipment [contains those] standards to be enforced by the Office [Division] of Occupational Safety and Health [Commission] in the area of general industry.

Section 1. Definitions. (1) "Employee" is defined in KRS 338.015(2),  
(2) "Employer" is defined in KRS 338.015(1),  
(3) "Established federal standard" is defined in KRS 338.015(10),  
(4) "National consensus standard" is defined in KRS 338.015(9),  
(5) "Standard" is defined in KRS 338.015(3).

(6) "U.S. Department of Labor" means Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. (1) Until midnight of February 23, 2007, general industry shall comply with the following provisions of this sub-section, except as modified by the definitions in Section 1 of this administrative regulation [follow the federal regulations incorporated by reference in Section 3 of this administrative regulation as modified by the definitions in Section 1 of this administrative regulation].

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:


(b) [The Revision to 29 C.F.R. 1910.134, "Respiratory Protection" and Appendix A to 29 C.F.R. 1910.134, revised as of [as published in the] August 4, 2004[-Federal Register, Volume 69, Number 140]]

(2) Beginning February 24, 2007, general industry shall comply with the personal protective equipment requirements established in 29 C.F.R. 1910.132 - 1910.138, revised as of August 24, 2006, except as modified by the definitions in Section 1 of this administrative regulation. [This material may be inspected, copied, or obtained pursuant to a copyright waiver from the Kentucky Department of Labor, Division of Education and Training, 1047 U.S. 427 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.]

(3) This material may also be obtained from the Office of the Federal Register, National Archives and Records Services, General Services Administration.

LLOYD R. CRESS, Deputy Secretary  
For TERESA J. HILL, Secretary  
PHILIP J. ANDERSON, Chairman  
APPROVED BY AGENCY: February 6, 2007

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David Stumbo  
(1) Provide a brief summary of:  
(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, the regulation must be amended to include revisions to 29 C.F.R. 1910.134, Respiratory Protection. The revisions to 29 C.F.R. 1910.134 add definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) for respiratory protection selection and use. The revisions also supersede the respirator selection provisions of existing substance-specific standards with these new APFs to the following standards, all adopted in Kentucky under 803 KAR 2:320: 29 C.F.R. 1910.101, Asbestos; 1910.1017, Vinyl Chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride. OSHA issued a major revision of to 1910.134, on January 8, 1998. The standard contains work-specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the Agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation

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studies, workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the filters that APFs and MUCs are necessary to protect employees who must use respirators against airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological contaminants. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. Because respirators do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

The agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. By superseding the APF tables, the Agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

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1910.134 add definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) for respiratory protection selection and use. The revisions also supersede the respirator selection provisions of existing substance specific standards with these new APFs to the following standards, all adopted in Kentucky under 903 KAR 2:320: 29 C.F.R. 1910.101. Asbestos; 1910.1017, Vinyl Chloride; 1910.1018, Inorganic Arsenic;1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride. OSHA issued a major revision of to 1910.134, on January 6, 1998. The standard contains workers specific requirements for proper program administration, program training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the Agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies, workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators against airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological contaminants. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. Because respirators do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the Agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program. As a result of this administrative regulation the process by which employers and employees select and use respiratory protection against airborne contaminants will be made more simple and uniform because of the APFs and MUCs provided by these revisions to 29 C.F.R. 1910.134, Respiratory Protection. In addition, harmonizing the APFs of OSHA's substance specific standards with the APFs in 1910.134 will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. 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 administrative regulation requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, the regulation must be amended to include revisions made to 29 C.F.R. 1910.134, Respiratory Protection. The revisions to 29 C.F.R.
program. As a result of this administrative regulation the process by which employers and employees select and use respiratory protection against airborne contaminants will be made more simple and uniform because of the APFs and MUCs provided by these revisions to 29 C.F.R. 1910.134. Respiratory Protection. In addition, harmonizing the APFs of OSHA's substance specific standards with the APFs in 1910.134 will reduce confusion among the regulated community and aid in the uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(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 private and public sector employers. In the Commonwealth engaged in general industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1910.134, Respiratory Protection.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(a) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Pub.L. 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards:

Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2.308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program as mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2.308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government which conducts general industry operations covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1910.134, Respiratory Protection.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. Part 1953.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
(c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.6 million. The Agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or organizations, or state and local governments are not available.
(d) How much will it cost to administer this program for subsequent years? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.6 million. The Agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or organizations, or state and local governments are not available.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

5. Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.6 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or organizations, or state and local governments are not available.

Other explanation: N/A

STATEMENT OF EMERGENCY

803 KAR 2:320E

This emergency administrative regulation, in Section 6, requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1910.1000 through 1910.150. The amendment of this regulation is necessary in order to adopt changes made by the Occupational Safety and Health Administration to 29 C.F.R. 1910.1001, 1910.1017, 1910.1018, 1910.1027, 1910.1028, 1910.1029, 1910.1043, 1910.1045, 1910.1047, 1910.1048, and 1910.1052, regarding assigned protection factors and maximum use concentrations for respiratory protection equipment, as published in the August 24, 2006, Federal Register. This emergency administrative regulation also updates the regulation to meet KRS Chapter 13A considerations. It is necessary to promulgate this emergency administrative regulation in order to comply with 29 C.F.R. Part 1953 which requires Kentucky's occupational safety and health program to be at least as effective as the Occupational Safety and Health Administration's program. 29 C.F.R. Part 1953 requires that Kentucky adopt these standards not later than February 24, 2007. In order to provide the employers affected by this regulation time to familiarize themselves with the new provisions, this emergency administrative regulation will not go into effect and will not be enforced until February 24, 2007. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be identical to and will be filed simultaneously with this emergency administrative regulation.

ERNIE FLETCHER, Governor
LOYD CRESS, Deputy Secretary
For TERESA HILL, Secretary
PHILLIP J. ANDERSON, Chairman

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Emergency Amendment)

803 KAR 2:320E. Toxic and hazardous substances.

STATUTORY AUTHORITY: KRS 338.051(3), 338.061
EFFECTIVE: February 15, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. KRS 338.061(4) authorizes the board to adopt established federal standards and national consensus standards. 29 C.F.R. 1910.1000 to 1910.1450 establish federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Office of Occupational Safety and Health [Compliance] in the area of general industry.

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a mono disperse aerosol of three-tenths (.3) mu particles.
(2) "Area director" means Executive Director, Office of Occupational Safety and Health, Kentucky Department of Labor.
(3) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.
(4) "Authorized employee" means an employee whose duties require him to be in the regulated area and who has been specifically assigned to that area by the employer.
(5) "Clean change room" means a room where employees put on cleaning or protective equipment in an environment free of 4,4'-Methylene bis (2-chloroaniline).
(6) "Closed system" means an operation involving 4, 4'-Methylene bis (2-chloroaniline) if containment prevents the release of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, non-regulated areas, or the external environment.
(7) "Decontamination" means the inactivation of 4,4'-Methylene bis (2-chloroaniline) or its safe disposal.
(8) "Director" means the Director, National Institute for Occupational Safety and Health, or any person directed by him or the Secretary of Health, Education, and Welfare to act for the director.
(9) "Disposal" means the safe removal of 4,4'-Methylene bis (2-chloroaniline) from the work environment.
(10) "Emergency" means an unforeseen circumstance or set of circumstances resulting in the release of 4,4'-Methylene bis (2-chloroaniline) which may result in exposure to or contact with 4,4'-Methylene bis (2-chloroaniline).
(11) "External environment" means any environment external to regulated and nonregulated areas.

(12) "Employee" is defined in KRS 338.015(2).

(13) "Employer" is defined in KRS 338.015(1).

(14) "Established federal standard" is defined in KRS 338.015(10).

(15) "Isolated system" means a fully enclosed structure, other than the vessel of containment, of 4,4'-Methylene bis (2-chloroaniline), which is impervious to the passage of entry of 4,4'-Methylene bis (2-chloroaniline), and which would prevent the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, or the external environment, if leakage or spillage from the vessel of containment occurs.

(16) "Laboratory type hood" means a device:
(a) Enclosed on three (3) sides with the top and bottom designed and maintained to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; and
(b) Designed, constructed, and maintained so that an operation involving 4,4'-Methylene bis (2-chloroaniline) within the hood does not require the insertion of any portion of an employee's body other than his hands and arms.

(17) "National consensus standard" is defined in KRS 338.015(9).

(18) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(19) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(20) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(21) "Regulated area" means an area where entry and exit is restricted and controlled.

(22) "Standard" is defined in KRS 338.015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to trans-shipment in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than 1.0 (one percent) by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. Those areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only; and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply:

1. Access shall be restricted to authorized employees only.
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.
3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.
4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator affording a higher level of protection may be substituted.
5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.
6. Employees shall be required to wash hands, forearms, face, and neck on each exit from the regulated area, close to the point of exit and before engaging in other activities.
7. Employees shall be required to shower after the last exit of the day.
8. Drinking fountains shall be prohibited in the regulated area.
9. Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall:

1. Be provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;
2. Be decontaminated before removing the protective garments and hood;

3. Be required to shower upon removing the protective garments and hood.

(f) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.

4. Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.

6. Employees engaged in animal support activities shall be:

a. Provided with, and required to wear, a complete protective clothing attire, including overalls or pants and shirt, long-sleeved shirt and pants, shoe covers, head covers, and appropriate respiratory protective equipment or devices; and
b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in
Impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.

7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and properly dispose of protective clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section, and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.

8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay studies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall be no connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section; and

6. Work areas where spillage may be spilled shall be:

a. Covered daily or after any spill with a clean covering; and

b. Cleaned thoroughly daily and after any spill.

(3) General regulated area requirements.

(a) Employee identification. A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.
employees other than authorized employees or employees trained in accordance with paragraph (e) of this subsection shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in subsection (1)(a) of this section.

2. Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

3. Containers which have 4,4′-Methylene bis (2-chloroaniline) contents with corrosive or limiting properties shall have label statements warning of the hazards, and noting, if appropriate, particularly sensitive or affected portions of the body.

4. Containers which have 4,4′-Methylene bis (2-chloroaniline) contents with corrosive or limiting properties shall have label statements warning of the hazards, and noting, if appropriate, particularly sensitive or affected portions of the body.

(c) Lettering.
(1) Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

(2) Labels on containers required by paragraph (b) of this subsection shall:
   a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and
   b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction which contracts or detracts from the effect of any required warning, information, or instruction.

(e) Training and Indocuration.
1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:
   a. The nature of the carcinogenic hazards of 4,4′-Methylene bis (2-chloroaniline), including local and systemic toxicity;
   b. The specific nature of the operation involving 4,4′-Methylene bis (2-chloroaniline) which could result in exposure;
   c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;
   d. The purpose for and application of decontamination practices and procedures;
   e. The purpose for and significance of emergency practices and procedures;
   f. The employee's specific role in emergency procedures;
   g. Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4,4′-Methylene bis (2-chloroaniline); and
   h. The purpose for and application of specific first-aid procedures and practices.

2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.

3. Specific emergency procedures shall be prescribed and posted, and employees shall be familiarized with their terms, and rehearsed in their application.

4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(f) Records.
1. All records should be made available to the nearest OSHA Area Director. Any change in the reported information shall be similarly reported in writing within fifteen (15) calendar days of the change. The report shall contain the following information:
   a. A brief description and in planta location of the areas regulated and the address of each regulated area;
   b. The names and other identifying information as to the presence of 4,4′-Methylene bis (2-chloroaniline) in each regulated area;
   c. The number of employees in each regulated area, during normal operations including maintenance activities; and
   d. The manner in which 4,4′-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.

2. Incidents. Incidents which result in the release of 4,4′-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.

   a. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employees, shall be made within twenty-four (24) hours to the nearest OSHA Area Director.

   b. A written report shall be filed with the nearest OSHA Area Director within fifteen (15) calendar days of the initial report and shall include:
      a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;
      b. A description of the area involved, and the extent of known and possible employee and area contamination;
      c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and
      d. An analysis of the steps to be taken, with specific completion dates, to avoid further similar releases.

3. Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas and for authorized employees.

   a. Examinations.
      1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.

      2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.

      3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.

   b. Records.
      1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.

      2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.

      3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016.

1. Mechanical pipetting aids shall be used for all pipetting procedures.

2. Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

3. Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled shall be protected from contamination.

4. Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that no carcagnific products are released.

5. All other forms of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be inactivated prior to disposal.

6. Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

7. Employees engaged in animal support activities shall be:
Provided with and required to wear, a complete protective clothing change, clean each day, including coveralls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices; (b) Prior to each exit from a regulated area, required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under Section 24(b), (c), and (d) of this administrative regulation; (c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit; and before engaging in animal activities; and (d) Required to shower after the last exit of the day. (8) Employees, except for those engaged only in animal support activities, each day shall be: (a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat; (b) Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under Section 24(b), (c), and (d) of this administrative regulation; and (c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities. (9) Air pressure in laboratory areas, and animal rooms where chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled and biosafety studies are performed shall be negative in relation to the pressure in surrounding areas. Exhaust air shall not be discharged to regulated areas, nonregulated areas or the external environment unless it is decontaminated. (10) There shall not be a connection between regulated areas and any other areas through the ventilation system. (11) A current inventory of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be maintained. (12) Ventilated apparatus such as laboratory-type hoods shall be tested at least semi-annually or immediately after ventilation modification or maintenance operations, by personnel fully qualified to certify correct containment and operation. Section 4. Access to Exposure or Medical Records. (1) The language relating to the access to exposure or medical records in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1020(a)(1)(iii). (2) If an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not longer than fifteen (15) days after the request for access is made unless sufficient reason is given why that time is unreasonable or impractical. (3) The language relating to the access to exposure or medical records in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.1020(a)(1)(ii). (4) An employee or designated representative requests a copy of a record, the employer shall, except as specified in 29 C.F.R. 1910.1020(a)(1)(ii) of this subsection, within the period of time previously specified assure that either: (a) A copy of the record is provided without cost to the employee or representative; (b) The necessary mechanical copying facilities (e.g., photocopying) are made available without cost to the employee or representative for copying the record; or (c) The record is loaned to the employee or representative for a reasonable time to enable a copy to be made. Section 5. (1) The language relating to gloves in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.1030(d)(3)(i); (2) Gloves shall be worn if it can be reasonably anticipated that the employees may have hand contact with blood, other potentially infectious materials, mucus membranes, and nonintact skin if performing vascular access procedures or if handling or touching contaminated items or surfaces.
Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA’s. Consequently, the state must amend its regulation no later than February 24, 2007. In order to meet this requirement. Pursuant to KRS 358.051(9), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.117, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylenedichloride, as published in the August 24, 2006, Federal Register were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1910.1001, Asbestos; 1910.117, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylenedichloride, will be harmonized with those found under Kentucky’s Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in the uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

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

(a) How the change will change this existing administrative regulation: This administrative regulation, in Section 6, requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.1000 through 1910.1450. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, Section 6 must be amended to include revisions made to the following OSHA standards: 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylenedichloride. These revisions have been made in conjunction with OSHA’s revision to 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 6, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Therefore, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies, workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect themselves from air-borne contaminants. Kentucky’s workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who maintain employee protection under Kentucky’s Respiratory Protection standard, at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 358.051(9), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.117, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylenedichloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1910.1001, Asbestos; 1910.117, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylenedichloride, will be harmonized with those found under Kentucky’s Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in the uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(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 private and public sector employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338 and whose em-
employees must use respiratory protection equipment as required by one or more of the following regulations: 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1026, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyline Chloride.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or state and local governments are not available.

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON


2. State compliance standards. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 338.051(3), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1026, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyline Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 338.051(3), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1026, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyline Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government engaged in general industry operations covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by one or more of the following regulations: 29
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4. Establish whether the nonpowered air-purifying respirator regulation that requires or authorizes the acts taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. 1553.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(d) How much will it cost to administer this program for subsequent years? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

4. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Other explanation: NA

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Emergency Amendment)

803 KAR 2:403E. Occupational health and environmental controls.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926.50-1926.66

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

EFFECTIVE: February 7, 2006

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.50 to 1926.66 establish the federal requirements relating to occupational health and environmental controls. This administrative regulation establishes the occupational health and environmental control standards to be enforced by the Office of Occupational Safety and Health [Gasoline] in the area of construction.

Section 1. Definitions. (1) "Assistant secretary" means Commissioner of Labor, Kentucky Department of Labor.

(2) "Director" means Executive Director, Office of Occupational Safety and Health, Kentucky Department of Labor.

(5) "U.S. Department of Labor" means Kentucky Department of Labor or U.S. Department of Labor.

Section 2. (1) Until midnight of February 23, 2007, the construction industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. 1926.50 through 1926.66, revised as of July 1, 2006, as amended by the definitions established in Section 1 of this administrative regulation.

(2) Beginning February 24, 2007, the construction industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. 1926.50 through 1926.66 revised as of August 23, 2005, as amended by the definitions established in Section 1 of this administrative regulation.

LLOYD C. GRESS, Deputy Secretary
For TERESA HILL, Secretary
PHILIP P. ANDERSON, Chairman

APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 15, 2007 at noon

CONTACT PERSON: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. Hwy 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1932.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David Stumbo

(1) Provide a brief summary of.
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(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the requirements of 29 C.F.R. 1926.50 through 1926.66. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, this regulation must be amended to include changes to 1926.50, Methyleneedianilnine, and 1926.62, Lead. These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA has proposed guidelines for the use of APFs and MUCs to which employees must be exposed. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFS and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has considered that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees from exposure to the associated hazards. In addition, the agency believes that harmonizing the APFs of the substance specific standard with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administration is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. 1953. Pursuant to KRS 338.051(3), the revisions to 29 C.F.R. 1926.50, Methyleneedianilnine, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the underlying statute: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.60, Methyleneedianilnine, and 1926.62, Lead, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF 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: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the requirements of 29 C.F.R. 1926.50 through 1926.66. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, this regulation must be amended to include changes to 1926.50, Methyleneedianilnine, and 1926.62, Lead. These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees from exposure to the associated hazards. In addition, the agency believes that harmonizing the APFs of the substance specific standard with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administration is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 338.051(3), the revisions to 29 C.F.R. 1926.50, Methyleneedianilnine, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(3) If this is a proposed or adopted rule, provide a brief summary of:

(a) A proposal to change an existing administrative rule: This proposal will change the existing administrative regulation to include changes to 1926.50, Methyleneedianilnine, and 1926.62, Lead. These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administration is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this proposed or adopted rule to the administration of this particular statute: This proposed or adopted rule is necessary to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 338.051(3), the revisions to 29 C.F.R. 1926.50, Methyleneedianilnine, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.
lished in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.62, Methyleneedianiline, and 1926.62, Lead, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(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 private and public sector employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead.

(c) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will be required to select and use the appropriate respiratory protection equipment as determined by the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: Public Law 91-556, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1910.134.

2. State compliance standards: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Whether the administrative regulation imposes or authorizes additional or different requirements: The administrative regulations do not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Any other information deemed necessary: The administrative regulations do not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including
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In the August 24, 2006, Federal Register, this emergency administrative regulation also updates the regulation to meet KRS Chapter 13A considerations. It is necessary to promulgate this emergency administrative regulation in order to comply with 29 C.F.R. Part 1953 which requires that Kentucky’s occupational safety and health program be at least as effective as the Occupational Safety and Health Administration’s program. 29 C.F.R. Part 1953 requires that Kentucky adopt the changes to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium no later than February 24, 2007. In order to provide the employers affected by this regulation time to familiarize themselves with the new provisions, this emergency administrative regulation will not go into effect and will not be enforced until February 24, 2007. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be identical to and will be filed simultaneously with this emergency administrative regulation.

ERNIE FLETCHER, Governor
LLOYD CRESS, Deputy Secretary
Veronica HILL, Secretary
PHILIP J. ANDERSON, Chairman

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health

RELEAS TO KRS 338.051, 338.061, 29 C F.R. 1926.1101 - 1926.1152

STATUTORY AUTHORITY: KRS 338.05(3), 338.061

EFFECTIVE: February 15, 2007

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.05(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.1101 to 1926.1152 establish the federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Office of Occupational Safety and Health, Division of Compliance in the construction industry.

Section 1. (1) Until midnight of February 23, 2007, the construction industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. 1926.1101 through 1926.1152, revised as of July 1, 2006.

(2) Beginning February 24, 2007, the construction industry shall comply with the occupational health and environmental controls requirements, established at 1926.1101 through 1926.1152, revised as of August 24, 2006.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
PHILIP J. ANDERSON, Chairman

APPROVED BY AGENCY: February 6, 2007

FILED WITH LRC: February 15, 2007 at noon

CONTACT PERSON: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1692.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the requirements of 29 C.F.R. 1926.1101 through 1926.1152. The amendment of this regulation is necessary in order to adopt changes made by the Occupational Safety and Health Administration to 1926.1101, Asbestos, and 1926.1127, Cadmium, regarding assigned protection factors and maximum use concentrations for respiratory protection equipment, as published
1926.1101, Asbestos, and 1926.1127, Cadmium. These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued major revisions to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which creative controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse health effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance-specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maximizing employee protection at levels of protection that are representative of the potential for adverse health effects caused by exposure to respiratory hazards. The agency has defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance-specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maximizing employee protection at levels of protection that are representative of the potential for adverse health effects caused by exposure to respiratory hazards. The agency has defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance-specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maximizing employee protection at levels of protection that are representative of the potential for adverse health effects caused by exposure to respiratory hazards.
izing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(4) How the amendment will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, will be harmonized with those carried under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(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 private and public sector employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium.

(4) Provide an analysis of how the entries identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take in compliance with this administrative regulation or amendment: Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with the administrative regulation or amendment, how much will it cost each of the entities identified in question (3): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,916 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than those now using at a cost of $1.1 million. The agency estimated that 22,846 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,916 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.1 million. The agency estimated that 22,846 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,916 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than those now using at a cost of $1.1 million. The agency estimated that 22,846 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government
(including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government engaged in construction industry activities covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. 1953.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(d) How much will it cost to administer this program for subsequent years? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Other explanation:

STATEMENT OF EMERGENCY
803 KAR 2:500E

This emergency administrative regulation requires employers in the maritime industry to comply with 29 C.F.R. Part 1915, "Occupational Safety and Health Standards for Shipyard Employment," Part 1917, "Marine Terminals," Part 1918, "Longshoring," and Part 1913, "Gear Certification." The amendment of Section 2 is necessary in order to adopt changes made by the Occupational Safety and Health Administration to Part 1915 regarding respiratory protection and fire protection in shipyards. This emergency administrative regulation also updates the regulation to meet KRS Chapter 13A considerations. It is necessary to promulgate this emergency administrative regulation in order to comply with 29 C.F.R. Part 1953 which requires that Kentucky's occupational safety and health program be at least as effective as the Occupational Safety and Health Administration's program. 29 C.F.R. Part 1953 requires that Kentucky's occupational safety and health program adopt the change to Part 1915 relative to respiratory protection no later than February 24, 2007, and the change relative to fire protection in shipyard employment no later than July 3, 2007. In order to provide the employers affected by this regulation time to familiarize themselves with the new provisions, the respiratory protection portion of this emergency administrative regulation will not go into effect and will not be enforced until February 24, 2007, and the fire protection in shipyard employment portion will not go into effect and will not be enforced until July 3, 2007. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be identical to and will be filed simultaneously with this emergency administrative regulation.

ERNIE FLETCHER, Governor
LOYD CRESS, Deputy Secretary
For TERESA HILL, Secretary
PHILLIP J. ANDERSON, Chairman

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Emergency Amendment)

803 KAR 2:500E. Maritime employment.

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1915, 1917, 1918, 1919
STATUTORY AUTHORITY: KRS 338.051(3), 338.061
EFFECTIVE: February 15, 2007
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R. Parts 1915, 1917, 1918, and 1919 establish federal requirements relating to maritime employment. This administrative regulation establishes maritime employment standards to be enforced by the Office of Occupational Safety and Health in the maritime industry.

Section 1. Definitions. (1) "Administration" means the Kentucky Office of Occupational Safety and Health, Frankfort, Kentucky.
(2) "Assistant secretary" means Commissioner of Labor, Kentucky Department of Labor.
(3) "Employee" is defined in KRS 338.015(2).
(4) "Employer" is defined in KRS 338.015(1).
(5) "U.S. Department of Labor" means Kentucky Department of Labor or U.S. Department of Labor.

Section 2. Except as modified by the definitions established in Section 1 of this administrative regulation, the maritime industry shall comply with the following subsections:
(1) Until midnight of February 23, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established in 29 C.F.R. Part 1915, revised as of July 1, 2006, relating to occupational safety and health standards for shipyard employment;
(2) Beginning February 24, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established in 29 C.F.R. Part 1915 revised as of August 24, 2006, and relating to occupational safety and health standards for shipyard employment;
(3) Beginning July 3, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established in 29 C.F.R. Part 1915 revised as of October 24, 2006, and relating to occupational safety and health standards for shipyard employment;
(4) 29 C.F.R. Part 1917, revised as of July 1, 2006, relating to maritime terminals;
(5)(a) 29 C.F.R. Part 1918, revised as of July 1, 2006, relating to safety and health regulations for longshoring; and
(6)(a) 29 C.F.R. Part 1919, revised as of July 1, 2006, relating to [safety and health relate to] gear certification.

LLOYD R. CRESS
For TERESA J. HILL, Secretary
PHILIP J. ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 15, 2006 at noon
CONTACT PERSON: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 11, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1682.

REGULATORY ANALYSIS AND TIERING STATEMENT
Contact person: David Stumbo

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation, in Section 2, requires employers covered by KRS Chapter 338 and engaged in maritime industry operations to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 must be amended to include two district regulatory changes made by the Occupational Safety and Health Administration (OSHA). The first, published in the August 24, 2006, Federal Register, made changes to 29 C.F.R. 1915.1001, Asbestos. In regard to respiratory protection assigned protection factors (APFs) and maximum use concentrations (MUCs). The second, published in the October 17, 2006 Federal Register, and then confirmed in the January 3, 2007, Federal Register, Involved the updating of national consensus standards in OSHA’s standards for fire protection in shipyard employment. The OSHA standards affected by the second change are as follows: 1915.5, Incorporation by reference, 1915.507, Fire response, 1915.507, Land-side fire protection system. The first revision has been made in conjunction with OSHA’s revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for APFs and MUCs, relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. In doing so, OSHA issued a major revision to its Respiratory Protection standard, 29 C.F.R. 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further regulations. The final APFs and MUCs have been updated after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection using APFs and MUCs is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employers who must use respirators to protect them from airborne contaminants. Kentucky’s workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the respirator protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The second major revision stems from a new fire protection rule for shipyard employment promulgated by OSHA on September 15, 2004, that incorporated by reference 19 National Fire Protection Association (NFPA) standards. Ten of those NFPA standards had been updated by NFPA since the fire protection rule was proposed and an additional NFPA standard has been updated since the final rule was published. In this action, OSHA replaced the references to those eleven NFPA standards by adding the most recent versions. The changes to the NFPA standards include: Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services—NFPA 1981-2002 has been revised to add requirements for heads-up displays (HUD) that provide the user of a self-contained breathing apparatus (SCBA) with information regarding breathing air supply status, alert the user when the breathing air supply is at 50 percent of full, and, where the HUD is powered by battery power source, warn the user when the HUD only has 2 more hours of battery power. The updated standard also includes new requirements for a Rich Inert Air Connection (RICIAC) on NFPA 1981-2002. The RICIAC is a standard connection device that allows a rescue breathing air supply to be joined to the SCBA of a victim, fire fighter or emergency services responder to replenish the breathing air in the SCBA breathing air cylinder when the victim cannot be rapidly moved to a safe atmosphere. Standard for Low-, Medium-, and High-Expansion Foam—NFPA 11-2006 has been revised to combine the older NFPA 11 low-expansion foam system requirements with the older NFPA 11A medium- and high-expansion foam provisions. Standard for Portable Fire Extinguishers—NFPA 10-2002 has been revised to prohibit "extended wand-type" discharge devices on Class K—fire extinguishers manufactured after 01/01/2002. The new version of NFPA 10 allows the use of electronic equipment to monitor the status of portable fire extinguishers an alternative that may be more effective and efficient than manual monitoring. National Fire Alarm Code—NFPA 72-2002 has been updated to revise fire alarm power supply requirements, to improve the survivability of fire alarms from attack by fire, and to improve the "supervising stations" used in larger fire alarm systems. Standard for the Installation of Sprinkler Systems—NFPA 13-2006 has added updated sprinkler requirements found in other NFPA standards, to include criteria for solid shelf storage areas, and to make the standard easier for users to reference. The remaining NFPA standards have been updated to make minor technical and editorial changes and to improve readability by formatting them into a standard layout. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1553 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1553. Pursuant to KRS 338.051(5), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chair of the Kentucky Occupational Safety and Health Standards Board, in order to meet the Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA’s standards for fire protection were adopted by the Commissioner of Labor in his capacity as Chair of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

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(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1915.1001, Asbestos, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining existing levels of protection at least as protective as the existing APF requirements. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA’s standards for fire protection will update the incorporations by reference to national consensus standards in these standards to the latest versions of the NFPA standards. OSHA found that the latest versions are as protective on the whole, and in certain ways more protective, than the earlier versions of the same NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing.

In addition to this existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation, in Section 2, requires employers covered by KRS Chapter 338 and engaged in maritime industry operations to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 must be amended to include two new paragraphs which provide new requirements for APFs and MUCs, relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. In doing so, OSHA issued a major revision to its Respiratory Protection standard, 29 C.F.R. 1910.134, on January 6, 1993. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection using APFs and MUCs is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky’s workers use respirators as a means of protection against respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final APFs and MUCs, OSHA defined the level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employees under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The second major revision stems from a new fire protection rule incorporated by reference in the October 3, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA’s standards for fire protection will update the incorporations by reference to national consensus standards to the latest NFPA standards. OSHA found that the latest versions are as protective on the whole, and in certain ways more protective, than the earlier versions of the same NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing.

(b) The necessity of the amendment to this administrative regulation: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the commissioner in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board,
in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA standards for fire protection that were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statues of KRS 333 and 336. The amendment will assist in the effective administration of the statues: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1915.1001, Asbestos, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA’s standards for fire protection will update the incorporations by reference to national consensus standards in these standards to the latest versions of the NFPA standards. OSHA found that the latest versions are as protective on the whole, and in certain ways more protective, than the earlier versions of the same NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing.

(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 public sector employers in the Commonwealth engaged in maritime industry activities covered by KRS Chapter 336.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including

(a) The actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation, or amendment: Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed. Also, employers will be required to comply with the most recent versions of the following NFPA standards: NFPA 1981-2002 Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services, NFPA 10-2002 Standard for Portable Fire Extinguishers, NFPA 72-2002 National Fire Alarm Code, NFPA 14-2003 Standard for the Installation of Standpipe and Hose Systems, NFPA 13-2002 Standard for the Installation of Sprinklers, NFPA 750-2003 Standard on Water Mist Fire Protection Systems, NFPA 11-2005 Standard for Low-, Medium-, and High-Expansion Foam, NFPA 12A-2004 Standard on Haion 1301, Fire Extinguishing Systems, NFPA 2001-2004 Standard on Clean Agent, Fire Extinguishing Systems, NFPA 12-2005 Standard on Carbon Dioxide Extinguishing Systems.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Regarding respiratory protection APFs and MUCs, OSHA provided in the August 24, 2006, Federal Register, that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade their respirators more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity."

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity."

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity."

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not the administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 336 are treated equally.
FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-595, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1922.11. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1959 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953.

Pursuant to KRS 359.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA's standards for fire protection were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

2. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 359.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA's standards for fire protection were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 359.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA's standards for fire protection were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different responsibilities or requirements than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government engaged in maritime industry operations covered by KRS Chapter 338.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338 051, 338 061, 29 C.F.R. 1953.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

(c) How much will it cost to administer this program for the first year? Cannot be determined.

(d) How much will it cost to administer this program for subsequent years? Cannot be determined.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenses (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators to a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that "The rulemaking would impose no additional costs on any private or public sector entity."

Other explanation:
GOVERNOR'S OFFICE OF AGRICULTURAL POLICY
(As Amended at ARRS, February 12, 2007)

10 KAR 2:020. Disbursement of monies from the Kentucky Agricultural Development Fund.

STATUTORY AUTHORITY: KRS 248.709(8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 248.709(8) requires [authorizes] the Kentucky Agricultural Development Board to promulgate administrative regulations relating to the Tobacco Master Settlement Agreement. This administrative regulation provides for the investment of a certain portion of the Agricultural Development Fund by establishing procedures for the submission of proposals to the Agricultural Development Board or to a county agricultural development council for grants from the Agricultural Development Fund.

Section 1. Definitions. (1) "Board" is defined in KRS 248.701(1).
(2) "County council" means a county agricultural development council.
(3) "Fund" is defined in KRS 248.701(2).

Section 2. Application for State Agricultural Development Funds. (1) To apply for agricultural development funds earmarked for state projects, an applicant shall submit a completed Application for Agricultural Development Funds [Applications for agricultural development funds earmarked for state projects shall be submitted] to the Kentucky Agricultural Development Board. Upon receipt, the board shall review and consider the applications on a monthly [quarterly] basis using the criteria [guidelines] established in KRS 248.711.
(a) Proposals submitted by March 1 shall be reviewed during the board's April meeting;
(b) Proposals submitted by June 1 shall be reviewed during the board's July meeting;
(c) Proposals submitted by September 1 shall be reviewed during the board's October meeting; and
(d) Proposals submitted by December 1 shall be reviewed at the board's January meeting.
(2) The board may make final funding determinations or refer applications for further review during each of its monthly [quarterly] meetings. The board may award funds on a disbursement schedule negotiated between the board and the project applicants.

Section 3. Application for County Agricultural Development Funds. (1) To apply for agricultural development funds earmarked for individual counties, an applicant shall submit a completed Application for Agricultural Development Funds [Applications for agricultural development funds earmarked for individual counties shall be submitted] to the particular county agricultural development council in the same manner in which applications for agricultural development funds earmarked for state projects are submitted to the Kentucky Agricultural Development Board.
(2) County councils shall [may] review applications for funds earmarked for individual counties to determine if the application conforms to the priorities established in the particular county council's comprehensive plan as defined in KRS 248.709(5). A county council electing to review an application shall [should] prioritize the application and then submit the application to the board for review and consideration. County councils shall submit applications to the board no later than the first day of each month in order to be reviewed by the board at its regularly-scheduled monthly meeting following submission of the proposal by a county council.
(3) The board may make final funding determinations or refer applications for further review during each of its monthly meetings. The board may award funds on a disbursement schedule negotiated between the board and the project applicants.

Section 4. Combined Grants. If a proposed project makes a regional investment appropriate, applicants may simultaneously submit applications for funds to more than one (1) county council, or to a county council or councils and the board. Applications for combined grants shall follow the procedure applicable to each particular county council or to the board. The final determination regarding the project shall be made by the board. Applications for combined grants submitted more than the first day of each month shall be reviewed by the board at its regularly-scheduled monthly meeting following submission of the proposal.

Section 5. Grant Award. (1) Determinations on project proposals submitted to the board shall be communicated to project applicants within thirty (30) days of the board's determination.
(2) Determinations on county council recommendations submitted to the board shall be communicated to project applicants and the county council or councils involved within thirty (30) days of the board's determination.
(3) Following determination and notification, the board shall require successful applicants to enter into negotiated legal agreements [deemed necessary by the board] in order to ensure proper measures of accountability for use of the public funds held in the Agricultural Development Fund.

Section 6. Reporting. (1) All successful applicants shall be required to provide an annual Programmatic Update Report on project progress to the board. The first annual report shall be [is] due twelve (12) months from the date the grant is first issued.
(2) The board shall require the successful applicant, as part of the negotiated terms of the legal agreement, to provide quarterly or monthly progress reports, financial reports, or both, to the board [All successful applicants shall be required to provide quarterly progress reports to the board. If county funds are involved, successful applicants shall be required to provide quarterly progress reports to the relevant county council]. [Quarterly reports are due every ninety (90) days from the date the grant is first issued.]

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference.
(a) Application for Agricultural Development Funds, edition 4/01 and
(b) Programmatic Update Report, February 2007.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Governor's Office of Agricultural Policy, 404 Ann Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

KEITH L. ROGERS, Executive Director
APPROVED BY AGENCY: November 6, 2006
FILED WITH LRC: November 7, 2006 at 11 a.m.
CONTACT PERSON: Keith L. Rogers, Executive Director, Governor's Office of Agricultural Policy, 404 Ann Street, Frankfort, Kentucky 40601, phone (502) 564-4627, fax (502) 564-8990.

- 2926 -
VOLUME 33, NUMBER 9 – MARCH 1, 2007

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY
Division of Student and Administrative Services
(As Amended at ARRS, February 12, 2007)

11 KAR 5:200. Go Higher Grant Program.

RELATES TO: KRS 164.744(2), [-]-164.753(4), 164.7535, 164.780, 164.785
STATUTORY AUTHORITY: KRS 164.746(6), 164.748(4),
164.7535
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.748(4) requires KHEAA to promulgate administrative regulations pertaining to the awarding of grants, scholarships, and honorary scholarships as provided in KRS 164.740 to 164.7891 [766]. This administrative regulation establishes application procedures and selection criteria for the administration of the Go Higher Grant Program.

Section 1. Definitions. (1) "Demonstrated financial need" means documented eligibility to receive federal Pell Grant funds.
(2) "Eligible Institution" is defined by KRS 164.740(3).
(3) "Eligible student" is defined by KRS 164.740(5), [means one who has satisfied the eligibility criteria established in Section 2 of this administrative regulation.]
(4) "Eligible Institution" means, unless otherwise specified in this chapter, any institution of higher education designated as an institution of higher education pursuant to Section 102 of the federal act, 20 U.S.C. sec. 1002, as eligible to participate in and that actively participates in the Federal Pell Grant Program as defined in KRS 164.740(3).
(5) "Demonstrated financial need" means documented eligibility to receive Federal Pell Grant funds.
(6) "Half-time enrollment" means enrollment in a minimum of six (6) hours of course work.

Section 2. Eligibility Criteria. In order to be eligible to receive grant funds under this program, an individual shall:
(1) Be age twenty-four (24) or older by July 1 prior to the start of the first term during which the award will be used;
(2) Be enrolled at an eligible institution;
(3) Meet at least two of the following criteria:
   (a) Have enrollment of less than half-time during the first semester in which the grant is awarded;
   (b) Have not been previously enrolled in a postsecondary institution;
   (c) Have demonstrated financial need;
   (d) Be a Kentucky resident;
   (e) Be a U.S. citizen, national, or permanent resident; or
   (f) Have not been convicted of a felony.

Section 3. Application Procedure. (1) In order for an eligible student to be considered for an award under this program, the student shall complete:
   (a) The Go Higher Grant Program Application available through the Authority; and
   (b) The Free Application for Federal Student Aid (FAFSA) as required by [set forth in 11 KAR 4 080, Section 2]
(2) The priority deadline for applications shall be July 1. [However, applications shall [continue to] be accepted after that date with awards made until funds are exhausted.

Section 4. Awards. (1) An eligible student recipient shall receive an award under this program for only one (1) academic year.
(2) The maximum award amount under this program shall be $1,000 per recipient.
(3) The dollar amount of the award under this program for the first semester of the recipient's enrollment shall be equal to:
   (a) The cost of tuition at the participating institution, not to exceed the maximum award amount; and
   (b) A book allowance of fifty (50) dollars per credit hour of enrollment, not to exceed the maximum award amount.
(4) The dollar amount of the award under this program for the second semester of the recipient's enrollment, if any, shall be equal to the difference between the maximum award amount under this pro-
Section 4. Types of Deferrals. If the requirements established in this section are met, the authority shall [may] grant an enrollment deferment, disability deferment, unemployment deferment, hardship deferment, or qualified teaching service deferment.

(1) Enrollment deferment
(a) An enrollment deferment shall be a deferment granted to a recipient who is enrolled on at least a half-time basis at an eligible institution in the United States.

(b) Each semester, the recipient shall provide to the authority evidence of the enrollment on the "Teacher Scholarship Program Request for School Enrollment Deferral" form.

(c) The authority shall [may] grant deferment of repayment upon the basis for a period not to exceed an aggregate of either:
1. Forty-eight (48) months for a recipient enrolled in a baccalaureate degree program; or
2. Sixty (60) months for a recipient enrolled in a graduate program.

(2) The authority shall [may] grant deferment of repayment for periods not to exceed an aggregate of thirty-six (36) months for any one (1) or combination of the following circumstances, except as limited in paragraph (b) of this subsection or if a documented extenuating circumstance is approved by the executive director of the authority:
(a) Disability deferment
1. A disability deferment shall be a deferment granted to a recipient who is:
   a. Temporarily totally disabled and, therefore, unable to obtain full-time employment or attend school; or
   b. Unable to obtain full-time employment or attend school due to the temporary total disability of the recipient's spouse who:
      (i) Requires continuous (twenty-four (24) hour) nursing or similar care by the recipient, and
      (ii) Is not confined to a hospital, nursing home, intermediate care facility, or similar institution.

2. For purposes of a disability deferment, a recipient, or the spouse of a recipient, shall be considered temporarily totally disabled if the person suffers an injury or illness which necessitates an extended or indefinite period of recovery which can be expected to prejudice gainful employment or school attendance.

3. The recipient shall provide to the authority a statement from a licensed physician certifying that the recipient or spouse is temporarily totally disabled in accordance with subparagraphs 1 and 2 of this paragraph. The recipient shall be solely responsible for securing the physician's certification.

4. The authority shall [may] grant a disability deferment subject to an annual review of the [the] physician's certification.

5. After the third year of a disability deferment, the authority may cancel the debt if it appears that the disability is expected to continue for an indefinite time.

(b) Unemployment deferment. A recipient seeking, but unable to obtain, a qualified teaching service position within six (6) months following completion of a teacher education program at a participating institution shall [may] be granted a deferment not to exceed an aggregate of one (1) year. The recipient shall:
1. Be eligible to begin the Kentucky Teacher Internship Program established in KRS 161.030(5) and 16 KAR 7:010.
2. Have applied for a qualified teaching service position with at least three (3) state-accredited school districts.
3. Not have refused an offer of employment in a qualified teaching service position in the state-accredited school districts in any other state-accredited school district in which the recipient may have applied; and
4. Provide the authority with a signed statement which sets forth:
   a. The recipient's current address;
   b. The names of state-accredited school districts to which the recipient has applied for qualified teaching service employment; and
   c. The recipient's agreement to notify the authority if the recipient obtains full-time employment in a qualified teaching service position.

(c) Hardship deferment. The authority shall [may] determine that a hardship exists and grant a hardship deferment if:
1. Enrollment in a teacher education program or employment in
a qualified teaching service position is temporarily interrupted due to circumstances beyond the recipient’s control, including a serious illness, accident or death in the family, after which the recipient intends to resume the enrollment or qualified teaching position; or

2. The recipient is insolvent due to circumstances beyond his control, including natural disaster, involuntary unemployment, or unforeseen medical expenses.

(3) Qualified teaching service deferment.

(a) A deferral shall [may] be granted to a recipient who, due to current employment in a qualified teaching service position, may reasonably be expected, solely with the passage of six (6) months or less time, to qualify for cancellation benefits pursuant to 11 KAR 8 020.

(b) The authority shall [may] grant a deferment of the obligation to repay the teacher scholarship during the period of time in which the recipient is making payments or performing qualified teaching service for another program if:
   1. The recipient received loans or scholarships from more than one (1) program that:
      a. Is administered by the authority; and
      b. Required a period of qualified teaching service for repayment or cancellation; and
   2. The recipient is either:
      a. Obligated to concurrently make cash payments on the teacher scholarship and other program; or
      b. Performing qualified teaching service to fulfill the other program’s requirements. [The authority may extend a deferment of the obligation to repay the teacher scholarship during the period of time in which the recipient is making payments or performing qualified teaching service for another program if:
         1. The recipient received loans or scholarships from more than one (1) program that:
            a. Is administered by the authority; and
            b. Required a period of qualified teaching service for repayment or cancellation; and
         2. The recipient is either:
            a. Obligated to concurrently make cash payments on the teacher scholarship and other program; or
            b. Performing qualified teaching service to fulfill the other program’s requirements if a recipient has received loans or scholarships from more than one (1) program administered by the authority, which require a period of qualified teaching service for repayment or cancellation, and the recipient is either:
               1. Obligated to concurrently make cash payments on the teacher scholarship and another such program, or
               2. Performing qualified teaching service to fulfill the requirements of another such program, then a deferral of repayment of the teacher scholarship paid during the period in which the recipient is making payments or performing qualified teaching service in accordance with the requirements of the other program.

Section 5. Incorporation by reference. (1) The following material is incorporated by reference:
   (a) “Teacher Scholarship Program Request For School Enrollment Deferral”, March 2002;
   (b) “Teacher Scholarship Program Request For Unemployment Deferral”, March 2002;
   (c) “Teacher Scholarship Program Request For Disability Deferral”, March 2002; and
   (d) “Teacher Scholarship Program Request For Hardship Deferral”, March 2002.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Higher Education Assistance Authority, 100 Airport Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

SPENCER NOE, Chair
APPROVED BY AGENCY: November 30, 2006
FILED WITH LRC: December 14, 2006 at 2 p.m.
CONTACT PERSON: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7290, fax (502) 696-7293.
erased temporarily totally disabled if he suffers an injury or illness which necessitates an extended or indefinite period of recovery which can be expected to preclude school attendance or employment and, in case of a recipient's spouse, he is not confined to a hospital, nursing home, intermediate care facility, or similar institution.

(c) The recipient shall provide to the authority a statement from a licensed physician (other than the osteopathic medicine scholarship recipient) certifying that the recipient or spouse is temporarily totally disabled in accordance with the requirements established in paragraph (b) of this subsection. The recipient shall be solely responsible for securing the physician's certification and ensuring that it is received by the authority.

(d) The deferment (may be) granted for a period of less than one (1) year at a time, the deferment [and] shall be subject to periodic review of a physician's certification every six (6) months.

(e) After the third year of a recipient's deferment, pursuant to this subsection and subsection (2) of this section, the authority may cancel the deferment if it reasonably appears to the authority based on the certification of a licensed physician other than the scholarship recipient that the scholarship recipient is totally disabled and the disability is expected to be permanent and continue to preclude the recipient's school attendance and employment for an indefinite time.

(2) Hardship deferment The authority shall determine that a hardship exists and grant a hardship deferment if:

(a) [Enrollment in an approved program at a school of osteopathic medicine located in the Commonwealth or performance of qualified service is temporarily interrupted due to circumstances beyond the recipient's control, including natural disaster or death in the family, after which the recipient intends to resume the enrollment or qualified service position; or,] the authority may determine that a hardship exists and may grant a deferment.

(b) The recipient is insolvent due to circumstances beyond his control, including natural disaster, involuntary unemployment, or unforeseen medical expenses.

(c) This deferment shall:

1. [may] Be granted for a period of less than one (1) year;
2. [but shall] Not exceed an aggregate of twelve (12) months; and
3. [may] Be subject to periodic review of documentation every six (6) months.

(3) Internship and residency deferment.

(a) An osteopathic medicine scholarship recipient shall [may] receive a deferment during the normal term of service in a single American Osteopathic Association approved rotating internship in osteopathic medicine prior to beginning practice in osteopathic medicine. . . if

1. An osteopathic medicine scholarship recipient shall [may] receive a deferment during the normal term of service in a single American Osteopathic Association approved residency program in a qualified field; or
2. [as well as] the Family Practice plus One year Neuromuscular Medicine (FP+1) residency program

(c) This verification shall contain the following information:

1. The recipient's name, Social Security number, current home address, and telephone number;
2. The name and address of the hospital, clinic, or other institution where the internship or residency service is being performed;
3. The name, title, address, telephone number, and signature on a statement of certification or verification of the person supervising the recipient's internship or residency program; and
4. The expected date that the internship or residency program will be completed.

(d) A recipient whose period of obligated service has been deferred under this subsection shall begin full-time practice in the Commonwealth of Kentucky as a licensed doctor of osteopathy for a majority of the calendar year in a qualified field immediately following the completion of the initial residency period and licensure to practice osteopathic medicine in the Commonwealth of Kentucky.

SPENCER NOE, Chair
APPROVED BY AGENCY: November 30, 2006
FILED WITH LRC: December 14, 2006 at 2 p.m.
CONTACT PERSON: Mr. Richard F. Casey, General Counsel, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798, phone (502) 696-7290, fax (502) 696-7293.

PERSONNEL BOARD
(As Amended at ARRS, February 12, 2007)

101 KAR 1:325. Probationary periods.

RELATES TO KRS 18A.005, 18A.0751(1)(e), (4)(e), 18A.111
STATUTORY AUTHORITY: KRS 18A.0751(1), 18A.0751(1)(e),
(4)(e)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 18A.075(1) requires the Personnel Board to promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200. KRS 18A.0751(1)(e) requires the Personnel Board to promulgate comprehensive administrative regulations for the classified service governing probation KRS 18A.751(4)(e) authorizes the Personnel Board to promulgate administrative regulations to establish an initial probationary period in excess of six (6) months for specific job classifications. KRS 18A.111 establishes requirements governing initial and promotional probationary periods for classified service. This administrative regulation establishes the requirements relating to probationary periods.

Section 1. Initial Probationary Period. (1) The initial probationary period shall be computed from the effective date of appointment to the corresponding date in the sixth or final month, depending upon the length of initial probationary period, except as provided in KRS 18A.111.

(2) The following job classifications shall require an initial probationary period in excess of six (6) months:

<table>
<thead>
<tr>
<th>TITLE CODE</th>
<th>JOB CLASSIFICATION</th>
<th>LENGTH OF INITIAL PROBATIONARY PERIOD</th>
</tr>
</thead>
<tbody>
<tr>
<td>1555</td>
<td>Resort Park Manager I</td>
<td>12 months</td>
</tr>
<tr>
<td>1556</td>
<td>Resort Park Manager II</td>
<td>12 months</td>
</tr>
<tr>
<td>1557</td>
<td>Resort Park Manager III</td>
<td>12 months</td>
</tr>
<tr>
<td>1584</td>
<td>Historic Site and Museum Manager</td>
<td>12 months</td>
</tr>
<tr>
<td>1585</td>
<td>Park Manager I</td>
<td>12 months</td>
</tr>
<tr>
<td>1586</td>
<td>Park Manager II</td>
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| 7222 | Forester II | 12 months |
| 7224 | Forester III | 12 months |
| 7226 | Forester District | 12 months |
| 7231 | Rural Fire Protection Technical Advisor | 12 months |
| 7232 | Forestry Program Specialist | 12 months |
| 7235 | Forestry Program Manager | 12 months |
| 7236 | Forestry Program Supervisor | 12 months |
| 7250 | Forest Ranger Technician I | 12 months |
| 7251 | Forest Ranger Technician II | 12 months |
| 7252 | Forest Ranger Technician III | 12 months |
| 7253 | Forest Ranger Technician District | 12 months |
| 7286 | Forest Resource Advisor | 12 months |
| 8326 | Right-of-Way Agent I | 12 months |
| 9520 | Revenue Audit Supervisor | 12 months |
| 9630 | Revenue Field Representative Supervisor | 12 months |
| 9531 | Revenue District Manager | 12 months |
| 9534 | Revenue Field Operations Regional Manager | 12 months |
| 9816 | Public Advocate Investigator I | 12 months |
| 9859 | Environmental Administrative Hearing Officer | 12 months |
| 9885 | Investigator I | 12 months |

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. A written notation shall be sent to the employee indicating the reason for reversion. [When the employee is notified, a copy of the notice of reversion shall be forwarded to the Secretary of Personnel on the same date notice is delivered to the employee.]

(3) The promotional probationary period shall be computed from the effective date of promotion to the corresponding date in the appropriate position following promotion, as required by KRS 18A.005(27), except as provided in KRS 18A.111.

Section 3. Probationary Period Upon Reinstatement. (1) An employee who is reinstated, except an employee ordered reinstated pursuant to KRS 18A.111(3), to a position in the classified service no later than twelve (12) months after the beginning of a break in the classified service shall be reinstated with status.

(2) An employee who is reinstated to the classified service more than twelve (12) months after a break in service, except an employee ordered reinstated pursuant to KRS 18A.111(3), shall serve an initial probationary period.

MARK A. SIPEK, Executive Director
APPROVED BY AGENCY: November 29, 2006
FILED WITH LRC: November 29, 2006 at 11 a.m.

CONTACT PERSON: Mark A. Sipek, Executive Director, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 564-1693.
VOLUME 33, NUMBER 9 – MARCH 1, 2007

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, February 12, 2007)

105 KAR 1:330. Purchase of service credit.

RELATES TO: KRS 16.645(20), (26), (29), (31), 61.543, 61.552, 61.5525, 61.555, 61.592, 78.545(6), (31), (35), (43), 26 U.S.C. 415

STATUTORY AUTHORITY: KRS 61.645(9)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(a) requires the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper to carry out the provisions of KRS 19.510 to 19.562, 61.515 to 61.705, and 78.520 to 78.852, KRS 16.645(20), (26), (29), (31), 61.543, 61.552, 61.555, 61.592, and 78.545(6), (31), (35), and (43) provide for purchasing [the purchase of] service credit. This administrative regulation establishes the documentation required from the employee as proof of eligibility for purchasing [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; or
   (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. (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 representative 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, or
   (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, W-2 forms, 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 3. (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 nonparticipating 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 and current participation or 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; and
   (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; and
   (e) If the employee participated in a benefit plan during the period of employment.

(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 the "Form 4140, Certification of Out-of-State Service".

(a) The employee shall mail the "Form 4140, Certification of Out-of-State Service", 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, Certification of Out-of-State Service", 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; and

(d) If the retirement system determines that the service is not eligible for purchase, the retirement system shall notify the employee of the reasons.

Section 4. 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 be equal to the final compensation as of the cost calculation date:

(1) Except for a classified 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 1,550;

(b) For an hourly employee paid on an eight (8) hour day, the hourly rate times 2,080;

(c) For an employee paid by the day, the daily rate times 220;

(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 is eligible to purchase under KRS 61.5525(1) and (23)(a) and (b)] and

(c) All service the employee would accrue if employment continued through December 31, 2006;

(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 5. (1) After the employee has purchased service, the retirement system may recalculate the cost of the service if, upon audit, the retirement system determines that any of the information utilized to calculate the cost of the service was incorrect.

(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 6. (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.

Section 7. Incorporation by Reference. (1) "Form 4140, Certification of Out-of-State Service" [1], revised July 2000, 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: November 16, 2006
FILED WITH LRC: December 1, 2006 at 2 p.m.
CONTACT PERSON: William P. Hanes, Esq., Executive Director, Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800, fax (502) 696-8822.

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(As Amended at ARRS, February 12, 2007)


RELATES TO: KRS 61.645(9)(c), (d), (g)
STATUTORY AUTHORITY: KRS 61.645(9)(d), (g)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.645(9)(g) requires [authorizes] the Board of Trustees of Kentucky Retirement Systems to promulgate all administrative regulations necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.652. KRS 61.645(9)(c) provides that, effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board of trustees. KRS 61.645(9)(d) requires the board of trustees to promulgate administrative regulations to establish a fair, equitable, and comprehensive personnel policy. These policies and procedures are incorporated by reference to comply with the provisions of KRS 61.645(c). This administrative regulation establishes the "Kentucky Retirement Systems Personnel Policies".


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VOLUME 33, NUMBER 9 — MARCH 1, 2007

RANDY OVERSTREET, Chair
APPROVED BY AGENCY: November 16, 2006
FILED WITH LRC: December 1, 2006 at 2 p.m.
CONTACT PERSON: William P. Hanes, Esq., Executive Director,
Kentucky Retirement Systems, Perimeter Park West, 1260
Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-
8800, fax (502) 696-8822.

GENERAL GOVERNMENT CABINET
Board of Licensure for Massage Therapy
(As Amended at ARRS, February 12, 2007)

201 KAR 42:020. Fees.

RELATES TO: KRS 309.357, 309.362(3).
STATUTORY AUTHORITY: KRS 309.355(3), 309.357
NECESSITY, FUNCTION, AND CONFORMITY: KRS
309.355(3) requires the board to promulgate administrative
regulations to implement KRS 309.350 to 309.364. KRS 309.357 requires
the board to establish reasonable fees for the licensure, renewal
and reinstatement of massage therapists. KRS 309.362(2) and (3)
authorize the issuance of an inactive license and reinstatement.
This administrative regulation establishes the fees relating to
massage therapy (MI) licensure.

Section 1. Fee Payments. (1) All fees established in Section 2
of this administrative regulation shall be:
(a) Made payable as required by KRS 309.356 to the State
Treasury; and
(b) Paid by:
1. Cashier's check;
2. Certified check;
3. Money order; or
4. Personal check.
(2) A payment for an application fee that is incorrect shall be
returned to the applicant and the application shall not be posted
until the correct fee is received.
(3) The application fee and the Initial license fee established
in Section 2(1) of this administrative regulation shall be
nonrefundable pursuant to KRS 309.357(1) and (2) (All fees are
nonrefundable).

Section 2. Fees. (1) The fee for an Initial massage therapist
license shall be $125 paid according to the following schedule:
(a) Fifty (50) dollars of the $125 shall be nonrefundable and
due at the time of application.
(b) The remaining seventy-five (75) dollar balance of the $125
fee shall be due at the time the license is approved.
(2)(a) The biennial renewal fee for a massage therapist license
renewed on or before the renewal date shall be $100.
(b) If the license is renewed after the renewal date and up to
within sixty (60) days after expiration of the license (the renewal
date), the fee for late renewal shall be $150.
(c) If the license is not renewed within sixty (60) days or
more after the expiration of the license (renewal date), the late
renewal fee shall be $200 (license shall be terminated. The fee for
reinstatement of a terminated license shall be $200).
(d) If a license is not renewed within two (2) years of expiration
of the license, the applicant shall pay for a license pursuant to
KRS 309.358(2) or 309.359.
(3) The application fee for Active to Inactive status shall be
thirty-five (35) dollars ($35).
(4) The annual (biennial) renewal fee for an Inactive Li-
cense shall remain the original issue date of the license.
(b) The annual (biennial) renewal fee for an inactive license
shall be thirty-five (35) dollars ($35).
(5) If the inactive license is renewed after the renewal date and
up to sixty (60) days after expiration of the license, the fee for late
inactive renewal shall be $52.50.
(6) If the inactive license is renewed sixty (60) days or more
after the expiration of the license, the late renewal fee shall be
seventy (70) dollars ($70).
(7) The application fee for moving a license from Inactive to
Active status shall be fifty (50) dollars and shall not be prorated
($50.00, without pro-rata).

This is to certify that the Chair of the Kentucky State Board of
Licensure for Massage Therapy has approved this administrative
regulation prior to its filing by the Kentucky State Board of Licens-
ure for Massage Therapy with the Legislative Research Commis-
sion as required by KRS Chapter 13A, to carry out and enforce
provisions of KRS 309.350 to 309.364.

ROGER RUSSELL, Chair
JOHN FARRIS, Secretary
APPROVED BY AGENCY: December 11, 2006
FILED WITH LRC: December 14, 2006 at 3 p.m.
CONTACT PERSON: Claude Wagner, Director, Division of
Occupations and Professions, 911 Leawood Drive, Frankfort, Ken-
tucky 40602, phone (502) 564-3296, fax (502) 564-4818.

GENERAL GOVERNMENT CABINET
Board of Licensure for Massage Therapy
(As Amended at ARRS, February 12, 2007)

201 KAR 42:035. Application process and curriculum
requirements.

RELATES TO: KRS 309.358, 309.359(4-9), 309.360
STATUTORY AUTHORITY: KRS 309.355(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS
309.355(3) requires the board to promulgate administrative
regulations to implement KRS 309.350 to 309.364. The board is re-
quired to [KRS 309.368 and 309.369] require the board to issue a
license to a massage therapist to a qualified applicant, and after
June 24, 2006, require that the board may issue a license to an
applicant meeting the standards in KRS 309.358(2) or 309.359.
This administrative regulation establishes the application process
and curriculum requirements for licensure.

Section 1. An applicant for licensure as a massage therapist shall:
(1) File a completed, signed, and dated application and re-
quired documentation with the board, meeting the requirements set
form in KRS 309.358(2) and 309.360; and
(2) Pay the application fee as established in 201 KAR
42:020 (by certified check or money order an application fee as
established by 201 KAR 42:020, made payable to the Kentucky
State Treasurer).

Section 2. To comply with KRS 309.358(1)(c) and 309.360(1),
an applicant shall submit to the board, at the time of application, a
curriculum statement, official transcript or certificate that shows the
completion of a total of 500 classroom hours, consisting of the fol-
lowing minimum requirements:
(1) 100 hours of sciences to include anatomy, physiology, pa-
thology, and kinesiology;
(2) 200 hours of massage or bodywork theory, technique, and
practice focusing on:
(a) Guiding strokes;
(b) Kneading;
(c) Direct pressure;
(d) Deep friction;
(e) Joint movement;
(f) Superficial warming techniques;
(g) Percussion;
(h) Vibration;
(i) Jostling;
(j) Shiatsu; and
(k) Reiki; and
(3) 500 hours of approach to the business of massage, includ-
ing:
(a) Contraindications;
Section 3. To comply with KRS 309.358(4), an applicant shall submit to the board, at the time of application, a curriculum statement, official transcript or certificate that shows the completion of at least 600 classroom hours, consisting of the following minimum requirements:

1. 125 [200] hours of sciences to include anatomy, physiology, pathology, and kinesiology;
2. 200 hours of massage or bodywork theory, technique, and practice focusing on:
   a. Gliding strokes;
   b. Kneading;
   c. Direct pressure;
   d. Deep friction;
   e. Joint movement;
   f. Superficial warming techniques;
   g. Percussion;
   h. Compression;
   i. Vibration;
   j. Jostling;
   k. Shaking; and
   l. Rocking;
3. 200 hours of approach to the business of massage, including:
   a. Contraindications;
   b. Benefits;
   c. Business;
   d. History;
   e. Ethics;
   f. Client documentation;
   g. Legalities of massage; and
   h. Modality (a) courses designated to meet the school's specific program objectives;
4. Forty (40) hours of pathology; and
5. The school may use discretion in allotting the additional thirty-five (35) curricular hours that are required under KRS 309.358.

Section 3. [5] A person who is licensed, certified or registered in another state or country shall provide evidence of training and supervision that meets the requirements of KRS 309.358 and this administrative regulation.

Section 6. Appeals. An applicant may appeal a decision denying his or her licensure application in accordance with KRS 309.362(2).


(a) This material may be inspected, copied; or obtained, subject to applicable copyright law, at Division of Occupations and Professions, 511 Latwood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Chair of the Kentucky State Board of Licensure for Massage Therapy has approved this administrative regulation prior to its filing by the Kentucky State Board of Licensure for Massage Therapy with the Legislative Research Commission as required by KRS Chapter 13A, to carry out and enforce provisions of KRS 309.350 to 309.364.

ROGER RUSSELL, Chair
JOHN FARRIS, Secretary
APPROVED BY AGENCY: December 11, 2006
FILED WITH LRC: December 14, 2006 at 3 p.m.
CONTACT PERSON: Claude Wagner, Director, Division of Occupations and Professions, 511 Latwood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

GENERAL GOVERNMENT CABINET
Board of Licensure for Massage Therapy
(As Amended at ARRS, February 12, 2007)

201 KAR 42:040. Renewal and reinstatement procedures.

RELATES TO: KRS 309.357(3), (4), (5), 309.351
STATUTORY AUTHORITY: KRS 309.355(1), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.355(3) requires the board to promulgate administrative regulations to implement KRS 309.350 to 309.364. KRS 309.357(3) requires all licenses to be renewed [biennially]. This administrative regulation provides directions for the [biennial] renewal of these licenses.

Section 1. A license to practice massage therapy may be renewed upon:

1. Payment of the biennial renewal fee [of $100] as established in 201 KAR 42:020, Section 2(2) on or before the anniversary date of issuance of license; and
2. Submission of the "Application for Renewal" form with the following written information to the board:
   a. Current complete home address and telephone number;
   b. Current complete name, address, and telephone number of each location in which massage therapy service is provided;
   c. Documentation of completion of continuing education requirements during the licensure renewal period established in 201 KAR 42:110.
   d. Written confirmation that, since the license was issued or renewed, the licensee has not:
      1. Been convicted of a felony;
      2. Had his or her license disciplined and is not currently under disciplinary review in another state;
      3. Engaged in any other unprofessional conduct, stated in KRS 309.362(1); or
      4. Defaulted on the repayment obligation of financial aid programs administered by the Kentucky Higher Education Assistance Authority (KHEAA) per KRS 164.772.

Section 2. A licensee convicted of a felony or disciplined in the interim period between issuance and renewal of the license, or between renewal periods, shall submit notice of the conviction or discipline to the board prior to license renewal.

Section 3. If payment and complete information are not received by the board or on or before the anniversary date of issuance of license, the license shall expire and the person shall not work as a massage therapist in Kentucky.

Section 4. An expired license may [shall] be reinstated within two (2) years of expiration if the applicant submits:

1. A completed "Application for Renewal [Reinstatement] of License as a Massage Therapist" form;
2. Documentation of successful completion of twenty-four (24) hours of continuing professional education, which:
   a. Includes studies in ethics, business practices, science, and techniques related to massage therapy;
   b. Have been credited within two (2) years prior to the renewal deadline; and
   c. Have not been previously used within the same renewal
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period to satisfy Kentucky license renewal requirements; and
(3) The appropriate fee for renewal, as required by 201 KAR 42:020, Section 2(2)(a), (b), or (c). (A money order or check in the amount of $150, made payable to the Kentucky State Treasurer, if paid within sixty (60) days after expiration; or
(4) A money order or check in the amount of $200, made payable to the Kentucky State Treasurer, if paid more than sixty (60) days after expiration.

Section 6. A licensee previously revoked as a disciplinary action shall be considered for reinstatement as follows:
(1) An applicant for reinstatement shall:
(a) Submit to the board fifteen (15) days prior to the next scheduled meeting a letter
1. Requesting reinstatement;
Specifying the manner in which the applicant for reinstatement has complied with the terms of a disciplinary order of the board, if applicable; and
3. Stating the reasons why the board should reinstate the massage therapist;
(b) Meet the requirements of KRS 309.361; and
(a) Pay a fee of $200.
(c) Upon receipt of an Application for Reinstatement of License, the board shall:
(d) Review the request for reinstatement and the findings of fact; and
(e) Affirm or deny the request; or
(f) State in writing the corrective or remedial education, training, or review required before reinstatement shall be granted.
(3) The board shall not consider a request for reinstatement submitted to the board prior to the end of a revocation period.

Section 6. An applicant whose request for reinstatement is denied may file a written request for a hearing before the board within sixty (60) days of a letter denying reinstatement. A hearing held pursuant to the provisions of this section shall be conducted in accordance with KRS Chapter 189.

Section 5. (1) (7) Upon initial licensing and each subsequent renewal, a licensee shall be furnished:
(a) A bilateral license identification card; and
(b) A wall certificate to be displayed at the primary massage therapy service location.
(2) Upon each subsequent renewal, a licensee shall be furnished a bilateral license identification card.

Section 6. Reactivation Requirement for Inactive Status Massage Therapist. (1) (a) Before the expiration of five (5) years of inactive status, a licensee requesting to return to active status shall:
1. Provide proof to the board of continuing education required by KRS 309.358(2);
2. Complete the “Application for Renewal”; and
3. Pay the fee prescribed by 201 KAR 42:020, Section 7(7).
(b) The continuing education hours provided pursuant to paragraph (a) of this subsection may be used for the next regular renewal period.
(2) After more than five (5) years of inactive status, a person requesting to return to active status shall respond and meet the requirements of KRS 309.358(2) as provided by KRS 309.362(2). An applicant to obtain an inactive license who was previously licensed by the Kentucky State Board of Licensees for Massage Therapy, and whose license has been put on inactive status for more than five (5) years from the date the revocation application is filed, shall obtain one (1) hour of continuing education for each month the license has been in a status other than active. These CE units may be counted toward the next renewal period.
(2) An applicant for reinstatement or licensure who was previously licensed by the Kentucky State Board of Licensees for Massage Therapy and whose license has been put on inactive status for five (5) years and a day or more from the date the revocation application is filed, shall file for a new license pursuant to the requirements set forth in KRS 309.362(2).

Section 7. (9) Incorporation by Reference. (1) The following material is incorporated by reference:
(a) “Application for Renewal of License as a Massage Therapist,” December 2006, is Incorporated by reference (1)–(October 2006) and
(b) “Application for Reinstatement of License,” (October 2006).
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, (502) 564-3296, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Chair of the Kentucky State Board of Licensure for Massage Therapy has approved this administrative regulation prior to its filing by the Kentucky State Board of Licensure for Massage Therapy with the Legislative Research Commission as required by KRS Chapter 13A, to carry out and enforce provisions of KRS 309.350 to 309.364.

ROGER RUSSELL, Chair
JOHN FARRIS, Secretary
APPROVED BY AGENCY: December 11, 2006
FILED WITH LRC: December 14, 2006 at 3 p.m.
CONTACT PERSON: Claude Wagner, Director, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

GENERAL GOVERNMENT CABINET
Board of Licensure for Massage Therapy
(As Amended at ARRS, February 12, 2007)

201 KAR 42:070. Endorsement.

RELATES TO: KRS 309.358, 309.359
STATUTORY AUTHORITY: KRS 309.359
NECESSITY, FUNCTION, AND CONFORMITY: KRS 309.359 authorizes the board to issue a license to a person holding a credential in another state of the United States. This administrative regulation establishes the application process for issuance of a license to a person holding a credential in another state of the United States.

Section 1. An applicant Meeting Equal or Higher Standards. An applicant holding a license issued by another state with licensure standards equal to or higher than the requirements of KRS 309.358(2) (“Persons Meeting Equal or Higher Standards. Persons meeting equal or higher standards issued by another state desiring to be licensed as a massage therapist under the provisions of KRS 309.358 shall submit:
(1) A completed “Application for Licensure as a Massage Therapist” form which is incorporated by reference in 201 KAR 42:035;
(2) Certified proof of the individual’s current licensure, registration, or certification from the state where the individual is credentialed, provided to the board directly from the licensure, certification, or accreditation board, on the Endorsement Form which the applicant shall obtain from the Kentucky Board of Licensure for Massage Therapy and send to the current credentialing board;
(3) A certified statement that the individual is in good standing as a massage therapist from the credentialing authority of the jurisdiction in which the applicant holds a license or credential including duration of the license or credential; and
(4) The appropriate fee for licensure as required by 201 KAR 42:020 Section 2(1)(6).

Section 2. An Applicant Meeting Lesser Standards. An applicant who is credentialed as a massage therapist in another state with less stringent requirements than KRS 309.358(2) shall submit [Applicants, Meeting Lesser Standards. Applicants who are licensed, certified, or registered as a massage therapist in another state with less stringent requirements than KRS 309.358 shall submit the board:
(1) A completed “Application for Licensure as a Massage Therapist” form which is incorporated by reference in 201 KAR
42:035; [and]

(2) Certified proof of the individual's current licensure, registration, or certification from the state where the individual is credentialed, provided to the board directly from the licensure, certification, or accreditation board on the Endorsement Form which the applicant shall obtain from the Kentucky Board of Licensure for Massage Therapy and send to their current credentialing board; [and]

(3) A certified statement that the individual is in good standing as a massage therapist from the credentialing authority of the jurisdiction in which the applicant holds a license or credential including duration of the license or credential; [and]

(4) The appropriate fee for licensure as required by 201 KAR 42:020, Section 2(1)(a)(6); and

(5) Documents evidencing the applicant’s combined initial training, professional experience, continuing education, or other credentials constituting equivalency to KRS 309.358. Acceptable examples of documentation may include:

(a) Passage of [moving-passed] the National Certification Board of Therapeutic Massage and Bodywork’s National Certification Exam (NCE) or other exam administered by a certifying agency that has been approved by the National Commission for Certifying Agencies;

(b) Certified school transcripts received directly from the massage school;

(c) A copy of the educational certificates from studies completed after or not included as part of the initial training;

(e) Certified transcript of health care related academic course work;

(f) The completion of teaching massage therapy relevant curriculum as stated in KRS 309.363;

(g) Other credentials that may constitute equivalence to the standards in KRS 309.358(2)(d) which may also include research, clinical internships, publications, and massage therapy leadership positions;

(h) Current proof of hands-on therapeutic massage or bodywork sessions. Supporting documentation for the hours or years of massage therapy work, including [such as] appointment books, employer verification, log books, or appointment books for self-employed individuals. If this is the only documentation to establish equivalency, a minimum of four (4) years experience is required.

Section 3: Incorporation by Reference

(1) "Endorsement Form", December, 2006, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Chair of the Kentucky State Board of Licensure for Massage Therapy has approved this administrative regulation prior to its filing by the Kentucky State Board of Licensure for Massage Therapy with the Legislative Research Commission as required by KRS Chapter 13A, to carry out and enforce provisions of KRS 309.350 to 309.364.

ROGER RUSSELL, Chair
JON FARRIS, Cabinet Secretary
APPROVED BY AGENCY: December 11, 2006
FILED WITH LRC: December 14, 2006 at 3 p.m.
CONTACT PERSON. Claude Wagner, Director, Division of Occupations and Professions, 911 Leawood Drive, Frankfort, Kentucky 40602, phone (502) 564-3296, fax (502) 564-4818.

COMMERCE CABINET
Kentucky Heritage Council
(As Amended at ARRS, February 12, 2007)

300 KAR 6:010. Historic rehabilitation tax credit certifications.


STATUTORY AUTHORITY: KRS 171.397(14) [171.396, 474-396]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 171.397(14) authorizes the Kentucky Heritage Council to promulgate administrative regulations to implement for implementation of the historic structure rehabilitation tax credit. This administrative regulation establishes the application process to determine a taxpayer's eligibility [certifications of historic significance and rehabilitation eligibility requirements for a taxpayer] to claim a certified historic structure rehabilitation tax credit.

Section 1. Definitions. (1) "Act" means the enabling legislation for the historic rehabilitation tax credit KRS 171.396 to 171.397.

(2) "Adjusted basis of the structure" means the purchase price of the property, minus the cost of land, plus improvements already made, minus depreciation already taken.

(3) "Certified historic structure" is defined by KRS 171.396(1).

(4) "Certified rehabilitation" is defined by KRS 171.396(2).

(5) "Completed rehabilitation project" means any certified historic structure which has been substantially rehabilitated and after the completion date, has been submitted by the applicant to the Council for final certification of rehabilitation under the Act.

(6) "Completion date" means the month, day, and year in which the last eligible rehabilitation expense is incurred for owner-occupied residential property. For all other property, it means the month, day, and year when the rehabilitation project [has been] completed such that it allows [which would allow for] occupancy of the entire building or some identifiable portion of the building and, if applicable, a certificate of occupancy has been issued.

(7) "Department" means the Kentucky Department of Revenue.

(8) "Director" means the Executive Director of the Kentucky Heritage Council.

(9) "Disqualifying work" is defined by KRS 171.396(5).

(10) "Exempt entity" is defined by KRS 171.396(6).

(11) "File" or "filed" means physical receipt by the council of an application for certification along with the tender of the appropriate filing fee.

(12) "Inspection" means a visit by the director or an authorized representative of the council to the property for the purpose of reviewing and evaluating the significance of the structure and the ongoing or completed rehabilitation work.

(13) "National Register of Historic Places" means the National Register of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture that the U.S. Secretary of the Interior is authorized to expand and maintain pursuant to Section 101(a)(1) of the National Historic Preservation Act of 1966, 16 U.S.C. Section 470a(1)(1), and implemented through 36 C.F.R. Part 60.

(14) "Owner" means the person, partnership, corporation, public agency, or other entity holding a fee simple interest in a property, or any other person or entity recognized by the department for purposes of the applicable tax benefit under KRS 171.397. For purposes of the Act, a lessee shall be considered the owner of the property if the remaining term of the lease is not less than twenty-seven and one-half (27 1/2) years for residential property and thirty-nine (39) years for all other property.

(15) "Owner-occupied residential property" is defined by KRS 171.396(8).

(16) "Property" means a building and its site and landscape features.

(17) "Qualified-purchased historic home" is defined by KRS 171.396(12).

(18) "Qualified rehabilitation expenses" is defined by KRS 171.396(9).
which are significant to its historic, architectural, and cultural values as determined by the director.

19. [30] Rehabilitation plan means a plan pursuant to which a certified historic structure will be substantially rehabilitated.

20. [41] Rehabilitation project means any certified historic structure, submitted by the applicant to the council, for certification of rehabilitation under the Act.

21. [52] Standards for rehabilitation mean the Secretary of the Interior's Standards for Rehabilitation, 38 C.F.R. 67.2 [Part 67], as established by the U.S. Department of Interior and restated in [300-KAR.6.010], Section 4(2) of this administrative regulation.

22. [63] Starting date means the date upon which the applicant applies for the building permit for work proposed by the rehabilitation plan or the date upon which actual physical work contemplated by the plan of rehabilitation begins.

23. [74] Substantial rehabilitation is defined by KRS 171.396(10).

24. [85] Taxpayer is defined by KRS 171.396(11).

Section 2. Certifications of Rehabilitation. (1) Request for certification of historic significance and of rehabilitation under the Act is a three (3) stage process that requires the filing of the following forms:

(a) Certification of Application Part 1-Evaluation of National Register Status;

(b) Certification I-Certificate of Application Part 2-Description of Rehabilitation and

(c) Certification II-Certificate of Application Part 3-Request for Certification of Completed Work. If at any stage an application is not approved by the council, the rehabilitation project shall not be deemed a certified rehabilitation for purposes of the Act.

(2) Part 1 is a request for certification of historic significance. Part 2 is a request for certification of a proposed rehabilitation project.

(3) Part 3 is a request for certification of a completed rehabilitation project. Certification of Applications shall be filed with the council as follows:

(a) Part 1 shall be filed with the council on or before April 29 of the year in which the rehabilitation commences.

(b) Part 2 shall be filed with the council on or before April 29 of the year in which the rehabilitation commences. Part 2 may be filed after rehabilitation has commenced, but applicants who begin rehabilitation prior to receiving Part 2 certification assume the risk that certification may be denied.

(c) Part 3 shall be filed with the council upon completion of the rehabilitation but no later than thirty (30) days following the close of the calendar year in which the completion of the rehabilitation occurred as defined in [300-KAR.6.010], Section 16 of this administrative regulation.

(d) If at any stage an application is not approved by the council, the rehabilitation project shall not qualify as a certified rehabilitation for purposes of the Act [46].


(a) Property Individually listed in the national register of historic places, individually listed property [For property located in a historic district listed on the National Register of Historic Places, an applicant shall request that the property be certified by the director as a historic structure contributing to the significance of a historic district. Property individually listed on the National Register of Historic Places] is considered certified a historic structure for purposes of the Act subject to confirmation by the council [director].

The following information shall be provided by the applicant:

1. [55] Names and mailing addresses of owners;

2. [66] Name and address of property;

3. Photograph documentation

[46] Name of historic district, if not individually listed,

4. Documentation, including photographs of the building and property prior to and after alteration, showing exterior and interior features and spaces [adequate to document significance along with photographs of adjacent properties and structures on the street. For property individually listed on the National Register, documentation shall also include:

1. Photographs of the property prior to alteration] to ensure that the listed property has not lost the characteristics which caused it to be listed on the National Register of Historic Places;

2. and

3. Descriptions of all the buildings within the listing if the property contains more than one (1) building for the purpose of determining which of the buildings are of historic significance to the property;]

5. [66] Brief description of appearance including alterations, distinctive features [feature] and spaces, and dates of construction;

6. [66] Brief statement of significance summarizing how the property reflects the values that give [the district] its distinctive historical and visual character, and explaining any significance attached to the property itself;

7. A copy of a map indicating where the subject property is located. If an individually-listed property is also located in a historic district listed in the National Register of Historic Places, [go] a copy of the map of the National Register historic district where the subject property is located and a clear delineation of the property's location within the district shall also be included [apply]; and

8. [66] Signatures of owners requesting confirmation of listing in the National Register of Historic Places [requesting certification] or concurrence in the request if the owners are not the applicants.

(b) Property located in a historic district listed in the national register of historic places. An applicant shall request that the property be certified by the council as a historic structure contributing to the significance of a historic district. The following information shall be provided:

1. Names and mailing addresses of owners;

2. Name and address of property;

3. Name of historic district;

4. Photographic documentation of the building and property prior to and after alteration, showing exterior and interior features and spaces, and photographic documentation of adjacent properties and structures on the street showing significance to the historic district;

5. Brief description of appearance including alterations, distinctive features and spaces, and dates of construction;

6. Brief statement of significance summarizing how the property reflects the values that give the district its distinctive historical and visual character, and explaining any significance attached to the property itself;

7. A copy of the map of the National Register historic district where the subject property is located and a clear delineation of the property's location within the district; and

8. Signatures of owners requesting certification or concurrence in the request if the owners are not the applicants.

(2) Multiple structures. Properties containing more than one (1) building shall [the council determines that the buildings have been functionally-related historically to serve an overall purpose will] be treated as a single certified historic structure if the council determines that the buildings have been functionally-related historically to serve an overall purpose, whether the property is individually listed in [en] the National Register or is located within a registered historic district. Buildings that are functionally related historically are those which have functioned together to serve an overall purpose during the property's period of significance.

(3) Standards for evaluating significance.

(a) Some properties listed in the National Register of Historic Places are resources whose concentration or continuity possesses greater historical significance than many of their individual component buildings and structures. These usually are documented as a group rather than individually. In addition to the existing National Register documentation, applications for certifications of historic significance shall contain documentation with information about [the significance of the specific buildings and structures.

(b) Properties located within a historic district listed in [en] the National Register of Historic Places shall [will] be evaluated for contribution to the historic significance of the district by applying
the following standards:

1. A property contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development;

2. A property not contributing to the historic significance of a district is one which does not add to the district's sense of time and place and historical development; or one where the location design, setting, materials, workmanship, feeling and association have been so altered or have so deteriorated that the overall integrity of the property has been irretrievably lost; and

3. Ordinarily buildings that have been built within the past 50 years shall not be considered to contribute to the significance of a district, unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than fifty (50) years old.

(c) Evaluations of historic significance shall [will] be made based upon the appearance and condition of the property before rehabilitation was begun.

(d) The qualities of a property and its environment which qualify it as a certified historic structure are determined taking into account all available information, including information derived from the physical and architectural attributes of the building, and are not limited to information contained in the National Register nomination reports.

(e) If a nonhistoric surface material obscures a façade, it may be necessary to remove the surface materials prior to requesting certification, or the determination of historic significance. After the material has been removed, if the obscured façade has retained substantial historic integrity and the property otherwise contributes to the historic district it shall [will] be determined to be a certified historic structure.

(4) Review of Part 1 Applications. A complete and adequately-documented Certificaton Application Part 1-Evaluation of National Register Status shall be reviewed by the council to determine if the property contributes to the historic significance of the district by applying the standards set forth in [300-KAR-6.040]. Section 3(3) of this administrative regulation. After consideration of the information contained in the application and other available information, the council [directors] shall approve the application if the property meets the standards for evaluating for significance set forth in [300-KAR-6.040]. Section 3(3) of this administrative regulation, or the director confirms that the property is individually listed in [on the National Register of Historic Places].

(5) The council [will] attempt to notify the applicant] If the application is not adequate to complete the review, the council shall attempt to notify the applicant by telephone or email using the contact information provided on the application. Applicants [will be] shall respond in due course to the application. The council's notification or failure to notify shall not constitute a waiver of deficiencies or alteration of time limitations set forth under the Act.

(6) Applicants shall notify the council of any substantial damage, alteration, or changes to a property that occurs after issuance of a certification of Part 1-Evaluation of National Register Status. The council may, upon thirty (30) days written notice to the applicant, withdraw a certification of historic significance and may seek to have the property removed from the National Register under 36 C.F.R. [Part 6].

Section 4. Certifications of Rehabilitation Part 2. (1) Applicables. Certificate of Application Part 2-Description of Rehabilitation forms shall be timely filed with the council for certification that a rehabilitation plan is a substantial rehabilitation as defined by KRS 171.396(10) [of a certified historic structure in 300-KAR-6.010, Section 4(5)], and meets the standards for rehabilitation in [300-KAR-6.010]. Section 4(2) of this administrative regulation. Rehabilitation projects shall be done according to a rehabilitation plan. The burden is upon the applicant to supply sufficient information to the council for a determination that the rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation. An application shall include the following information:

(a) Names and mailing addresses of owners;
(b) Name and address of property;
(c) Designation of whether the application is for owner-occupied residential property or other property;
(d) Information sufficient to establish proposed use of the structure;
(e) The adjusted basis for property if other than owner-occupied residential or owned by an exempt entity as defined by KRS 171.396(6);
(f) Proposed starting date [start] and completion date [dates];
(g) Projected qualified rehabilitation expenses;
(h) Numbered photographs adequate to document the appearance of the structure, both on the interior and exterior, and its site and environment before rehabilitation that correspond to numbered positions on [is keyed to] existing plans;
(i) The taxpayer identification number or Social Security number,
(j) Written detailed description of existing features and their conditions; and a written description of proposed rehabilitation work and the impact on existing features;
(k) Plans for any attached, adjacent, or related new construction, if applicable; and
(l) Signatures of owners requesting certification or concurring in the request if the owners are not the applicant.

(2) Standards for rehabilitation.

(a) The standards for rehabilitation are the criteria used to determine if the rehabilitation qualifies as a certified historic rehabilitation. The intent of the standards is to promote the long-term preservation of a property's significance through the preservation of historic materials and features. The standards pertain to historic buildings in all materials, construction types, sizes, and occupancy and encompass the exterior and the interior of historic buildings. The standards also encompass related landscape features and the building's site and environment, as well as attached, adjacent, or related new construction. Rehabilitation shall be consistent with the historic character of the structure or structures and, if applicable, the district in which it is located.

(b) A rehabilitation project shall meet all of the following standards for rehabilitation:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided;
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
4. Most properties change over time; those changes that have altered historic significance in their own right shall be retained and preserved;
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved;
6. Deteriorated architectural features shall be repaired rather than replaced. If the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, if possible, materials. Replacement of missing architectural features shall be substantiated by documentary, physical, or pictorial evidence;
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible;
8. Significant archeological resources affected by a project shall be protected and preserved. If these resources shall be disturbed, mitigation measures shall be undertaken;
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment; and
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its envir-
ronment would be unimpaired.

(c) The quality of materials, craftsmanship, and related new construction in rehabilitation shall match the quality of materials, craftsmanship, and design of the historic structure in question. Certain treatments, if improperly applied, or certain materials by their physical properties, may cause or accelerate physical deterioration of historic buildings, and use of those treatments or materials shall [will] result in denial of certification. The burden is upon the applicant to consult with the council for a determination as to what rehabilitation measures are appropriate for the structure. Inappropriate rehabilitation measures on historic properties include:

1. Improper masonry repointing materials and techniques;
2. Improper interior masonry cleaning methods;
3. Improper introduction of insulation if damage to historic fabric would result; and
4. Incompatible additions and new construction on historic properties. The burden is upon the applicant to consult with the council for a determination as to what rehabilitation measures are appropriate for the structure.

(d) In certain limited cases, it may be necessary to dismantle and rebuild portions of a certified historic structure to stabilize and repair weakened structural members and systems. In those cases, the council may consider this extreme intervention as part of a certified historic rehabilitation if:

1. The necessity for dismantling is justified in supporting documentation;
2. Significant architectural features and overall design are retained; and
3. Adequate historic materials are retained to maintain the architectural and historic integrity of the overall structure.

(3) Substantial rehabilitation. A rehabilitation project [Rehabilitation projects] shall be a substantial rehabilitation [rehabilitations] only if the requirements of KRS 171.396(9) and (10) are met. To determine whether a rehabilitation project is a substantial rehabilitation, the following conditions shall apply:

(a) [if applicable] the conditions are applicable.

(b) Substantial rehabilitation means the rehabilitation of a certified historic structure for which qualified rehabilitation expenses, during a twenty-four (24) month period elected by the taxpayer, are exempted, ending with or within the taxable year, exceed:

1. $20,000 for an owner-occupied residential property; or
2. For all other property, the greater of:
   a. [The adjusted basic of the structure, or]
   b. $20,000.

(c) The adjusted basic of the structure means the purchase price of the property minus the cost of land, plus improvements already made (ready-to-use) and non-eligible decreases to the adjusted basic of the structure shall include capital improvements to the structure, legal fees incurred for perfecting title, and zoning costs. Any depreciation previously claimed for the structure shall be [is] subtracted from this figure.

(d) Qualified rehabilitation expenses mean any amount that is properly chargeable to a capital account, whether or not depreciation is allowed under Section 168 of the Internal Revenue Code, and is expended in connection with the certified substantial rehabilitation of a certified historic structure. If a cost only partially qualifies as a rehabilitation expense, because some of the cost is attributable to the enlargement of the building, the expenditures shall be apportioned proportionately between the original portion of the building and the enlargement.

(e) In addition to the expenses listed in KRS 171.396(9), qualified [tax] rehabilitation expenses include:

1. [a] the cost of work done to structural components of the building within the footprint of the historic structure if they are permanent;
2. [b] costs related to new heating, plumbing, and electrical systems, as well as expenses related to updating kitchens and bathrooms, compliance with Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), and fire suppression systems and fire escapes; and
3. [c] the cost of restoring landscaping and fencing that contribute to the historic significance of the structure.

(f) The cost of architectural and engineering fees, site survey fees, legal expenses development fees, and other construction-related costs, if such costs are added to the basis of the property.

(g) In addition to the exclusions listed in KRS 171.396(9), qualified rehabilitation expenses do not include the construction costs for [cost of acquisition of a certified historic structure,} enlargement of or additions to an existing building, {new building construction, parking lots, or sidewalks, or the purchase of personal property.}

(4) Review of Part 2 Applications. A complete and adequately documented Certification Application Part 2- Description of Rehabilitation shall be reviewed by the council for a determination that the rehabilitation plan is a substantial rehabilitation and meets the standards for rehabilitation. After consideration of the information contained in the application and other available information, the council chairman shall issue a preliminary certification of rehabilitation if the rehabilitation plan is a substantial rehabilitation as defined by KRS 171.396(10) [set forth in 300 KAR 6.010, Section 4(3)], and meets the standards for rehabilitation set forth in [300 KAR 6.010, Section 4(2)] of this administrative regulation.

(5) [The council will attempt to notify the applicant if the applicant is not adequate to complete the review or if revisions to the rehabilitation plan are necessary to meet the standards of rehabilitation set forth in [300 KAR 6.010, Section 4(2)] of this administrative regulation, the council shall attempt to notify the applicant by telephone or email using the contact information provided on the application. An applicant's failure to respond may result in denial of the application. The council's notification or failure to notify shall not effect the warranty of deficiency or alteration of time limitations set forth under the Act.

(6) Changes to rehabilitation plans. Once a rehabilitation plan has been approved by the council, an applicant can only make substantive changes in the work described in the application by:

(a) Filing a Certification Application-Amendment form with the council; and
(b) Receiving notification from the council that the revised plan continued to meet the standards of rehabilitation set forth in [300 KAR 6.010, Section 4(2)] of this administrative regulation and is a substantial rehabilitation as defined by KRS 171.396(10) set forth in 300 KAR 6.010, Section 4(3).

Section 5: Certifications of Rehabilitation-Part 3 Completed Work. (1) Application. Upon completion of a rehabilitation project an applicant shall timely file a Certification [projects, Certificate of Completion] Application Part 3-Request for Certification of Completed Work form [form shall be timely-filed] with the council for final certification of rehabilitation. An application shall include the following information:

(a) Names and mailing addresses of owners;
(b) Name and address of property;
(c) Designation of whether the application is for owner-occupied residential property or other property;
(d) Actual starting date and completion date [date];
(e) Actural qualified rehabilitation expenses;
(f) Photographs adequate to document the appearance of the structure, both on the interior and exterior, and its site and environment during and after rehabilitation;

(g) The taxpayer identification number or Social Security number; and
(h) Signatures of owners requesting certification.

(2) Summary of Investment. In addition to filing a Certification [Certificate of Completion] Application Part 3-Request for Certification of Completed Work form, the applicant shall file a Summary of Investment form with the council. The Summary of investment shall include the following:

(a) Names and mailing addresses of the owners;
(b) Name and address of the property;
(c) Actual costs attributed to the rehabilitation work;
(d) Signatures of the owners; and

(e) [if the property is an owner-occupied residence, or, for all other property, certification by a certified public accountant or equivalent for all other property] of the actual costs attributed to the rehabilitation of the historic structure.

(3) Scope of review.
(a) Rehabilitation encompasses all work on the interior and exterior of the certified historic structure or structures and the site and environment, as determined by the council, as well as related demolition, new construction or rehabilitation work which may affect the historic qualities, integrity or site, landscape features, and environment of the certified historic structure. Conformance to the standards of rehabilitation set forth in [300-KAR-6.010]. Section 4(2) of this administrative regulation shall [will] be determined on the basis of application documentation and other available information by evaluating the property as it existed prior to the commencement of rehabilitation.

(b) Phased rehabilitation projects are not permitted. Each rehabilitation project shall be self-contained, and completion of the rehabilitation project shall not be contingent upon a phased rehabilitation to commence after receiving final certification of rehabilitation.

(c) Portions of a completed rehabilitation project that are not in conformance with the standards for rehabilitation shall not be exempted, and may result in denial of the Certification [Certificate of] Application Part 3-Request for Certification of Completed Work.

(4) Review of Part 3 Applications. A complete and adequately-documented Certification Application Part 3 - Request for Certification of Completed Work shall be reviewed by the council for a determination that the completed rehabilitation project is a certified rehabilitation. The council [directed] shall issue a final certification of rehabilitation if all the following requirements have been met:

(a) All elements of the completed rehabilitation project meet the standards for rehabilitation as defined in [300-KAR-6.010]. Section 4(2) of this administrative regulation;

(b) The completed rehabilitation project was a substantial rehabilitation as defined by [set forth in 300-KAR-6.010, Section 4(3), and as set forth in] KRS 171.396(10); and

(c) Part 3 was filed with the council after the completion date as defined in [300-KAR-6.010, Section 1(9) of this administrative regulation, and within thirty (30) days following the close of the calendar year in which the completion of the rehabilitation occurred.

(5) [The council will attempt to notify the applicant] If the application is not adequate to complete the review or if revisions to the rehabilitation project are necessary to meet the standards of rehabilitation set forth in [300-KAR-6.010] Section 4(2) of this administrative regulation, the council shall attempt to notify the applicant by telephone or email using the contact information provided on the application. Applicant’s failure to respond may result in denial of the application. The council’s notification or failure to notify shall not constitute a waiver or alteration of time limitations set forth under the Act.

Section 6: Inspection. The director or an authorized representative of the council shall be permitted to conduct an inspection of the property at any time up to three (3) years after the council has issued a Certification of Completed Work to determine if the work meets the standards for rehabilitation set forth in [300-KAR-6.010] Section 4(2) of this administrative regulation.

Section 7: Revocation of Owners’ Certifications. If, after obtaining final certification of rehabilitation, the council determines that the rehabilitation was not undertaken as represented by the owner in the applications, amendments, or supporting documentation, or the owner upon obtaining final certification undertook disqualifying work, the council may revoke a certification by giving written notice to the owner. The owner has thirty (30) days to comment on the matter by written objections with the director. The council shall notify the department of its final determination, and any tax consequences of a revocation of certification shall be determined by the department.

Section 8. Fees for Processing Rehabilitation Certification Requests. (1) Payment of fees for review of Parts 2 and 3 shall be filed with the council when applications are filed and are non-refundable. Certification shall not be issued until the appropriate remittance is received. Payment shall be made by check or money order payable to the Kentucky State Treasurer. Fees for reviewing rehabilitation certification requests of owner-occupied residential property are charged in accordance with the following schedule. If a Part 2 application is denied, there will be no charge for a Part 3 review fee.

<table>
<thead>
<tr>
<th>Rehabilitation Costs for Owner-Occupied Residences</th>
<th>Part 2 Review Fee</th>
<th>Part 3 Review Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $100,000</td>
<td>$50</td>
<td>$40</td>
</tr>
<tr>
<td>$100,000 or greater</td>
<td>$150</td>
<td>$100</td>
</tr>
</tbody>
</table>

(3) Fees for reviewing rehabilitation certification requests for all property other than owner-occupied residential property are charged in accordance with the following schedule. If a Part 2 application is denied, there will be no charge for a Part 3 review fee.

<table>
<thead>
<tr>
<th>Rehabilitation Costs for Commercial and Other Buildings</th>
<th>Part 2 Review Fee</th>
<th>Part 3 Review Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $50,000</td>
<td>$50</td>
<td>$40</td>
</tr>
<tr>
<td>$50,000-$100,000</td>
<td>$150</td>
<td>$100</td>
</tr>
<tr>
<td>$100,000-$499,999</td>
<td>$300</td>
<td>$200</td>
</tr>
<tr>
<td>$500,000-$999,999</td>
<td>$450</td>
<td>$300</td>
</tr>
<tr>
<td>$1 million or greater</td>
<td>$900</td>
<td>$600</td>
</tr>
</tbody>
</table>

(2) Fees are charged for reviewing rehabilitation certification requests in accordance with the following schedule:

<table>
<thead>
<tr>
<th>Rehabilitation Costs (projected for Part 2 and actual for Part 3)</th>
<th>Part 2-Description of Rehabilitation Application Review</th>
<th>Part 3-Request for Certification of Completed Work Application Review</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than $60,000</td>
<td>$100</td>
<td>Fee-waived</td>
</tr>
<tr>
<td>$60,000-$99,999</td>
<td>$250</td>
<td>$150</td>
</tr>
<tr>
<td>$100,000-$499,999</td>
<td>$560</td>
<td>$240</td>
</tr>
<tr>
<td>$500,000-$999,999</td>
<td>$1,050</td>
<td>$450</td>
</tr>
<tr>
<td>$1 million or greater</td>
<td>$2,100</td>
<td>$900</td>
</tr>
</tbody>
</table>

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

- "Certification Application Part 1-Evaluation of National Register Status", (KHC Form TC-1, Rev. 2007).[Kentucky-Heritage Council];
- "Certification [Certificate of] Application Part 2-Description of Rehabilitation", (KHC Form TC-2, Rev. 2007).[Kentucky-Heritage Council];
- "Certification Application-Continuation/Amendment", (KHC Form TC-2, Rev. 2007).[Kentucky-Heritage Council]; and
- "Summary of Investment", (KHC Form TC-4, Rev. 2007).[Kentucky-Heritage Council].

(2) The material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Heritage Council, [Monday through Friday, 9 a.m. to 4 p.m.-at] 300 Washington Street, Frankfort, Kentucky 40601, Monday through Friday, 9 a.m. to 4 p.m., in the office of the Executive Director.
VOLUME 33, NUMBER 9 – MARCH 1, 2007

FILED WITH LRC: December 15, 2006 at 8 a.m.
CONTACT PERSON: Peggy D. Guier, Staff Attorney, Ken- tucky Heritage Council, 300 Washington Street, Frankfort, Ken- tucky 40601, phone (502) 564-7005, ext. 129, fax (502) 564-5280.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARS, February 12, 2007)

501 KAR 6:999. Corrections secured policies and procedures.

REQUIRES TO: KRS Chapters 196, 197, 439
NECESSITY, FUNCTION, AND CONFORMITY: KRS 198.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or of its divisions. 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 secured policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) *Department of Corrections Secured Policies and Procedures, February 12, 2007 [December-14] [August-8], [2006], are incorporated by reference. Secured Policies and Procedures include:

BCC 08-04-02 Immediate Release of Inmates from Locked Areas (Amended 1/12/05)
BCC 09-04-01 Construction Crew Entry, Exit and Regulations (Amended 1/12/05)
BCC 09-04-02 Complex Entry and Exit (Amended 1/12/05)
BCC 09-05-01 Key Control (Amended 1/12/05)
BCC 09-06-02 Transportation to Courts (Amended 1/12/05)
BCC 09-07-01 Drug Abuse and Intoxicants Testing (Amended 1/12/05)
BCC 09-08-01 Weapons and Related Security Device Control (Amended 1/12/05)
BCC 09-08-02 Use of Restraints (Amended 1/12/05)
BCC 09-17-01 Institutional Supervisor Inspections (Amended 1/12/05)
BCC 09-20-01 Inmate Death (Amended 1/12/05)
BCC 09-21-01 Tool Control (Amended 1/12/05)
BCC 09-22-01 Emergency Power and Communication Systems

[BCCF-08-01-03 Bell County Forestry Camp's Institutional Emergency Plan]
BCCF 08-00-02 Bell County Forestry Camp Emergency Response Team
BCCF 08-10-01 Bell County Forestry Camp Emergency Response Team
BCCF 09-07-01 Key Control
BCCF 09-11-01 Guidelines for Contractors
BFCF 09-15-01 Count Procedure and Regulation of Inmate Movement (Amended 12/14/05)
BCCF 09-16-01 Inmate Death
BCCF 09-19-01 Tool Control (Amended 12/14/05)
BCCF 09-20-01 Weapons, Chemical Agents, and Related Security Device Control
BCCF 09-21-01 Transportation of Inmates
CPR 03 Critical Incident Planning (Amended 2/13/06)
CPR 04 Critical Incident Management (Amended 2/13/06)
CPR 05 Emergency Squads (Amended 12/12/05)
CPR 09.1 Use of Force and Mechanical Restraints (Amended 6/14/06)
CPR 09.3 Security Threat Groups (Amended 12/14/06)
CPR 09.7 Storage, Issue, and Use of Weapons Including Chemical Agents (Amended 12/12/05)
CPR 09.9 Transportation of Offenders (Amended 1/12/05)
CPR 09.10 Security Inspections (Amended 1/12/05)
CPR 11.01 Tool Control (Amended 12/14/05)
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 Contractor 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
FCDC 09-03-04 Escape Plan (Amended 1/4/05)
FCDC 09-05-01 Emergency Squad: Selection, Training and Evaluation (Amended 12/12/05)
FCDC 09-07-04 Natural Disaster or Earthquake (Amended 4/4/06)
FCDC 09-09-01 Construction Crew Entry and Exit Guidelines (Amended 12/12/05)
FCDC 09-09-02 Entry and Exit Procedures (Amended 12/12/05)
FCDC 09-09-03 Institutional Inspections (Amended 12/12/05)
FCDC 09-09-06 Issuance of Weapons, Ammunition and Chemical Agents (Amended 12/12/05)
FCDC 09-09-09 Controaband Control, Collection, Preservation, Disposition of Contraband and Identification of Physical Evidence (Amended 12/12/05)
FCDC 09-10-01 Emergency Release from Locked Areas (Amended 12/12/05)
FCDC 09-11-01 Tool and Equipment Control (Amended 12/12/05)
FCDC 09-12-01 Key Control (Amended 12/12/05)
FCDC 09-15-01 Radio Assignment (Amended 12/12/05)
KCW 06-01-02 Corrections Emergency Response Team (CERT) (Amended 6/14/06)
KCW 09-01-01 Inmate Counts (Amended 6/14/06)
KCW 09-02-01 Transportation of Inmates (Amended 6/14/06)
KCW 09-02-02 Use of Restraints (Amended 6/14/06)
KCW 09-03-01 Force of Force (Amended 6/14/06)
KCW 09-03-02 Weapons and Chemical Agents (Amended 6/14/06)
KCW 09-03-03 Forced Cell Entry (Amended 6/14/06)
KCW 09-04-01 Portable Radios and Mobile Units (Amended 6/14/06)
KCW 09-06-01 Tool Control (Amended 6/14/06)
KCW 09-06-02 Key Control (Amended 6/14/06)
KCW 09-06-03 Flammable, Hazardous, Toxic and Caustic Materials (Amended 6/14/06)
KCW 09-07-01 Weekly Security Inspections - Security Devices (Amended 6/14/06)
KCW 09-07-03 Quarterly Security Inspections (Amended 6/14/06)
KCW 09-09-01 Perimeter Security Plan and Daily Inspections (Amended 6/14/06)
KCW 09-12-01 Collection, Preservation and Identification (Amended 6/14/06)
KCW 09-02-05 Storage of Flammable and Dangerous Chemicals and Their Use (Amended 12/12/05)
KCW 09-03-04 Emergency Plan and General Policy (Amended 12/12/06)
KCW 09-03-05 General Procedures and Plans for Riots and Disturbances (Amended 12/12/06)
KCW 09-03-06 Master Riot Control Plan (Amended 12/12/05)
KCW 09-03-04 Hostage Plan (Amended 12/12/06)
KCW 09-03-06 Work - Slowdown, Work - Stoppage, Work Stikes, by Correctional Employees (Amended 4/12/06)
KCW 09-03-06 Escape Procedure (Amended 12/12/05)
KCW 09-03-06 Bomb Plan (Amended 12/12/06)
KCW 09-05-01 Corrections Emergency Response Team (Amended 12/12/05)
KCW 09-01-01 Use of Force (Amended 2/12/07[12/14/06][4/12/06])

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KSP 09-07-01 Weapons Control (Amended 1/12/05)
KSP 09-08-01 Searches and Preservation of Evidence (Amended 12/14/06[4/14/06])
KSP 09-09-01 Transportation of Inmates (Amended 12/14/06[4/14/06])
KSP 09-10-01 Institutional Security Inspections (Amended 1/12/05)
KSP 09-10-02 Security Inspection Guidelines for Cellhouse Officers (Amended 1/12/05)
KSP 09-11-01 Tool Control (Amended 12/14/06[4/14/06])
KSP 09-12-01 Key Control (Amended 1/12/05)
KSP 09-13-05 Outside Hospital Duty, Inpatient and Outpatient Care for Inmates (Amended 1/12/05)
KSP 09-14-01 Count Procedures (Amended 2/19/07[12/14/06][4/14/06])
KSP 09-15-01 Entry and Exit Procedures (Amended 2/19/07[12/14/06][4/14/06])
KSP 09-15-04 Institutional Limited Access (Amended 1/12/05)
KSR 08-01-01 Control of Flammable, Hazardous, Toxic and Caustic Chemicals and Materials (Amended 6/14/05)
KSR 08-01-02 Corrections Emergency Response Team (Amended 12/14/05)
KSR 08-01-03 Emergency Medical Transportation (Amended 8/10/05)
KSR 08-04-04 Emergency-Response-Procedure
KSR 09-00-04 Box 1 Entry and Exit Procedure (Amended 8/10/05)
KSR 09-00-09 Contraband, Dangerous Contraband and Search Policy (Amended 6/14/05)
KSR 09-00-27 Construction Crew Entry and Exit (Amended 8/10/05)
KSR 09-01-01 Count Procedures (Amended 6/14/05)
KSR 09-01-02 Gate 1 Entrance and Exit Procedure (Amended 8/10/05)
KSR 09-01-03 Tunnel Gate Entrance and Exit Procedure
KSR 09-01-04 Outside Stacked Gate (Box 01)
KSR 09-01-05 Tool Control (Amended 2/12/07)
KSR 09-01-06 Security Inspection Plan
KSR 09-01-07 Key Control
KSR 09-01-08 Issuance of Firearms and Chemical Weapons From Armory Vault
KSR 09-01-09 Officers Daily Housing Security and Safety Log, Security Index, Correctional Security Guide and Post Orders
KSR 09-01-10 Issuance of Institutional Portable Radios
KSR 09-01-11 Transportation of Inmates
KSR 09-01-12 Collection, Preservation and Identification of Physical Evidence
KSR 09-01-13 Forced Cell Move in Medium or Maximum Area
KSR 10-01-011 Special Management - Behavior Problem Control
LLCC 08-03-01 Emergency Squad: Selection, Training and Evaluation (Amended 3/05/05)
LLCC 09-01-02 Priority Posts and Emergency Security Posts Assignments for Daily Operation (Amended 3/05/05)
LLCC 09-06-01 Central Control Center Operating Procedure (Entry into Institutional Compound) (Amended 6/14/06)
LLCC 09-07-01 Count Procedure and Documentation (Amended 6/14/06)
LLCC 09-08-01 Regulation of Inmate Movement (Amended 3/05/05)
LLCC 09-08-02 Unit Security and Emergency Procedure (Amended 3/05/05)
LLCC 09-09-01 Transportation of Inmates - Entry and Exit Procedures (Amended 3/05/05)
LLCC 09-09-02 Entry and Exit Control (Amended 3/05/05)
LLCC 09-11-01 Standards for Maintaining Perimeter Security (Amended 6/14/06)
LLCC 09-11-04 Outside Detail (Amended 1/12/05)
LLCC 09-12-02 Monitoring Staff and Visitors Movement (Amended 3/05/05)
LLCC 09-13-01 Outside Hospitals (Amended 1/12/05)
LLCC 09-14-01 Security Procedures for Print Shop (Amended 1/12/05)
LLCC 09-15-01 Emergency Redlight Response (Amended 3/05/05)
LLCC 09-17-01 Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (Amended 3/05/05)
LLCC 09-18-04 Monitoring of Inmate Telephone Calls (Amended 1/12/05)
LLCC 09-20-01 Weapons and Related Security Device Control (Amended 3/05/05)
LLCC 09-20-02 Key Control (Amended 3/05/05)
LLCC 09-20-03 Tool and Equipment Control (Amended 3/05/05)
LLCC 09-21-03 Cell Entry In a Dorm or Special Management Unit (Amended 1/12/05)
LLCC 09-22-01 Application of Restraints (Amended 3/05/05)
LLCC 09-24-01 Weapons Inspection and Maintenance of All Security Devices (Amended 1/12/05)
[LSCC 09-03-04 Escape Plan (Amended 6/14/06)]
[LSCC 09-06-05 CERT: Selection, Training, and Evaluation (Amended 6/14/06)]
LSCC 06-05-01 Construction Crew: Entrance and Exit Guidelines (Amended 8/10/05)
LSCC 06-05-01 Entrance and Exit Procedures (Amended 6/14/06)
LSCC 06-07-01 Institutional Inspections (Amended 6/14/06)
LSCC 06-08-01 Issuance of Weapons Ammunition and Chemical Agents (Added 6/14/06)
LSCC 06-09-01 Contraband Control, Collection, Preservation, and Disposition of Physical Evidence (Added 6/14/06)
LSCC 06-09-01 Tool and Equipment Control (Added 6/14/06)
LSCC 06-12-01 Key Control (Amended 8/10/05)
LSCC 06-15-01 Radio Assignment (Added 6/14/06)
NTC 08-05-04 Storage of Flammable and Dangerous Chemicals and Their Use (Amended 1/12/05)
[NTC 09-01-02 Escape By Air]
NTC 09-02-01 Regulation of Inmate Movement
NTC 09-04-01 Construction and Service Personnel (Amended 1/12/05)
NTC 09-05-01 Count Procedure and Documentation (Amended 1/12/05)
NTC 09-08-01 Issuance and Use of Institution Portable Radios (Amended 1/12/05)
NTC 09-09-01 Transportation of Inmates (Amended 1/12/05)
NTC 09-10-01 Use of Force: Prohibiting Personal Abuse and Corporal Punishment
NTC 09-10-02 Use of Physical Restraints (Amended 1/12/05)
NTC 09-11-01 Tool Control
NTC 09-13-01 Procedure for Operation in the event of Dense Fog and Loss of Power
NTC 09-17-01 Maintaining Perimeter Security (Amended 1/12/05)
NTC 09-17-02 Perimeter Security Check
NTC 09-18-01 Key Control (Amended 1/12/05)
NTC 09-19-01 Electrical Disabling Devices (Amended 1/12/05)
NTC 09-20-01 Security Inspection Plan
NTC 09-21-01 Inclement Weather Operations
NTC 09-23-01 Weapons and Related Security Device Control (Amended 1/12/05)
NTC 09-25-02 Use of Chemical Agents (Amended 1/12/05)
NTC 09-28-01 Personal Firearms Owned by Employees Residing on Institutional Property
NTC 09-30-01 Security Check-In List Procedures (Added 1/12/05)
[RC 09-02-04 Employee Procedures (Amended 1/12/05)]
RC 09-08-01 Control and Use of Flammable, Toxic, and Caustic Materials (Amended 1/12/05)
[RC 09-09-04 Institutional—Emergency Plan (Amended 4/12/06)]
RC 09-01-01 Establishment of Security Posts (Amended 1/12/05)
Section 1. Basic Training Graduation Requirements. To graduate from the department's basic training course, a recruit shall:

(1) Successfully complete a minimum of 754 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 recruit who does not achieve a seventy (70%) percent overall score shall be considered to have failed basic training; and

(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 police 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. One (1) repetition maximum (RM) bench press equal to sixty-four (64) percent of the recruit's body weight; 
2. Eighteen (18) sit-ups in one (1) minute; 
3. 300 meter run in sixty-five (65) seconds; 
4. Twenty (20) pushups; and 
5. 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 physical training entry test, he shall have met the physical training entry requirements.

(c) Retests. 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. One (1) repetition maximum (RM) bench press equal to seventy-three (73) percent of the recruit’s body weight;
   2. Eighteen (18) sit ups in one (1) minute;
   3. 500 meter run in sixty-five (65) seconds;
   4. Twenty-five (25) push ups; and
   5. 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 data 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 midpoint test, 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;
   2. Extreme heat, humidity, or a combination thereof; or
   3. Adverse 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 (3)(b) of this section may be extended until the events can be safely administered.

(e) During week nine (9) [eighty–(80)] of basic training, the results 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 eight (8) testing may be accepted in lieu of having to complete the examination established in subsection (2)(a) of this section.

Section 3. Failure and Repetition of Basic Training (1) Failure of Training:
(a) A recruit that is removed from basic training due to failure before reaching the beginning of week nine (9) [eighty–(80)] shall:
   1. Be required to repeat the entire basic training course; and
   2. Pay all applicable fees for the repeated basic training course in accordance with 503 KAR 3 030.
(b) If a recruit fails basic training in week nine (9) [eighty–(80)] through week eighteen (18):
   1. He or she shall:
      a. Be removed from the basic training class;
      b. Reenter basic training in a subsequent class that has the first available vacancy; and
      c. Start his or her training at the beginning of the training module that the recruit was in at the time of the failure.
2. In accordance with Section 6(2) of 503 KAR 3 030, the recruit’s hiring agency shall pay to the department the full tuition, room, and board costs of repeating the training module which was failed. The hiring agency may recover these costs of repeating the training module from its recruit; and
3. If the training module is successfully completed, the recruit shall continue with the remainder of the basic training course.

(2) Failure of the physical training graduation requirements. A recruit who fails the physical training graduation requirement in Section 2(2) of this administrative regulation:
(a) Shall not graduate with his or her basic training class;
(b) Shall be permitted to retest with the very next basic training class; and
(c) Upon successful completion may graduate with that class.
(3) A recruit who is permitted to return to basic training in accordance with this section is and is removed due to failure a second time shall:
(a) Be required to repeat basic training in its entirety; and
(b) Pay all costs of repeating the entire basic training course in accordance with 503 KAR 3 030.

Section 4. Training Modules. (1) Basic training shall be divided into fourteen (14) [ten–(10)] different training areas [modules] on the following subjects:
(a) Administration and testing;
(b) Telecommunications (MOT);
(c) Legal subjects;
(d) Physical training;
(e) Defensive tactics;
(f) Patrol;
(g) Vehicle operations;
(h) Firearms;
(i) Criminal investigation;
(j) DUI/Field sobriety testing;
(k) Breath testing;
(l) Modular evaluation/testing;
(m) First Aid/CPR/AED;
(n) Homeland security, Orientation to basic training;
(o) Theft;
(p) Warrant/disorder;
(q) Traffic stops;
(r) Staying under the influence (DUI);
(s) Crimes against property;
(t) Collusion;
(u) Crimes against persons;
(v) Homeland security, and
(w) Graduation.
(2) Basic training shall be divided into five (5) tested areas/modules:
(a) I;
(b) II;
(c) III;
(d) IV; [and]
(e) V; and
(f) VI.
(3) If a recruit is unable to complete basic training, but legally entitled to complete the unfinished modules of the course, the recruit shall restart at the beginning of the module which he or she was in when the recruit left basic training.

Section 5. Examinations. (1) A recruit shall be examined in the following six (6) areas of basic training:
(a) Area I: Five (5) academic tests;
(b) Area II:
   1. Firearms, including:
      a. Hand gun;
      b. Night hand gun;
      c. Shot gun; and
      d. Low–light shotgun qualification;
2. Performance driving evaluation, practical and  
3. Defensive tactics, which begin with the opening of Class #324 shall  
include a:  
   a. Skills test and  
   b. Pressure Point Control Tactics Management System (PPCT)  
written certification test;  
   c. Area II:  
      1. Breath test, including:  
         a. Practical examination; and  
         b. Written examination; and  
      2. D.U.I. detection, including:  
         a. Practical examination; and  
         b. Written examination;  
   d. Area IV: American Red Cross certification in the following:  
      1. Professional rescuer CPR-automated external defibrillation; and  
   2. First aid;  
   e. Area V: Mobile Data Terminal Certification; and  
      1. Area VI: Practical exams [Homeland Security].  
   1. Patrol practical exam; and  
   2. Investigative practical exam.  
(2) A recruit shall be permitted one (1) reexamination in each of the six (6) areas of basic training.  
(3) A recruit who fails an examination, other than defensive tactics or the patrol and investigations practical exams, shall not be reexamined:  
   a. Earlier than forty-eight (48) hours from the original exami- 
nation; or  
   b. Later than:  
      1. Ten (10) days after the original examination. A recruit may submit a written request to the branch manager for an additional five (5) days in which to take the reexamination, and  
   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 exami- 
nation; or  
      2. Later than the last scheduled day of 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. Absence. (1) A recruit may have excused absences from the course with approval of the director of the certified school or his designee.  
(2) An excused absence from the course which causes a recrui- 
to miss any of the 754 hours of basic training shall be made up through an additional training assignment.  

Section 7. Circumstances Preventing Completion of Basic Training. (1) 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 emergency, 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:  
   a. Extenuating circumstance preventing completion of basic training does not last for a period longer than one (1) year; and  
   b. Failure to complete is not caused by a preexisting physical injury or preexisting physiological condition.  
(2) If a recruit is prevented from completing the basic training course due to being called for active duty in the Kentucky National Guard or other branches of the United States Armed Forces, the recruit shall be permitted to complete the unfinished areas of the course within 180 days immediately following his or her return from active duty service.  

Section 8. Termination of Employment while Enrolled. If, while enrolled in the basic training course, a recruit's employment as a police officer is terminated by dismissal and he is unable to com- 
plete the course, he shall complete the remaining training within one (1) year of reemployment as an officer. The recruit shall repeat basic training in its entirety if:  
   a. The break in employment exceeds one (1) year; or  
   b. 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. 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. DOJC Form 68-1 [Application for Training Credit]; and  
   b. DOJC Form 29-1 [Agency Request for Training]; and  
   c. DOJC Form 29-1PA [Agency Request for Training - Pay Agency Form] [Authorization].  
(2) The department shall send a copy of the DOJC Form 68-1 to the:  
   a. Council for verification; and  
   b. DOJC Records Section Supervisor.  
(3) All training records required for fund purposes shall be retained 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 admini- 
istrator for inspection or other appropriate purposes; and  
   b. Maintained in accordance with applicable provisions of KRS Chapter 171.  

Section 10. Incorporation by Reference. (1) The following ma- 
terial is incorporated by reference:  
   a. "DOJC Form 68-1 - Application for Training Credit",  
   b. "DOJC Form 29-1 - Agency Request for Training",  
   c. "DOJC Form 29-1PA - Agency Request for Training - Pay Agency Form",  
   d. "DOJC Form 29-1PA - Agency Request for Training - Pay Agency Form",  
   e. "DOJC Form 29-1PA - Agency Request for Training - Pay Agency Form",  

   (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 40475-3102, Monday through Friday, 8 a.m. to 4:30 p.m.  

LARRY BALL, Executive Director  
For WILLIAM F. WALSCH, Ph.D., Chair  
APPROVED BY AGENCY: December 15, 2006  
FILED WITH LRC: December 15, 2006 at noon  
CONTACT PERSON. Stephen D. Lynn, Assistant General Counsel, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102, phone (859) 622-3073, fax (859) 622-5027.  

JUSTICE AND PUBLIC SAFETY CABINET  
Kentucky Law Enforcement Council  
(As Amended at ARRS, February 12, 2007)  
503 KAR 3:010. Basic law enforcement training course recruiit conduct requirements; procedures and penalties.  
RELATES TO: KRS 15A.070(1)  
STATUTORY AUTHORITY: KRS 15A.070(5)  
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070(1) authorizes Department of Criminal Justice Training to establish, supervise and coordinate training programs and schools for law enforcement personnel. KRS 15A.070(5) authorizes the commissioner of the Department of Criminal Justice Training to promulgate administrative regulations. This administrative regulation establishes conduct requirements of recruits attending basic law enforcement training courses conducted by the Department of Criminal Justice Training, procedures for disciplinary ac-
tion, and penalties for violations of conduct requirements.

Section 1. Uniforms and Operator's License Required. A recruit shall provide the uniforms required in Section 6(8) of this administrative regulation and present a valid motor vehicle operator's license to participate in the basic training course.

Section 2. Removing a Recruit from the Course. (1) Unqualified recruit. If a recruit is not qualified to participate in the basic training course, he shall:
(a) Be removed from basic training by the:
   1. Commissioner;
   2. Director;
   3. Branch manager; or
   4. Section supervisor; and
(b) Receive no credit for the part of the course he has completed.
(2) If a recruit is removed from training, pursuant to subsection (1) of this section, within thirty (30) days of the removal, he may request in writing an administrative hearing, which shall comply with KRS Chapter 13B.
(3) A recruit shall be considered unqualified if he:
   (a) Or his law enforcement agency files an incomplete or fraudulent application to attend basic training, or otherwise fails to comply with admissions requirements;
   (b) Is not presently employed as a law enforcement officer and has not received special permission to attend;
   (c) Arrives at the beginning of basic training physically unable to participate because of:
      1. Physical injury;
      2. Being under the influence of alcohol or drugs (prescription or illegal); or
   3. Failure of the physical training entry requirements as found in 503 KAR 1:110 if the recruit is required to complete basic training in order to fulfill the peace officer certification provisions as found in KRS 15.330 to 15.402;
   (d) Has had prior disciplinary action while at DOCJT which would prevent participation (expelled or suspended from training), or has a pending disciplinary action which was initiated during a previous DOCJT training course; or
   (e) Is unprepared to participate in training due to his arrival without the required equipment, license, uniform, or preparation;
(4) Agency's request: The department shall remove a recruit from basic training upon the department's receipt of a written request from the recruit's law enforcement agency. The recruit shall receive no credit for the part of the course he has completed.

Section 3. Gifts. Gifts from recruits to department staff members shall conform to the Executive Branch Code of Ethics (KRS 11A.040).

Section 4. Penalties for Misconduct. (1) The following penalties shall apply to a recruit's failure to meet conduct or Honor Code requirements of the department. The penalties are listed in order of decreasing severity.
   (a) Expulsion. The recruit is dismissed from the course, and all privileges are terminated. The recruit shall not reapply for admission to the department's basic training course for two (2) years from the date of expulsion.
   (b) Suspension. The recruit is suspended from training for a specified period of time, not to exceed one (1) year; all privileges are rescinded during the suspension period.
   (c) Probation. The recruit is placed on probation for a specified period of time, not to exceed the final date of the basic training course in which he is currently enrolled. A loss of privileges may be imposed during the period of probation. A violation of any conduct or Honor Code requirement during the period of probation shall result in an extension of the period of probation, additional loss of privileges, suspension, or expulsion.
   (d) Loss of privileges. The recruit's privileges as specified in the imposed penalty are rescinded for a stated period of time. The recruit's participation in training activities is not affected.
   (e) Written reprimand. The recruit is reprimanded in writing for violating a conduct or Honor Code requirement.
   (f) Verbal warning. The recruit is warned verbally that he has violated a conduct or Honor Code requirement.
   (g) Second and subsequent violations. (a) If a recruit has received a penalty for violating a conduct or Honor Code requirement, upon a second violation of any conduct or Honor Code requirement within the next higher penalty shall be added to the list of penalties in Sections 6 and 7 of this administrative regulation which may be imposed for the second violation.
   (b) If a recruit has previously received two (2) penalties for violating two (2) conduct or Honor Code requirements, upon a third or subsequent violation of any conduct or Honor Code requirement the next two (2) higher penalties in Sections 6 and 7 of this administrative regulation shall be added to the list of penalties which may be imposed for the third or subsequent violation.
   (c) Giving notice of disciplinary action to recruit. The department shall give written notice to a recruit of any penalty imposed upon him.
   (d) Penalty records. (a) The department shall keep a written record of any penalty imposed on a recruit.
   (b) A copy of any penalty imposed on a recruit shall be placed in his basic training file.
   (c) Only the department, the recruit, and the recruit's agency head shall have access to the penalty records in a recruit's basic training file unless broader access is required by law.

Section 5. Termination of Dangerous or Disruptive Situation. If the conduct or condition of a recruit constitutes an immediate danger or an immediate threat of danger to self or others, or is disruptive of, or is an immediate threat to be disruptive of a department activity, a department staff member may take all reasonable steps necessary to terminate the situation.

Section 6. Conduct Requirements. A recruit attending the basic training course shall meet the following conduct requirements:
   (1) General conduct, chain of command. All communications shall follow chain of command of the department. Exceptions are the unavailability of a supervisor, or the recruit's complaint regarding a supervisor. Penalty: verbal warning or written reprimand.
   (2) General conduct, insubordination. A recruit shall:
      (a) Obey a lawful order from a department staff member. Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.
      (b) Refrain from vulgarity, rudeness, violent, threatening, or offensive confrontation, or other disrespectful conduct directed toward a department staff member, recruit or other department trainee or guest. Penalty: verbal warning, written reprimand, probation, or suspension.
   (2) General conduct, grooming. The recruit shall be clean shaven with sideburns no longer than the bottom of the ear lobe. A mustache is permitted if the recruit has the mustache upon arrival and keeps it neatly trimmed. A beard shall not be permitted unless the recruit receives permission from the department based upon a written request from the recruit's agency and good cause shown. A recruit's hair shall [not] be clean and neat [unkempt] and shall not be over the collar. Penalty: verbal warning or written reprimand.
   (4) General conduct, alcoholic beverages and other intoxicants.
      (a) Regardless of amount, a recruit shall not possess, consume nor be under the influence of alcoholic beverages, controlled substances, or other intoxicating substances not therapeutically prescribed by a physician while attending a basic training course which shall include all dates of training and periods while residing in the dormitory, including the weekend if the recruit is granted permission to stay beyond the normal Friday evening checkout. "Attending a basic training course" shall not include the weekend period during which recruits check out of the dormitory and return to their homes. A recruit shall not report to the dormitory having consumed alcoholic beverages, controlled substances, or other intoxicating substances. A recruit shall submit to testing as requested by the department to determine the presence of alcoholic beverages, or controlled or other intoxicating substances at the department's expense. Testing shall not be required to impose a penalty under this subsection, but may be requested if a depart-
ment or dormitory staff member, instructor, section supervisor, branch manager, director or commissioner has a reasonable suspicion that the recruit has violated the provisions of this section. Testing may be randomly requested of all members of a basic training class or all dormitory residents. If a test is requested, a recruit shall be considered to have consumed alcoholic beverages if his or her blood alcohol concentration is 0.01% or greater. Penalty: written reprimand, loss of privileges, probation, suspension or expulsion.

(b) If a recruit has taken a controlled substance as prescribed by a physician or has taken any other medication, whether prescribed or not, he shall not participate in any training activity if he is under the influence thereof to the extent that the recruit may be impaired or may endanger himself or other property. A recruit shall advise the class coordinator or the section supervisor in writing of the use of a 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 recruit shall not possess deadly weapons (as defined in KRS 500.080), ammunition, destructive devices or booby trap devices (as defined in KRS 227.030), hazardous substances (as defined in KRS 227.021-030), knives other than an ordinary pocketknife, 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 and only in the presence of a certified firearms instructor. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(c) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director or commissioner observes an unlawfully possessed weapon or other dangerous device he shall immediately confiscate it.

2. Confiscated items shall be stored in a safe and secure facility of the department pending appropriate disposition.

(6) General conduct, department property.

(a) A recruit shall not recklessly, negligently, or intentionally damage, destroy, fail to return, or be wasteful of property of the department or any other facility used by the department. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(b) A recruit shall not have successfully completed basic training, and shall not be allowed to graduate until he has returned all issued items or made satisfactory arrangements to pay for unreturned or damaged items.

(7) General conduct, conduct unbecoming a recruit. A recruit shall not:

(a) Engage in criminal activity, including acts which would constitute a felony, misdemeanor or violation, while enrolled in a basic training class. Depending on the nature of the conduct, the recruit shall be penalized by a verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion. Additionally, the appropriate prosecutorial authority shall be notified of the activity if it constitutes a felony or class A misdemeanor, and may be notified of other activity if appropriate.

(b) Engage in conduct which creates a danger or risk of danger to the recruit or another, possess obscene matter as defined in KRS 531.010, engage in conduct which is unreasonable annoying, engage in fighting or in violent, tumultuous or threatening conduct, engage in sexual harassment or conduct which is patently offensive. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(c) Engage in conduct which violates an Eastern Kentucky University policy or rule. A copy of the policies and rules shall be given to each recruit at the beginning of the course. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(8) Training activities, uniforms.

(a) A recruit shall acquire all necessary uniforms and wear them as required by the department. Penalty: verbal warning, written reprimand, loss of privileges, or probation.

(b) Navy blue utility uniforms shall be:

1. Clean, pressed and in good condition;
2. Appropriately sized to fit the recruit and not excessively loose, baggy, or tight;
3. Worn over a clean white or department-issued tee-shirt, visible at the neck; and
4. Worn with a wide black police-type belt, clean black police-type frontwear, black or navy blue socks, and when outdoors, a department cap. Penalty: verbal warning or written reprimand.

(c) Jewelry.

1. The recruit may wear:
2. One (1) ring per hand. A wedding and engagement ring worn together (on the left hand) shall be considered one (1) ring;[
3. Necklaces, earrings, bracelets, and other jewelry shall not be worn unless authorized by the coordinator [under the t-shirt and not visible]. Penalty: verbal warning or written reprimand.

(d) A name tag, provided by the department, shall be worn on the left shirt-pocket flap. Penalty: verbal warning or written reprimand.

(e) Sleeves on winter shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.

(f) The physical fitness uniform shall be provided by the recruit and shall consist of solid dark blue athletic shorts, solid dark blue sweat shirt and sweat pants, solid white athletic socks, and a pair of athletic shoes. A department-issued tee shirt shall be worn during physical training. Penalty: verbal warning or written reprimand.

(g) Optional (Additional) clothing may be worn during a training activity if authorized by the class coordinator [instructor].

(9) Training activities, absences.

(a) A recruit is absent if he is not physically present in a class or other required department activity for ten (10) minutes or more. A recruit is tardy if he is not physically present at a class or other required department activity for fewer than ten (10) minutes. A recruit shall give advance notice of an absence if 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 basic training shall be approved by the section supervisor or branch manager.

(c) If a recruit [tardiness] is absent, excused or unexcused, he shall make up for the absence by completing an assignment provided by the class coordinator and class administrative specialist [instructor who taught the missed unit]. Failure to make up the work shall be deemed a failure of [for] that training area.

(10) Training activities, breaks. Recruits shall be allowed a ten (10) minute break per hour of instruction if possible. Breaks shall be taken only in areas designated by the department. Penalty: verbal warning or written reprimand.

(11) Training activities, general conduct.

(a) A recruit shall be attentive during training activities. Penalty: verbal warning or written reprimand.

(b) A recruit shall not use tobacco products during, or bring food or drink into a training activity unless so permitted by the training staff [director or commissioner]. Penalty: verbal warning or written reprimand.

(c) A recruit shall not engage in conduct which creates or may create a risk of injury to others during a training session. Penalty: probation, suspension, or expulsion.

(d) A recruit shall complete assignments by the deadline established by the instructor or coordinator. Penalty: verbal warning or
written reprimand.

(12) Training activities, dishonesty.

(a) A recruit shall not cheat or attempt to cheat on a test, or alter or attempt to alter a test grade or other evaluation result. A recruit shall not permit, assist or facilitate this conduct by another recruit.

Penalty: verbal warning; written reprimand; loss of privileges; probation; suspension or expulsion.

(b) A recruit 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 basic training. A recruit shall not permit, assist or facilitate this conduct by another recruit. Penalty: written reprimand, loss of privileges, probation, suspension or expulsion.

(13) Residence hall

(a) During the basic training course, when attending in Madison County, a recruit shall reside in the residence hall designated by the department.

(b) A recruit shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, and Friday or Saturday if a training session is scheduled for the following day, and remain there until 5 a.m. the next morning. Exceptions shall be approved by the class coordinator and reported in writing through channels to the director. Penalty: verbal warning, written reprimand, loss of privileges, probation.

(c) A recruit shall observe "lights out" by 11:30 p.m. This time may be temporarily moved up or extended by the branch manager or designee based upon training or testing activities the following day. Notification of any time change shall be given to each recruit in the department [Sunday through Thursday and Friday or Saturday if a training session is scheduled for the following day], except on nights prior to an academic test when the time shall be extended to 12 midnight. Penalty: verbal warning or written reprimand.

(d) Each recruit shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a recruit shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. Penalty: verbal warning, written reprimand, loss of privileges.

(e) Doors shall be locked whenever a room is unoccupied. Penalty: verbal warning or written reprimand.

(f) The use of cooking appliances or space heaters is prohibited. Penalty: verbal warning, written reprimand, loss of privileges.

(g) [hh] All residence hall rooms, closets, and containers therein may be inspected by department staff for purposes of safety, sanitation and rule violations.

(h) A recruit residing at the residence hall shall not:
1. Have any person of the opposite sex in his room, or visit in the room of a recruit of the opposite sex without the permission of the class coordinator [department]. Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.
2. Have a visitor in his room after 9 p.m. Penalty: verbal warning or written reprimand, loss of privileges.
3. Keep pets, animals, or birds of any kind in his room. Penalty: verbal warning, written reprimand, loss of privileges.
4. Engage in dangerous, disruptive, immoral or obscene behavior. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

Section 7. Honor Code. (1) The recruit shall abide by the provisions of the Honor Code which reads as follows.

We are a dynamic team of individuals who possess a wide array of talent and strengths. In order for our team to grow and be successful, we will respect the leadership of the agency and follow directives to the best of our ability. We will make sacrifices for the benefit of the team. We will practice humility and show a spirit of compromise. As recruits of the Department of Criminal Justice Training, Law Enforcement Basic Training class, we will not lie, steal or cheat or tolerate any among us who do.

We will keep our private lives honorable as an example to all. We will be exemplary in obeying the laws of the commonwealth and the administrative regulations of the Department of Criminal Justice Training. However, we swear 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 public service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession - law enforcement. Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension or expulsion.

(2) The coordinator [in cooperation with the class] shall designate a minimum of one Honor Code representative during the first week of basic training. The Honor Code representative may be replaced:

(a) For nonperformance of duties, including conduct violations; or

(b) If the coordinator [in cooperation with the class] determines that a rotating assignment as Honor Code representative is in the best interest of the class.

(3) All recruits shall report Honor Code violations to the Honor Code representative who shall report the offense to the class coordinator. The representative shall recommend the penalty to be imposed for the violation.

(4) All disciplinary procedures contained in this administrative regulation shall apply to the Honor Code violation. The department may pursue separately any additional offenses discovered during the investigation of the Honor Code violation. The department may charge a recruit with an Honor Code violation without a prior report from the Honor Code representative. A penalty recommendation for the violation shall be solicited from the Honor Code representative.

Section 8. Department's Responsibilities to Recruit's Agency. In order to keep the agency advised of the recruit's progress and performance in basic training so that the agency may adequately assess the recruit's ability to perform required duties, the department shall provide the following to the police chief, sheriff or chief administrator of the recruit's agency:

(1) Recruit performance report which shall be completed at six [7] week intervals and shall include recruit 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) Parking a marked police vehicle at a: 1. Bar; 2. Tavern; 3. Lounge; 4. Nightclub; or 5. Other establishment with the primary purpose of serving alcoholic beverages;

(b) Disorderly conduct;

(c) Speeding; or

(d) Other behavior that gives rise to a citizen's complaint.

(4) Written notice of any conduct or Honor Code penalty imposed upon the recruit.

(5) Notice if a recruit has been charged with a violation of a conduct or Honor Code requirement and has requested a hearing.

(6) Notice if a recruit has been removed from training pending an initial appearance before the commissioner as defined in Section 10 of this administrative regulation, or if a recruit has been removed from training pending a disciplinary hearing as defined in Section 14(3) of this administrative regulation.

(7) Immediate notice of concerns related to the recruit's safety, or physical or emotional health.

Section 9. Summary Discipline. Except for summary discipline, a penalty shall not be imposed upon a recruit unless charges have first been brought by the legal officer.

(1) The following department staff members have the authority to impose the specified penalties summarily without meeting the requirements of the formal disciplinary procedures provided by
Sections 10 through 15 of this administrative regulation. To have the authority to impose summary discipline, the staff member shall have reasonable grounds to believe the recruit has engaged in the misconduct.
(a) A department instructor may summarily impose a verbal warning.
(b) The section supervisor, branch manager, director, or commissioner may summarily impose a verbal warning, or written reprimand.
(c) The branch manager, director, or commissioner may summarily impose a verbal warning, written reprimand, or loss of privileges consisting only of a change in curfew.
(2) Before imposing a penalty summarily, the staff member shall provide the recruit the opportunity to give an explanation.
(3) A summarily imposed penalty shall be reviewed by, and may be rescinded or modified by, the immediate supervisor of the staff member imposing the penalty. The reviewer shall provide the recruit with the opportunity to give an explanation.

Section 10. Removal From Training Pending an Initial Appearance Before the Commissioner. (1) If a charge is filed against a recruit, the commissioner or director may remove the recruit from some or all training until the recruit’s initial appearance before the commissioner if he has reasonable grounds to believe the alleged misconduct took place and:
(a) He has reasonable suspicion to believe the recruit would be dangerous or disruptive if not removed; or
(b) The recruit has been charged with misconduct for which suspension or expulsion is authorized, and the facts demonstrate that suspension or expulsion is the appropriate penalty the recruit be found guilty of the conduct violation.
(2) A recruit who has been removed from training pending an initial appearance before the commissioner shall be provided the initial appearance within three (3) training days of the removal.

Section 11. Complaint. Anyone having reasonable grounds to believe that a recruit has violated any of the conduct or Honor Code requirements identified in this administrative regulation may file a complaint with the section supervisor. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 12. Investigation by Section Supervisor. (1) If the section supervisor or his or her designee receives a complaint of or witnesses apparent misconduct, he or she shall take statements and otherwise investigate the matter.
(2) After investigating the matter, the section supervisor shall:
(a) Take no action if none is justified by the evidence;
(b) Impose appropriate summary discipline; or
(c) File, with the legal officer, a written request that charges be brought against the recruit. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements violated. All pertinent evidence and documents including the complaint, and statements of the recruit and witnesses shall be forwarded to the legal officer.

Section 13. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.
(2) The legal officer may make or cause further inquiry into the matter for additional information.
(3) The legal officer shall
(a) File charges against the recruit as he believes are justified by the evidence; or
(b) Deny the request for charges if the evidence does not support any charges. If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.
(4) The charging document shall:
(a) Be in writing;
(b) Particularly describe the alleged misconduct so as to reasonably inform the recruit of the nature of the allegation;
(c) State the time, date and place the recruit shall make an initial appearance before the commissioner to answer the charges;
(d) Be signed by the legal officer; and
(e) Be served upon the recruit at least forty-eight (48) hours before his initial appearance before the commissioner.

Section 14. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than five (5) training days after the charges have been served on the recruit. If the recruit after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the recruit shall be notified in writing of any action taken.
(2) At the initial appearance before the commissioner:
(a) The legal officer shall:
1. Read the charges to the recruit; and
2. Explain to the recruit:
   a. The charges;
   b. His right to a hearing in accordance with KRS Chapter 13B, and
   c. His right to be represented by legal counsel
(b) The legal officer shall explain to the recruit the possible answers to the charges: admit the charges are true, deny the charges are true but waive a hearing, or deny the charges are true and ask for a hearing.
(c) The commissioner shall advise the recruit of the penalty which shall be imposed if the recruit admits the charges or waives a hearing.
(d) The recruit shall be requested to answer the charges.
(e) If the recruit chooses to waive his rights and admits the charges or waives the charges but waives a hearing:
1. He shall be permitted to make a statement of explanation; and
2. The commissioner shall impose a penalty.
(f) If the recruit denies the charges and requests a hearing, the commissioner shall set a date for the hearing. A notice of administrative hearing as required by KRS 13B.050 shall be served on the recruit within forty-eight (48) hours of the initial appearance before the commissioner.
(g) If the recruit remains silent or refuses to answer the charges, the commissioner may suspend the recruit from training until the recruit answers the charges or the legal officer drops the charges.
(3) The commissioner may remove the recruit from some or all training until the hearing if:
(a) He has reasonable grounds to believe the recruit would be dangerous or disruptive if not removed; or
(b) The recruit is charged with misconduct serious enough to authorize expulsion as a possible penalty.

Section 15. Hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

HERB BOWLING, Deputy Commissioner
For JOHN W. BIZZACK, Ph.D., Commissioner
APPROVED BY AGENCY: December 15, 2006
FILED WITH LRC: December 15, 2006 at noon
CONTACT PERSON: Stephen D. Lynn, Assistant General Counsel, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102, phone (859) 622-3073, fax (859) 622-5027.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Labor-Management Relations and Mediation
(As Amended at ARRS, February 12, 2007)

803 KAR 3:060. Procedures for electing and certifying exclusive representatives of police officers employed by urban-county or consolidated local governments and firefighter personnel, firefighters, or correctional personnel employed by urban-county governments.

RELATES TO: KRS 67A.6905, 67C.408
STATUTORY AUTHORITY: KRS 67A.6905(3), 67C.408(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 67A.6905(3) requires the Department of Labor to promulgate ad-
ministrative regulations governing [to facilitate] elections for ex-
clusive representatives of police officers and firefighter personnel,
firefighters, or corrections personnel employed by urban-county
governments. KRS 676.408(3) requires the department to promul-
gate administrative regulations governing [to facilitate] elections
for exclusive representatives of police officers employed by con-
solidated local governments. This administrative regulation estab-
lishes procedures for electing and certifying exclusive representa-
tives of police officers employed by urban-county or consolidated
local governments and firefighter personnel, firefighters, or correc-
tions personnel employed by urban-county governments.

Section 1. Definitions. (1) "Appropriate Collective Bargaining
Unit" means a group of police officers, firefighter personnel, [fire
fighters, or corrections personnel], as determined by the de-
partment considering the factors outlined in KRS 67A.6905(2) and
KRS 67C.408(2), which is the subject of a petition for election.

(2) "Commissioner" is defined in KRS 67A.6901(1) and
67C.400(5) [366-404(4)].

(3) "Cross petition for election" means a petition authorized by
KRS 67A.6905(1) or 67C.408(1) seeking to intervene in a pending
petition to elect an exclusive representative of an appropriate col-
lective bargaining unit.

(4) "Cross petitioner" means a person, organization, or em-
ployer, authorized by KRS 67A.6905(1) and 67C.408(1) to request
an election for an exclusive representative of an appropriate col-
teve bargaining unit, who files a cross petition for election.

(5) "Department" is defined in KRS 67A.6901(3) and
67C.400(1) [366-404(9)].

(6) "Exclusive representative" is defined in KRS 67A.6901(4)
[67A.6901(4)] and 67C.400(3).

(7) "Labor Organization" is defined in KRS 67A.6901(7)
[67A.6901(6)] and 67C.400(2).

(8) "Notice of Election" means a notice prepared by the de-
partment containing the details of an election for an exclusive rep-
resentative, including the appropriate collective bargaining unit,
voting eligibility criteria; date, hours, method, and location of the
election; sample ballot; and effect of the vote.

(9) "Petition for election" means a petition authorized by KRS
67A.6905(1) or 67C.408(1) requesting an election for an exclusive
representative of an appropriate collective bargaining unit.

(10) "Petitioner" means a person, group, organization, or em-
ployer, authorized by KRS 67A.6905(1) and 67C.408(1) to request
an election for an exclusive representative of an appropriate col-
teve bargaining unit, who files a petition for election.

Section 2. Petition for Election. (1) An original and three (3)
copies of a petition for election shall be filed with the department
and shall include the following:
(a) The petitioner's name, address, and affiliation, if any, along
with the name and telephone number of the petitioner's principal
representative;
(b) The name and address of the urban-county or consolidated
local government employer, if the employer is not the petitioner,
along with the name and telephone number of the employer's prin-
cipal representative;
(c) A description of the claimed appropriate collective bargain-
ing unit specifying the following:
1. The classifications of employees included and excluded;
2. The approximate number of employees;
3. The interests the employees have in common regarding
wages, hours, and other working conditions; and
4. The history of collective bargaining among employees;
(d) The name and address of any known labor organization
that represents police officers, firefighter personnel, [fire
fighters, or corrections personnel] in the claimed appropriate collective bar-
gaining unit;
(e) A clear and concise statement setting forth the issues
raised by the petition, including the proof required by KRS
67A.6905(1)(a) through (b) or 67C.408(1)(a) through (b);
(f) Any other relevant facts; and
(g) The petitioner's signature and a declaration, under penalty
of perjury, by the person signing the petition that the contents of
the petition are true and correct to the best of the person's knowl-
edge.
(2) The party filing a petition, cross petition, or other document
permitted or required by this administrative regulation shall serve a
copy on all affected parties.

(3) Within five (5) days of the date a petition for election is filed,
the department shall notify in writing any affected party identified
in the petition.

Section 3. Cross Petition for Election. (1) A cross petition
for election shall be filed within fifteen (15) days of the date the
petition for election is filed with the department.

(2) A cross petition for election shall be in the same form and
contain the same information required of a petition for election
outlined in Section 2 of this administrative regulation.

(3) Within five (5) days of the date a cross petition for election
is filed, the department shall notify in writing any affected party
identified in the cross petition for election.

Section 4. Duty to Furnish Information and Cooperate. (1) After
a petition and any cross petition are filed, the department may
direct the petitioner, cross petitioner, or any other affected party
to submit additional information the department deems relevant
to an investigation of the issues raised by the petition or cross petition,
as required by KRS 67A.6905(1) and 67C.408(1).

(2) In determining the appropriate collective bargaining unit, as
required by KRS 67A.6905(2) and 67C.408(2), the department
may consider the urban and suburban or consolidated local govern-
ment employer to furnish a current, alphabetized list of employees and
job classifications included or excluded from the appropriate collec-
tive bargaining unit claimed in the petition.

(3) All affected parties shall cooperate with the department and
each other in every aspect of the election process. This obligation
includes submitting all required and requested information, making
a good faith effort to agree on procedural matters, and participating
fully in conferences. Failure to cooperate may result in the depart-
ment taking appropriate action, including dismissing a petition or
denying intervention.

Section 5. [4.] Election Determination and Notification. (1) Within
forty-five (45) days of the date a petition for election is filed, the
department shall evaluate the petition and any cross petition to
determine whether it meets the requirements of Section 2(1) of
this administrative regulation [for validity]. The department may
terminate the time for evaluation up to thirty (30) days if it requests
additional information from the petitioner, cross petitioner, or any
other affected party, as outlined in Section 4 [6] of this administra-
tive regulation.

(2) If the department determines that a petition is valid, it shall
establish the appropriate collective bargaining unit, including voter
eligibility, and notify in writing all affected parties that an election
shall be held. If the department determines that a petition is invalid,
the petition shall be dismissed.

(3) If the department determines that a cross petition for elec-
tion is valid, it shall notify in writing all affected parties that the
cross petitioner shall be allowed to intervene. If the department
determines that a cross petition is invalid, the cross petition shall
be dismissed, and the cross petitioner shall not be allowed to inter-
vene.

(4) Parties shall make a good faith effort to enter into agree-
ments on the procedural conduct of the election, including the date,
hours, method, and location. If the parties cannot agree, the de-
partment shall determine the details of the election.

(5) Within fifteen (15) days of the date the department notifies
the parties in writing whether the petition and any cross petition are
valid, it shall issue a notice of election.

(6) At least ten (10) days prior to the date of the election, the
affected urban-county or consolidated local government employer
shall post the notice of election in a conspicuous place available
to all affected employees or distribute the notice to all affected
employees in a manner by which employment notices are normally
distributed.

Section 6. Election Procedures. (1) The department shall su-
pervise all elections.
(2) Voting shall be by secret ballot.
(3) The cost of printing and mailing ballots, if any, shall be borne equally by those whose names appear on the ballot.
(4) The petitioners shall appear first on the ballot. Cross petitioners shall appear in rank according to the date and time the department receives each cross petition. "No representative" or "non" shall be last on the ballot.
(5) If there is no pending cross petition, a petitioner may withdraw its request for an election at any time by filing a notice in writing with the department. If there is a valid cross petition, an election shall be held; however, either the petitioners or cross petitioners may remove its name from the ballot at any time prior to the date the election is held.
(6) Parties may choose equal numbers of observers to represent them at all polling locations, if elections are held on site, and at the ballot counting, subject to the department's approval. Observers for the employer shall not be supervisors of any employees in the affected collective bargaining unit.
(a) Each party shall file a written list of its proposed observers with the department at least ten (10) days prior to an election.
(b) Written objections to observers, stating specific reasons, shall be filed with the department within five (5) days after service of the list.
(c) The department's decisions on observers are final and binding.
(7) If the election is conducted on site, the following procedures shall apply:
(a) Polling locations shall be clearly marked. A private area or booth shall be available at each location for voters to mark their ballots in secret.
(b) The parties shall not distribute or post campaign literature within twenty-five (25) feet of the entrance of any polling site during polling hours.
(c) Cameras, video equipment, and similar means of surveillance shall be prohibited within the actual polling area while employees are voting.
(d) The department representative shall examine the ballot boxes in the presence of the authorized observers immediately prior to opening the polls. When the polls are opened, each ballot box shall be sealed, except for one (1) opening on the top for voters to insert their ballots.
(e) Employees shall present appropriate identification to the department representative to vote. A voter shall make a cross or check in the circle or block on the ballot corresponding to the voter's choice. If the voter inadvertently spoils a ballot, he or she may return the ballot to the department representative, who shall give the voter another ballot. The spoiled ballot shall be placed in a spoiled ballot envelope; the department representative shall seal the envelope; the authorized observers shall initial the envelope; and the department representative shall deposit the envelope in the ballot box.
(f) A voter shall fold his or her ballot so that no part of its face is exposed and, after leaving the voting area or booth, shall deposit the ballot in the ballot box.
(g) The department representative may privately assist any voter who, due to physical or other disability, is unable to mark his or her ballot.
(h) The department representative or any authorized observer may challenge, for good cause, the eligibility of any voter. The observer shall state the reason for the challenge. The department representative shall challenge any voter whose name does not appear on the eligibility list. A challenged voter shall be permitted to vote in secret. The department representative shall place the challenged voter's ballot in a challenged ballot envelope, seal the envelope, and mark the voter's name and the reason for the challenge on the outside of the envelope. The authorized observers shall initial the envelope, and the department representative shall deposit the envelope in the ballot box.
(i) The department representative stops the election for any reason, he or she shall completely seal the ballot boxes in the presence of the authorized observers. The ballot boxes shall remain in the custody of the department representative until voting resumes.
(j) Upon conclusion of the voting, the department representa-
Section 9. Certification of Election Results. If challenged ballots are insufficient in number to affect the results, no runoff election is to be held, and no timely objections are filed as provided in Section 10 of this administrative regulation, the department shall promptly certify the results of the election and notify all affected parties in writing.

Section 10. Objections to Election. (1) Within five (5) days after receiving the vote tally, any party to the election may file objections to the conduct of the election.
   (a) All objections shall be in writing and contain a brief statement of facts upon which the objections are based.
   (b) An original of the objections, containing the declaration required by Section 2(1)(g) of this administrative regulation, and three (3) copies shall be filed with the commissioner.
   (c) The party filing objections shall serve a copy of the objections upon each of the other parties at the same time it files with the commissioner.
   (2) Within ten (10) days after the objections are filed, the objecting party shall submit to the commissioner, with copies served upon all parties, a statement of material facts and issues, including a summary of evidence supporting the objections.
   (3) Within ten (10) days of the date the statement of material facts and issues is filed with the commissioner, an affected party may file a response.
   (4) The commissioner or designated representative shall promptly investigate the allegations, conduct a conference with all affected parties, and issue a report within thirty (30) days of receiving the statement of material facts and issues.
   (a) If the commissioner finds reasonable cause to believe that the election was not fairly and freely chosen by a majority of the employees in the appropriate collective bargaining unit, he or she shall order a new election and any other corrective action necessary to insure the fairness of the election process.
   (b) If the commissioner determines, upon investigation, that the election was fairly and freely chosen by a majority of the employees in the appropriate collective bargaining unit, he or she shall certify the results of the election.
   (c) The commissioner’s findings regarding the objections are final and binding.

TERESA J. HILL, Secretary
PHILIP J. ANDERSON, Commissioner
APPROVED BY AGENCY: December 14, 2006
FILED WITH LRC: December 15, 2006 at 11 a.m.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Office of Financial Institutions
(As Amended at ARRS, February 12, 2007)

808 KAR 1:100. Information to be furnished and maintained by banks.

RELATES TO: KRS 286.3-065 [287.065(3)]
STATUTORY AUTHORITY: KRS 286.1-020, 286.3-065
[287.020, 288.066]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.3-065 [287.066] requires the executive director [commissioner] to prescribe by regulation what banks are required to furnish their directors regarding Kentucky banking law and the duties of a bank director, and what federal banking law volumes are required to be maintained at the bank. This administrative regulation establishes the required information that shall be furnished and maintained by banks.

Section 1. The bank shall furnish each director, within forty-five (45) days of his or her election to the board, with an updated copy of the Kentucky banking law, KRS 286.3, which is available online at: http://www.lrc.ky.gov/KRS/286-03/chapter.htm [Chapter 287.]
This requirement may also be satisfied by the Kentucky Banking and Related Laws & Rules Annotated, published by LexisNexis, Matthew Bender & Company, Inc., P.O. Box 7887, Charlottesville, VA 22903 [Lexis-Nexis, Matthew Bender Publishing Company, 1001 Asquel Road, University Circle, Cleveland, OH, 44106].

   (2) If the bank is a Federal Reserve member bank, it shall maintain at least one (1) updated copy of the "Federal Reserve Regulatory Service" (FRRS), obtainable from Publications Fulfillment, MS-127, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, in either loose-leaf format or on CD-ROM (the Publications Services Section, Federal Reserve Board, 20th Street and Connecticut Avenue, N.W., Washington, D.C., 20551).

Section 3. The bank shall furnish each director, within forty-five (45) days of his or her election to the board, with a copy of an appropriate publication on the duties of the director. This requirement may be satisfied by "Pocket Guide for Directors", published by the Federal Deposit Insurance Corporation, Washington, D.C. Recanted February 2003, which is available:
   (1) Online at http://www.fdic.gov/regulations/resources/directors/c or
   (2) In hard copy from Public Information Center, Federal Deposit Insurance Corporation, 3801 North Fairfax Drive, Room E-1002, Arlington, VA 22226 [The Financial Planner: On the Bank Director, published by the American Bankers Association, 1120 Connecticut Avenue, N.W., Washington, D.C., 20036].

Section 4. The requirements contained in Sections 1, 2 and 3 of this administrative regulation may be satisfied by other publications, with the prior written approval of the Executive Director [Commissioner] of the Office [Department] of Financial Institutions if the executive director determines that the substituted publication contains the same information as a required publication.

LLOYD R. CRESS, Deputy Secretary for
TERESA J. HILL, Secretary
CHRISTOPHER L. LILLY, Commissioner
CORDELL G. LAWRENCE, Executive Director
APPROVED BY AGENCY: December 6, 2006
FILED WITH LRC: December 14, 2006 at 4 p.m.
CONTACT PERSON: Sally Mooney, Staff Attorney, Office of Financial Institutions, Environmental and Public Protection Cabinet, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390 ext. 235, fax (502) 573-2183.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Office of Financial Institutions
(As Amended at ARRS, February 12, 2007)

808 KAR 1:150. Establishment and relocation of bank branches or offices and establishment of loan production offices.

RELATES TO: KRS 286.3-100, 286.3-180, 286.3-185, 286.3-820, 12 C.F.R. 208.43, 325 [287.162, 287.165, 287.185]
STATUTORY AUTHORITY: KRS 286.3-180(2), 286.3-185, 286.3-820 [287.180(2), 287.185]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 286.3-180(2) [287.180(2)] and 286.3-185 [287.185], 12 C.F.R. 208.43, 12 C.F.R. Part 325 authorize the Office of Financial Institutions to
designate those banks that do not have to apply for approval of the executive director for permission to establish a branch or to relocate their [ite] principal office or branch. KRS 286.3-820(387-820)(12) authorizes the Office of Financial Institutions to designate those banks that do not have to apply for approval of the executive director to establish a loan production office. KRS 286.3-102 (386-387)(6) authorizes a qualified state bank to engage in any banking activity in which the bank could engage in other states if the bank meets specified conditions. Other states permit statewide branching as part of their authorized banking activities. This administrative regulation establishes the criteria for a bank to meet in order to be designated as not having to obtain executive director approval to establish a branch or loan production office, or relocate a principal office or branch.

Section 1. Permitted Activities Without Executive Director Approval. Any bank that meets the criteria set forth in Section 2 of this administrative regulation and provides the notices required in Section 3 of this administrative regulation may do any of the following in any county of the state, whether or not already located in the county, without executive director approval:

(1) Establish a branch; or
(2) Establish a loan production office; or
(3) Relocate its main office or branch office.

Section 2. Criteria to Act Without Executive Director Approval. The following criteria shall be satisfied before a bank may undertake the activities described in Section 1 of this administrative regulation without executive director approval:

(1) The bank shall have received its bank charter at least three (3) years prior to undertaking the activities;
(2) The bank shall be well-capitalized:
(a) As defined in 12 C.F.R. Part 325 by the Federal Deposit Insurance Corporation, if the bank is a nonmember bank; or
(b) As defined in 12 C.F.R. 208.43b(1) by the Federal Reserve Board of Governors, if the bank is a member bank of the Federal Reserve System;
(3) The bank shall have received a CAMEL composite rating of one (1) or two (2) on its most recent state or federal regulatory examination;
(4) The bank shall have received a management rating of one (1) or two (2) on its most recent state or federal regulatory examination;
(5) The bank shall not be a party to any formal or informal enforcement action initiated by a state or federal regulatory agency; and
(6) The bank's activity shall not cause the bank to exceed the fixed asset limitation established in KRS 290.3-100 (287.400).

Section 3. Required Notices. A bank that desires to engage in the activities described in Section 1 of this administrative regulation without executive director approval shall submit the notices required by this section except that the notice requirement of subsection (2) of this section shall not apply to a bank that desires to establish a loan production office.

(1) A notice shall be sent to the office within thirty (30) days after the bank's board of directors approves the activity. The notice shall provide as follows:
(a) The address of the new location where the bank intends to establish or relocate its new branch, [ite] office, or loan production office;
(b) The expected date the new branch, [ite] office, or loan production office shall open; and
(c) A statement by the bank that it satisfies the criteria set forth in Section 2 of this administrative regulation signed by an authorized officer or agent of the bank.

(2) A notice shall be sent to any state bank with its main office located in the county where the new branch or office, but not a loan production office, will be located within thirty (30) days after the bank's board of directors approve the activity. The notice shall provide as follows:
(a) The address of the new location where the bank intends to establish or relocate its new branch or office; and
(b) The expected date the new branch or office shall open.

(3) A notice shall be sent to the office within thirty (30) days after the bank has opened its branch, [ite] office, or loan production office, at the new location advising the office of the opening.

Section 4. Effect of Subsequent Noncompliance with Criteria. If, subsequent to the establishment or relocation of an office, [ite] branch, or loan production office without executive director approval, the bank no longer meets the requirements established in Section 2 of this administrative regulation, the bank shall thereafter be required to obtain executive director approval prior to establishing or relocating any additional offices, [ite] branches, or loan production offices until the bank again meets the criteria. The establishment or relocation already completed by the bank shall not be rendered ineffective.

LLOYD R. CRESS, Deputy Secretary for
TERESA J. HILL, Secretary

CHRISTOPHER L. LILLY, Commissioner
CORDELL G. LAWRENCE, Executive Director
APPROVED BY AGENCY: December 6, 2006
FILED WITH AGENCY: December 14, 2006 at 4 p.m.
CONTACT PERSON: Sally Mooney, Counsel, Office of Financial Institutions, Public Protection and Regulation Cabinet, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone number (502) 573-3390, fax (502) 573-2183.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Office of Financial Institutions
(As Amended at ARRS, February 12, 2007)

806 KAR 10:170. Exemption claims from securities registration; form.

RELATES TO: KRS 292.400(9), (12), 292.415(1), 292 420(3)
STATUTORY AUTHORITY: KRS 292.415(1), 292.500(3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 292.500(3) authorizes the executive director [commissioner] to promulgate administrative regulations necessary to carry out the provisions of KRS Chapter 292. KRS 292.415(1) requires that before a security may be issued as an exempt security under KRS 292.400(9) or (12), a claim of exemption shall be filed with the executive director [commissioner] in the form prescribed by the executive director [commissioner]. This administrative regulation establishes the form and content of the claim of exemption that shall be filed in order to claim an exemption under KRS 292.400(9) or (12).

Section 1. The following provisions of this section shall apply to a matter relating to an exemption from registration pursuant to KRS 292.400(9).

(1) The claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:
(a) A declaration that the KRS 292.400(9) exemption shall be relied upon;
(b) A sample copy of the security that will be issued;
(c) A copy of the articles of incorporation and bylaws of the issuer or the equivalent governing instruments;
(d) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;
(e) A representation that an offeree or purchaser shall have access to information concerning the issuer;
(f) Copies of all advertising or other material to be distributed in connection with the offering;
(g) A copy of the subscription agreement or other similar agreement;
(h) A copy of a proposed agreement or proposed form of agreement with a securities broker-dealer or underwriter;
(i) A copy of the preliminary or definitive Trust Indenture or trust agreement, if any;
(j) 1. [Except as provided in subparagraph 2 of this paragraph, an opinion of counsel;]
a. Attesting to the authority of the issuer to offer and sell the security; and

2. [b] Stating that after the sale the security shall be a valid, binding obligation of the issuer in accordance with the issuer’s governing documents; or

2. A letter from an authorized officer or a governing body of the issuer, if the issuer is a corporation, upon application for good cause shown, determines that the action is necessary or appropriate in the public interest, or for the protection of an investor; and

(k) A representation that a commission or other remuneration to be paid in connection with the offer or sale of the security shall be paid to a person licensed pursuant to KRS 292.330.

(2) For a one (1) time offering of securities pursuant to KRS 292.400(9) by a church or other nonprofit entity, the executive director shall apply the North American Securities Administrators Association’s Statement of Policy Regarding Church Bonds.

(3) For a continuing offering of securities by a church or other nonprofit [nonprofit-related] entity, the executive director shall apply the North American Securities Administrators Association’s Statement of Policy Regarding Church Extension Fund Securities. Upon application for good cause shown, and if the action is necessary or appropriate in the public interest, or for the protection of an investor, the commissioner may:

(a) Require additional information, documentation, or undertakings;

(b) Waive a requirement established in subsection (1) of this section;

(c) Require that the name and address of each purchaser and the date of each purchase be submitted to complete the filing.

(3) For a claim of exemption pursuant to KRS 292.400(9) for an offering of a security by a church or other religious institution, a proposed issuer shall be in compliance with the North American Securities Administrators Association’s Guidelines for Offerings of Church Bonds relative to disclosure in offering circulars and financial condition [Commerce-Cleaning-House-Blue-Sky-Law-Reporter].

Section 2. [41] In a matter relating to an exemption from registration pursuant to KRS 292.400(12), the claim of exemption required to be filed pursuant to KRS 292.415(1) shall contain the following:

(a) The filing fees of $250 [payable to Kentucky-State Treasurer] as required by KRS 292.420(3), payable to the Kentucky State Treasurer;

(b) A declaration that the KRS 292.400(12) exemption shall be relied upon;

(c) A sample copy of the security that will be issued;

(d) A copy of the articles of incorporation and bylaws of the corporation or other organization;

(e) A prospectus, offering circular, or memorandum making full disclosure of material facts, including a discussion of all salient risk factors;

(f) A representation that an officer or purchaser shall have access to information concerning the issuer;

(g) Current financial statements of the issuer;

(h) A copy of the subscription agreement or other similar agreement;

(i) A statement as to how the proceeds of the issue will be used; and

(j) A representation that a commission or other remuneration to be paid in connection with the offer or sale of the security shall be paid to a person licensed pursuant to KRS 292.330.

Upon application for good cause shown, and if the action is necessary or appropriate in the public interest, or for the protection of an investor, the commissioner may:

(a) Require additional information or documentation;

(b) Waive a requirement established in subsection (1) of this section;

(c) Require that the name and address of each purchaser and the date of each purchase be submitted to complete the filing.


(a) "The North American Securities Administrators Association’s Statement of Policy Regarding Church Bonds," April 2002 edition; and


(2) This material [41] may be inspected, copied, or obtained, subject to applicable copyright law, at the Office [Department] of Financial Institutions, 1025 Capital Center Drive [477-Versailles Road], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

LOaned R. Cress, Deputy Secretary
TERESA J. MILL, Secretary
Christopher L. Lilly, Commissioner
CORDELL G. LAWRENCE, Executive Director
APPROVED BY AGENCY: December 6, 2006
FILED WITH LRC December 14, 2006 at 4 p.m.
CONTACT PERSON: William E. Doyle, Counsel, Office of Financial Institutions, Public Protection and Regulation Cabinet, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601, phone (502) 573-3390, fax (502) 573-2182.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at AYRS, February 12, 2007)

811 KAR 1:025. Farm, corporate, or stable name.


STATUTORY AUTHORITY: KRS 230.215(2), 230.260(2)
[230.630(1), (4), (7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(2) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse [or regulatory conditions under which horse] racing shall be conducted in Kentucky. This administrative regulation establishes requirements [The function of this administrative regulation is to provide] for the licensing of racing stables under the stable name and disclosure of ownership.

Section 1. A racing, farm, corporate, or stable name [name] may be used by an owner or lessee [owner or lessee] if registered with the U.S. Trotting Association and the Authority. A person who has an interest in the establishment, operation, or ownership of the racing stable [or lessee] shall use his or her name to the Authority [Kentucky-Harness-Racing Commission giving the names of all persons who are interested in the stable or will use the name]. A person [All persons listed in a registered stable racing a horse shall [must] have a license issued by the Kentucky Horse Racing Authority [state license]. An owner [All owners] and any person [persons] listed in a registered stable shall be liable for entry fees and penalties imposed upon [against] the registered stable. If [in the event] one (1) of the owners or persons listed in a registered stable is suspended, all of the horses in that stable shall be included in the suspension.

Section 2. Corporate and Limited Partnership Ownership. (1) [If a horse is owned by a corporation, the corporation and any officer, director, or stockholder [officers, directors, and shareholders] owning five (5) percent or more of the stock shall be licensed by the United States Trotting Association and the Authority.]

(a) [Kentucky-Harness-Racing Commission] A stockholder [Those stockholders] owning less than five (5) percent of the stock shall be reported monthly by the corporation to the Authority, but shall not be required to be licensed by the Authority [Kentucky-Harness-Racing Commission]. The [such] information to be reported shall include names and amount of stock owned, address, social security number, and date of birth.

(b) [However, said stockholders shall not be required to be licensed by the Kentucky-Harness-Racing Commission.] If a horse
is owned by a limited partnership, the general partner and all limited partners owning an interest of five (5) percent or more shall be licensed by the United States Trotting Association and the Authority.

(b) A limited partner (Kentucky Harness Racing Commission) owning less than five (5) percent interest shall be reported monthly to the Authority and the required [Kentucky Harness Racing Commission]. Such information shall include names and interests [interest] owned, address, social security number, and date of birth. A limited partner [specified limited partners] need not be required to be licensed by the Authority [Kentucky Harness Racing Commission].

JOHN W. CLAY, Deputy Secretary
CHRISTOPHER L. LILLY, Commissioner
WILLIAM STREET, Chairman
APPROVED BY AGENCY: August 14, 2005
FILED WITH LRC: August 15, 2006 at 9 a.m.
CONTACT PERSON P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

611 KAR 1:030. Eligibility and classification.

RELATES TO: KRS 230.215, 230.250 [230-630(1), (3)]
STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3) [230-630(3), (4), (7)]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse [To regulate conditions under which harness] racing shall be conducted in Kentucky. This administrative regulation establishes requirements for [The function of the administrative regulation is to set out] the eligibility and classification of horses for races and medical tests required.

Section 1. Electronic Eligibility [Certificate]. (1) A horse shall not be permitted to start in any betting or nonbetting race, qualifying race, time trial, or official workout, without first securing an electronic eligibility certificate. [There shall be an automatic fine of ten ($10) dollars on the owner if a horse is declared in a without-first possessing a current USATA or validated CTA eligibility certificate at the gat the horse is declared to race. The track shall automatically be fined five ($5) dollars for accepting a declaration without an eligibility certificate for the proper gat and a track may refuse to accept any declaration without an eligibility certificate for the proper gat first being presented. Telegraphic or telephone declarations may be sent and accepted without penalty, provided the declaration is in form and is accompanied by an eligibility certificate, and the eligibility certificate must be presented when the horse arrives at the track before the race, or the above fine will be imposed.]

(2) The race secretary shall check each electronic eligibility certificate and certify to the judges [as to] the eligibility of each horse entered to race [all the horses].

Section 2. Racing Season and Recorded Winnings. (1) For purposes of eligibility, a racing season or racing year.

(2) Shall be the calendar year. In recording winnings for the racing season, gross winnings shall be used and odds cents shall be dropped and disregarded.

Section 3. Sale or Lease during Current Year. If [When] a horse is sold or leased after an electronic eligibility certificate is issued for the current year, the seller or the [his] authorized agent of the seller shall endorse the transfer [eligibility certificate] to the new owner or lessee. The transfer shall be effective upon electronic transfer by the clerk of the court of the electronic registra-

tion certificate, who may use it providing he immediately sends the registration certificate to the United States Trotting Association for a transfer or sends the United States Trotting Association a copy of the lease, the eligibility certificate following the horse. If the eligibility certificate is not endorsed to him, the new owner or lessee must apply to the United States Trotting Association for an eligibility certificate.

Section 4. Leased Horses. A horse on lease shall race in the name of the lessee. An electronic eligibility certificate shall not be issued to a horse under lease unless a copy of the lease is filed with the association. For purposes of issuance of electronic eligibility certificates or transfers of ownership, or both, a lease for an indeterminable term shall be considered terminable at the will of either party unless extended or reduced to a term certain by written documentation executed by both the lessor and lessee [3-Information Required from Horses Racing at Canadian Tracks. Prior to the declaration, owners of horses having Canadian eligibility certificates shall furnish the racing secretary with a Canadian eligibility certificate completely filled out for the current year, which has a certificate of validation attached thereto].

Section 5. Correction of Electronic Eligibility Certificate. A correction of an electronic eligibility certificate shall be made only by a representative of the United States Trotting Association of a licensed official.

Section 6. [4] Tampering with Electronic Eligibility Certificates. A person who tampers [Persons tampering] with an electronic eligibility certificate shall be charged with a violation pursuant to Section 25(2) of this administrative regulation [certificates may be] fined, suspended, or expelled, and winnings after such tampering may be ordered forfeited.

Section 7. [5] Denial of Electronic Eligibility Certificate. An eligibility certificate may be denied to any person who fails [refusing] to comply with 811 KAR Chapter 1 and the provisions of KRS Chapter 230 relating to harness racing [the administrative regulations set forth in title 811 KAR and the requirements of the Authority] [permit his horse to be tattooed].

Section 8. An electronic [6] eligibility certificate shall not [will be issued for] [on] a horse imported [coming] from a country other than Canada unless the following information is certified and furnished by the trotting association or governing body of the country of origin [certified by the trotting association or governing body of the [first] country of origin [from which the horse comes]]

(1) The number of starts during the preceding twelve (12) months [year], together with the number of first, second, and third-place finishes [first, seconds, and thirds] for the [each] horse, and the total amount of money won during this period.

(2) The number of races in which the horse has started during the current calendar year, together with the number of first, second, and third-place finishes [first, seconds, and thirds for each horse and the money won during that [the] period.]

(3) A detailed accounting [list] of the last six (6) starts listing [giving] the date, location [place], track condition, post position or handicap (in the case of a handicap race) [if it was a handicap race], distance of the race, the [the] position of the horse at the finish, the time of the race, the driver's name and the first three (3) horses in the race.

Section 9. [7] Registration of Standard and Nonstandard Bred Horses. A foal [All] [of 1937 and thereafter] shall be registered in current ownership either as standard or nonstandard with the U.S. Trotting Association. If registration is properly applied for and all fees paid, an eligibility certificate for one (1) year may be issued and marked "registration applied for."
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Section 10, [19] Time Bars. A time record or bar [no-time-records-or-bars] shall not be used as an element of eligibility.

Section 11, [20] Date When Eligibility Is Determined. (1) A horse shall not enter a race if the horse is not eligible [horses must be eligible] when the race close. Winnings on the closing date of eligibility shall not be considered.

(2) In mixed races, trotting and pacing, a horse shall not perform unless it is [must be] eligible to be in the class at the gate [at which it is] stated in the entry [the horse will perform].

Section 12, [41] Conflicting Conditions. If [in the event] there are conflicting published conditions and neither is withdrawn by the association [track], the conditions more favorable to the nominator shall govern.

Section 13, [42] (1) Standards for Overlay Events. The racing [race] secretary shall [should] prescribe standards to determine whether a horse is qualified to race in overlay events at a meeting. The standards shall be posted where [at a place-in-which] declarations are made and shall be printed on all condition and qualifying sheets.

(2) If [Where] time standards are established at a meeting for both trotters and pacers, trotters shall be given a minimum of two (2) seconds allowance in relation to pacers.

Section 14, [43] Postings of Overlay Conditions. (1) All materials other than extended par-mutuel meetings, conditions for overlay events shall [must] be posted at least eighteen (18) hours before entries close [at meetings other than extended par-mutuel meetings].

(2) At extended par-mutuel meetings where races are held five (5) or more days per week, condition books shall [will] be prepared, and [and] races shall not [may be] divided and [per-track] or substitute races shall not [may be] used unless [only where] regularly scheduled races fail to fill, except where race-lose-less-than-five (5)-days-a-week. A book [Such book] containing at least three (3) days racing programs shall [will] be available to horsemen at least twenty-four (24) hours prior to closing declarations on any race program contained in the condition book [herein-When published]. The conditions shall [must] be clearly stated in all books and shall not state that conditions are [and not printed-as] TBA [If-To Be Announced].

(3) The race secretary shall forward copies of each condition book and overnight sheet to the presiding judge [commissioner-office] as soon as they are available to the horsemen.

Section 15, [44] Types of Races to Be Offered. (1) A racing program shall offer [in presenting a program of races, the racing secretary shall use] exclusively the following types of races:

(a) Stakes and futurities,[a]

(b) Early closing and late closing events,[b]

(c) Conditioned races,[c]

(d) Claiming races; and[d]

(e) Preferred races limited to the fastest horses at the meeting.

(2) Preferred races.

(g) [These] may be free-for-all races,[e] [JFA], or invitationals. All horses [to be used] in [such] races under this subsection [paragraph] shall be posted in the race secretary's office and listed with the presiding judge and [Horses so listed shall] not be eligible for conditioned overnight races unless the conditions specifically include horses on the preferred list.

(b) A maximum of twelve (12) [such] races may be conducted during a six (6) day period of racing at associations [tracks] distributing more than $100,000 in overnight purses during this period [a six (6)-day period of racing] [such period] and a maximum of [not more than] ten (10) [such] races shall be conducted at other associations [tracks] during a six (6) day period of racing, [*provided that] At least two (2) of the [these] races shall be [are] for three (3) year olds, four (4) year olds, or combined three (3) and four (4) year olds.

(c) At any association racing [tracks which race] less than five (5) days per week, a maximum of [not more than] ten (10) preferred [such] races shall [may be] conducted during a six (6) day period.

(d) Any purses [Purses] offered for any race under this subsection [paragraph] [such races] shall be at least fifteen (15) percent higher than the highest purse offered for a conditioned race programmed the same racing week.

Section 16, [45] Limitation on Conditions. A condition [Condition] shall not be written so as to deprive a [in such a way that] any horse of [is deprived of] an opportunity to race in normal preference cycles. [Where the word "preferred" is used in a condition it shall not supersede date preference]. Not more than three (3) [two (2)] also eligible conditions shall not be used in writing the conditions of an overnight event [in writing the conditions] for an [any] [overnight event, and] [nor may any] [multiple conditions shall be prohibited] [be used].

Section 17, [46] Dashes and Heats. A [Any] dash or heat shall be considered [as] a separate race for the purposes of conditioned racing.

Section 18, [47] Selection or Drawing of Horses. For any [all] overnight event [events], each starter and also eligible [starters and also-eligible] shall be drawn by lot from those properly declared in, except that a race secretary [shall] [must] establish a preference system for races as provided [for] in 811 KAR 1:055, Section 5. However, if [where] necessary to fill a card, a maximum of [not more than] one (1) race per day shall [may] be divided into a maximum of [not more than] two (2) divisions after preference has been applied, [and] The divisions shall [may] be selected by the racing secretary. For all other [all-otherwise] overnight races that day that are divided, the division shall [must] be by lot unless the conditions provide for a division based on performance, earnings, [sex, or] claiming race.

Section 19, Posting Requirements. (1) The names of every horse [Names of all-horses] at the association [track] ready to race shall be posted by gait in the declaration room, together with [all] the pertinent information concerning the [such] horse which may be required to determine its eligibility for [of each-horse-to] condition races [offered at the track]. There shall be a separate posting of two (2), three (3), and four (4)-year-olds.

(2) A supplemental purse payment [payments] made by an association [track] after the termination of a meeting shall [will] be charged and credited to the winnings of a [any] horse at the end of the racing year in which the purse is [they are] distributed, [and] will appear on the eligibility certificate issued for the subsequent year. [Such] Distribution shall not affect the current eligibility until officially credited to the horse [placed on the next eligibility certificate].

Section 20, Rejection of Declaration. (1) The racing secretary [shall] may reject the declaration on any horse whose electronic eligibility certificate has [was] not been saved for [in his possession] on the date the condition book is published.

(2) The racing secretary may reject the declaration on any horse whose past performance indicates that the performance of the horse [he] would fall [be] below the competitive level of other horses declared[*]—provided the rejection does not result in a race
Section 21. Substitute and Divided Races. (1) Substitute races may be provided for each day's program and shall be so designated. Entries in races not filing shall be posted. A substitute race or a race divided into two (2) divisions shall be used only if regularly scheduled races fail to fill.

(2) If a regular race fills, it shall not be carried over more than one (1) racing day unless permission from the presiding judge is obtained (be raced on the day it was offered).

(3) Overnight events and substitutes shall not be carried to the next racing day unless permission from the presiding judge is obtained.

Section 22. Opportunities to Race. A fair and reasonable racing opportunity shall be afforded to both trotters and pacers based upon availability and qualifications. The number of [in reasonable proportion from those available and qualified to race] claiming races may [be] carded to (the proportion of) each week's racing program shall be as proportionate as possible to (as) the number of claiming authorizations on file with the racing secretary (between the total number of horses on the grounds which are qualified and available for racing).

Section 23. Qualifying Races. A horse that qualifies [qualifying] in a qualifying race for which no purse is offered shall not be deprived by reason of [like] performance of his right to start in any conditioned race.

Section 24. [Definition of—Start—] The definition of the word 'start'—in any type of condition unless specifically so stated—will include only those performances in a purse race. Qualifying and matinee races are excluded.

Section 25. Sandwishing Races. Not more than five (5) races may be sandwiched.

Section 26. Equine Infectious Anemia. (1) [When it is determined that] A horse that has been determined, by means of a "Coggins test" administered by an approved laboratory, to be infected with or having the disease equine infectious anemia shall not be permitted to race or be by means of the "Col. Immunodiffusion method" developed by Dr. Leroy Coggins, hereinafter known as the "Coggins Test", and conducted by an approved laboratory, such horse shall, thereafter, be prohibited from racing and/or being stabled at a licensed track.

(2) A horse shall not be permitted to enter or remain upon the grounds of any association where matinee or sandwich races are conducted at any time unless a certificate is issued by the "Coggins Test" method and approved by the authority conducting such races, certifying that the horse has not been exposed to, or infected with, or tested for, or demonstrated to be infected with, or to be a carrier of, the disease equine infectious anemia. The certificate shall be furnished to the race secretary with a certificate for that horse, as required by subsection (2) of this section.

(4) An electronic (Na) eligibility (or validation) certificate shall not be issued for a horse for which a positive "Coggins Test" has been reported. If an electronic eligibility certificate is issued for a horse that is later determined to be infected with, or to be a carrier of, the disease, it shall be returned immediately by the holder to the United States Trotting Association.

Section 27. Penalties. (1) A (Any) person or association that violates any of the provisions of this administrative regulation other than Section 6 of this administrative regulation shall have committed a category 1 violation and shall be subject to the penalties set forth in 811 KAR 1:055, Section 4(1).

(2) A person or association who tampers with electronic eligibility under Section 6 of this administrative regulation shall have committed a category 2 violation and shall be subject to the penalties set forth in 811 KAR 1:055, Section 4(2).

JOHN W. CLAY, Deputy Secretary
CHRISTOPHER L. LILLY, Commissioner
WILLIAM STREET, Chairman
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006 at 9 a.m.
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7790, fax (502) 564-3969.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:040. Stakes and futurities.

RELATES TO. KRS 230 215, 230 250(1) [230 630(4), (9), 230 643]
STATUTORY AUTHORITY: KRS 230 215(2), 230 250(3)
[230 630(4), (7)]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230 215(2) and 230 290(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse racing regulations are to be conducted in Kentucky. This administrative regulation establishes requirements for the horse racing regulations in Kentucky and sets stakes and futurities.

Section 1. (1) A stake or [a-stake] and futurity [sponsors] or presenter (presenters) shall submit a surety bond in the amount of the fund, conditioned on faithful performance of the conditions, including a guarantee that the said stake or futurity will be raced as advertised [in-hand-condition], unless unanimous consent is obtained from owners of eligibles to transfer or change the date of the race, or prevented by a natural disaster or fire, or conditions beyond the control of the sponsor. The surety bond is required to include the following:

(a) Satisfactory evidence that the purser money is available (financial responsibility).

(b) Proposed conditions of the race.

(c) Sums to be deposited for organization or promotion, and;

(d) An agreement to file with the Authority [commission] a surety bond in the amount of the fund, conditioned on faithful performance of the conditions, including a guarantee that the [said] stake or futurity will be raced as advertised [in-hand-condition] unless unanimous consent is obtained from owners of eligibles to transfer or change the date of the race, or prevented by a natural disaster or fire, or conditions beyond the control of the sponsor. The agreement shall also include a guarantee ensuring the segregation of funds and an assurance that the sponsor or presenter shall make [making] all payments. If the [in-hand-condition] association furnishes the Authority evidence of the availability of funds to conduct the race [commission], [substantially-consistent-with] financial responsibility, satisfactory to the Authority [commission], that [such] evidence may be accepted in lieu of surety bond.

(2) Waiver of Bond. The requirement to post a surety bond may be waived by the Authority.

(a) Upon written request of a sponsor who is an association [a-track member] and whose financial statement shows a net worth of five (5) times the amount of trust funds received from payments in stakes [futurities] and futurities. If the sponsor meets this condition, the sponsor shall (will) furnish a certified copy of the bank deposit in lieu of bond or;

(b) If [Where] bond is posted with the United States Trotting Association [the Authority] [commission] [may waive] the requirements of subsection (1)(d) of this section.
(3) Trust funds. Collections resulting from the forfeiture [forfeiture] of a [any] bond shall [will] be paid to the contestants according to the order of finish, or if [in-the-event] the race is not contested, shall [will] be divided equally among owners or eligibles on the date the breach of conditions occurs.

(4) Appeal of application rejection. An applicant may appeal the rejection of an application to the Authority [commission] within twenty (20) days after the mailing of the notice of rejection by registered mail.

(5) Receipt of printed conditions. The Authority [commission] must receive printed conditions of all stakes and futurities by their closing dates [date of said stakes and futurities].

(6) Conflict of conditions. Stakes and futurities conditions which conflict with KRS Chapter 230 or 811 KAR Chapter 1 shall [the statutes and administrative regulations of the Authority [commission] rules and administrative regulations] may be refused.

(7) A sponsor or presenter [The sponsors and presenters] shall:
   (a) Provide or make available to the Authority [a list of nominations, i.e., list of nominations within sixty (60) days after the date of closing to the commission].
   (b) Furnish to [Financial statement—Furnish; the Authority, by January 15th of each year, a financial statement for the preceding year; [commission—with] an annual financial statement of each stake or futurity]; and, within thirty (30) days following the day of the race, submit to [the commission] a final financial statement.
   (c) Notify [Failure to file; Notify all nominators and the Authority [commission]] within twenty (20) days of closing if the stake or futurity does not fill.[1]

(8) Provide or make available to the Authority, [list of eligibles. Shall] within twenty (20) days of closing, a complete list of all horses remaining eligible, segregated by age, sex, and gait. The sponsor or presenter shall provide [of] to the commission, and shall make available, [mail] within twenty (20) days following the last payment before the starting fee, a complete list of all horses remaining eligible, segregated by age, sex, and gait, to the owners or agents of all eligibles and to the Authority [commission], together with a list of any nominations transferred or substituted if [such is] permitted by the conditions. The list of eligibles shall also include a resume indicating the current financial status of the stake and futurity, or of each individual division [thereof] if there is more than one (1) division, by listing the number of horses remaining eligible, the amount of money that has been paid in, and the amount to be added. The purse shall constitute the amount plus starting fees, if any.

(9) [Nominating and sustaining payment—dates. Shall] Set the nominating date and the dates for [all] sustaining payments (except the starting fee) for [the 15th day of the month, and if] there shall be no payments on yearlings except a nomination payment which [and such nomination payment] shall be due not later than August 15. Before receiving [receiving], any sustaining payments during the year the race is to be contested, the date and place of the race shall be stated. A [No] stake or futurity sustaining fee shall not be [become] due prior to February 15 of any year. There shall be no conditions that require [call for] payments in stakes or futurities [to fall due] after August 15 and before February 15 of the following year. [Beginning with stakes and futurities closing in 1976 and thereafter. the] The date for closing of the nominations of yearlings to stakes shall be May 15 and the date for closing of the nominations to futurities shall be July 15. There shall be a minimum of No more than one (1) sustaining payment on two (2) year olds in stakes and futurities that do not have a two (2) year old division and will be permitted.] No more than two (2) sustaining payments on any horse of any age in any calendar year with the exception of the starting fee will be approved.

(f) Advertise [Notice of place and date of race. Shall, if possible, advertise] the week and place, and if possible, that the stake or futurity will be run before taking nominations. If either the week or place, or both, cannot be announced before taking nominations, that information [Otherwise, announcement of the week and place shall be furnished] made as soon as the stake or futurity is sold or awarded.

(8) Forms. Each nomination, entry form, list of nominations, and list of eligibles [All nominations and entry forms, lists of nominations and lists of eligibles] shall be on standard, eight and one-half (8 1/2) by eleven (11) paper. Owners [Such lists] shall be listed [the list owners] alphabetically.

(9) Estimated purses. An [No] estimated purse shall not be advertised or published in excess of the actual purse paid or distributed during the previous year, unless increased by guaranteed added money. A [No] stake or futurity shall not be raced for less than seventy-five (75) percent of the average estimated purse.

Section 2. [Sponsor’s Contributions]. (1) If an event is not raced due to circumstances beyond the control of a non-track operating sponsor, the sponsor shall not be required to contribute a sum as added money, but instead shall only refund such sustaining, starting fees as it has collected toward the canceled event [The sum contributed by a sponsor who is not a track member shall be considered forfeit and is to be included in the sum distributed in the event the stake or futurity is not raced].

(2) [Effective, with stakes and futurities opened in 1975 and thereafter,] no stake or futurity shall not be approved for extended part-mutual meetings if the added money is not at least thirty (30) percent of the purse, and For all other meetings at least ten (10) percent of the purse shall be added;

(3) [In-the-event] a stake or futurity is split into more than two (2) divisions, the conditions of the race shall determine the divisions of the purse, [adjudged] and, in each case, the purses shall be at least twenty-five (25) percent of the total numerator, sustaining, and starting fees paid into such stake or futurity. In the event a stake or futurity is split into two (2) divisions, each division must race for at least seventy-five (75) percent of the advertised purse, except in the Kentucky Standardbred Development Fund the stallion fee, the nominating fee, the sustaining fees and the declaration fees shall be added to the advertised purse and each division shall race for an equal part thereof.

Section 3. Failure to Make Payment. Failure to make any payment required by the conditions shall constitute [nequitate an] automatic withdrawal from the event.

Section 4. Refund of Nomination Fee. If [in-the-event that] a mare nominated to a futurity fails to have a live foal, the nominator shall receive a return on his or her payment if [provided] upon notification is given by December 1 of the year the mare failed to foal. If [one of the following conditions prevail, the nomination fee, the sustaining fee, and the declaration fees shall be added to the advertised purse and each division shall race for an equal part thereof.]

Section 5. A [Beginning-with stakes and futurities opening in 1976 and thereafter,] no sponsor shall not pay monetary awards to nominators or breeders from [out-of] stake or futurity funds.

Section 6. Deductions Prohibited. A [No] deduction, voluntary or involuntary, shall not [may] be made from any purse, [or] stake, or futurity unless [except that if] the conditions specifically so provide. If deductions are permitted, reasonable deductions may be made for clerical, printing, postage, and surety bond expenses specifically related to the [such] purse, stake, or futurity

Section 7. Unless otherwise specified in the conditions of a stake or futurity, the money division shall be:

(1) [Five (5) or more starters, the following percentages:] fifty (50) percent to the winning horse, twenty-five (25) percent to the horse that finishes second, twelve (12) percent to the horse that finishes third, eight (8) percent to the horse that finishes fourth, and five (5) percent to the horse that finished fifth.

(2) [Four (4) starters only, the following percentages:] fifty (50) percent to the winning horse, twenty-five (25) percent to the horse that finishes second, fifteen (15) percent to the horse that finishes third, and ten (10) percent to the horse that finishes fourth.

(3) Three (3) starters only, the following percentages:] fifty-five (55) percent to the winning horse, sixty (60) percent to the horse that finishes second, and fifteen (15) percent to the horse that finishes third; and ten (10) percent;

(4) Two (2) starters only, the following percentages:] sixty-five (65) percent to the winning horse and thirty-five (35) percent to the
horse that finishes second.

Section 8. Penalties. A [If-the] sponsor or any other person who violates any provision [has failed to comply with the provisions] of this administrative regulation shall [be deemed to] have committed a Category 1 violation and shall be subject to the penalties set forth in 811 KAR 1:050, Section 4(1). In addition, the Authority may [the commission shall be authorized to] refuse to renew in the future any state or futurity submitted by any licensed or unlicensed sponsor or presenter [renewals of such stakes—and futurities and/or to impose a fine not to exceed $100].

WILLIAM STREET, Chairman
CHRISTOPHER L. LILLY, Commissioner
JOHN W. CLAY, Deputy Secretary
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006 at 9 a.m.
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7750, fax (502) 564-3669.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARLS, February 12, 2007)

811 KAR 1:050. Entries and starters; split races.

RELATES TO: KRS 230.215, 230.260(3), 230.630(4), (6), 236.840
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. This administrative regulation establishes the requirements for the function of the administrative regulation to regulate entries and starters and [split races]

Section 1. (1) An association shall [Tracks-must] specify how many entries are required for overnight events and after the condition is fulfilled, the race shall be run [event-must be contested] except if [when] declared off as provided in 811 KAR 1:060.

(2) If six (6) or more horses declared in to start an early closing event or a late closing event if five (5) or less other interests are declared in to start an early closing event or a late closing event, the race shall be run [must be contested], except if [when] declared off. Stakes and futurities shall be raced if one or more horses are declared in to start except if [when] declared off as provided in 811 KAR 1:060.

(3) In an early closing event, if fewer [less] horses are declared in than are required to start, and all declarators are immediately so notified, the horse or horses declared in and ready to race, and any scratched horse, shall be entitled to the sum of the entry fees submitted [all the entrance money and any forfeits from each horse named].

Section 2. Elimination Heats or Two Divisions. (1) If [In any race where] the number of horses declared to start exceeds twelve (12) on a half-mile track or sixteen (16) on a larger track, the association conducting the race shall have the option, before positions are drawn, of announcing that the race shall be run [race, at the option of the track conducting same,] stated before positions are drawn, may be raced] in elimination heats. A maximum of [No] more than two (2) heats of horses, allowing eight (8) feet per horse, shall [will be allowed] to start in any race.

(2) If an early closing event or late closing event [as a race is divided], each division shall [must] be raced for at least seventy-five (75) percent of the advertised purse unless otherwise specified in the conditions of the race.

(3) In an added-money early closing event the race may be divided and raced in divisions and each division raced for an equal share of the total purse if the advertised conditions so provide, provided, however, that the division shall add an additional amount so that each division will race for seventy-five (75) percent of the total of the advertised purse and added money. These provisions shall apply to any stake or early-closer with a value of $200,000 or more.

(4) If a [stake] race or futurity is divided pursuant to this administrative regulation, where the conditions of the race shall determine the number of starters per division, the purse distribution [state that the event shall be raced one (1) dash on a race track of less than a mile at an extended pari-mutual meeting, and where the number of horses declared in to start exceeds twelve (12)] race, at the option of the racing association conducting the same, stated before positions are drawn, may be divided by lot and raced in [two (2)] elimination divisions with all money winners from both divisions competing in the final. Each division shall race one (1) elimination heat for twenty-five (25) percent of the total of the purse. The remainder of the purse shall be distributed to the money winners in the final.

Section 3. Elimination Plans. (1) If [When] elimination heats are required, or are specified in the published conditions, the race shall be run [raced] in the following manner unless otherwise stated in the conditions or conducted under another section of this [rule and] administrative regulation. [That is,] The field shall be divided by lot and by:

(a) The first division shall race qualifying dashes for thirty (30) percent of the purse[.]

(b) The second division shall race a qualifying dash for thirty-five (35) percent of the purse[.]

(c) The horses so qualified shall race in the main event for forty (40) percent of the purse[.]

(d) The winner of the main event shall be the race winner.

(2) In the event there are more horses declared to start than can be accommodated by the [two (2)] elimination dashes, then there will be added enough elimination dashes to take care of the excess. The percentage of the purse raced for each elimination dash will be determined by dividing the number of elimination dashes into sixty (60). The main event will race for forty (40) percent of the purse.

(3) Unless the conditions provide otherwise, if there are two (2) elimination dashes, the first four (4) finishers in each dash qualify for the final; if there are three (3) or more elimination dashes, not more than three (3) horses will qualify for the final from each qualifying dash.

(4) The judges shall draw the starting positions for [in which the horses are to start-in the main event shall] [...., they shall determine] to determine which of the dash winners shall have the pole[;] and which horses have been second shall start in third position[,] and which in fourth, etc., unless otherwise specified in the conditions of the race. An [All] elimination dash [dashes] and the concluding heat shall [must] be programmed to be raced upon the same day or night, unless special provisions for earlier elimination dashes are set forth in the conditions.

(5) If (6) In the event there are three (3) or more separate heat or dash winners, those winners shall return for a single event race-off [and they alone come back] in order to determine the race winner. For that single event race off, the participating horses shall be assigned [according to the conditions, they will take] post positions according to the order of their finish in the previous heat or dash.

(6) If in any race where the number of horses declared to start exceeds twelve (12) on a half-mile track or sixteen (16) on a mile track, unless otherwise specified in the conditions, the race, at the option of the track members conducting the same, stated before positions are drawn, may be divided by lot and raced in [two (2)] divisions with all heat winners from both divisions competing in a final heat to determine the race winner. Each division shall race two (2) heats; for twenty-five (25) percent of the purse, each heat. The remaining twenty-five (25) percent of the purse shall go to the winner of the final heat.

(7) Whenever elimination heats are required, or specified in the published conditions of a stake or futurity, each race may be raced on the three (3) heat plan, irrespective of any provisions in the
conditions to the contrary, unless such published conditions provide otherwise. That is, the field shall be divided by lot and the first division shall race for thirty (30) percent of the purse, the second division shall race for thirty (30) percent, and the horses qualifying in the first and second divisions shall race the third heat for thirty (30) percent of the purse. If, after the third heat, no horse has won two (2) heats, a fourth heat shall be raced by only the heat winners. The race winner shall receive the remaining ten (10) percent of the purse. The number of horses qualifying to return after each elimination heat will be the same as set out in Section 3 of this administrative regulation.

Section 4. Overnight Events. [Net] More than nine (9) [eight (8)] horses shall not be allowed to start on a half-mile track in overnight events and [net] more than twelve (12) [ten (10)] horses shall not start on larger tracks at expanded pari-mutuel meetings allowing eight (8) feet per horse, except in trifecta races nine (9) starters shall be allowed on a half-mile track.

Section 5. Elimination [Qualifying] Race for Early Closing Event, Stake, or Futurity. If elimination, [net] where qualifying races are provided for in the conditions of an early closing event, stake, or futurity, the elimination [such qualifying] race shall [must] be held no more than five (5) days prior to the contesting the main event (excluding Sunday) and omitting the day of the race [a timely fashion] [not more than five (5) days prior to contesting the main event (excluding Sunday) and omitting the day of the race].

Section 6. Penalties. (1)(a) A [Any] licensed person other than an association who violates any provision of this administrative regulation shall have committed a Category 1 violation and shall be subject to the penalties set forth in 811 KAR 1:050. Section 4(1).

(b) An association that violates any provision of this administrative regulation shall be subject to the following, based upon the factual nature and seriousness of the offense:
   (a) Suspension or revocation of licensing privileges for up to ninety (90) days, as decided by the Authority; or
   (b) If the Authority agrees, enter into an agreement with the Authority to mitigate the suspension or revocation by paying a fine of up to $5,000 per occurrence, [a-line-of-up-to-$5,000 per occurrence based upon the factual nature and seriousness of the occurrence.]

WILLIAM STREET, Chairman
CHRISTOPHER L LILLY, Commissioner
JOHN W. CLAY, Deputy Secretary
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006 at 9 a.m.
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:060. Postponement; rescheduling; purses.

RELATES TO: KRS 230.215, 230.260(1) [230.630(1)–(3), 230.640]

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3) [230.630(3), (4), (7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize this Authority to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation establishes the procedures for [The function of this administrative regulation is to regulate] postponement of races.

Section 1. If unfavorable weather or other unavoidable
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ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:055. Starting.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(2) authorize the Authority to promulgate administrative regulations prescribing the conditions under which racing shall be conducted in Kentucky. This administrative regulation establishes requirements for the function of the administrative regulations to regulate starting of races.

Section 1. With Starting Gate. (1) Starter's control. The starter shall have control of the horses from the formation of the parade until [he-gives] the word, "go," is given. 

(2) Scooting. Before or during the parade, the starter shall inform the drivers of the number of horses permitted. After one (1) or two (2) preliminary warning up signals, the starter shall notify the drivers to proceed [faster his-helmet chin strap end come to the starting gate]. [During or before the parade, the drivers shall [must] be informed as to the number of horses permitted.]

(3) A horse [The horse] shall not be brought to the starting gate nearer than one eighth (1/8) [as near one-quarter (1/4)] of a mile before the start. If the length of the stretch permits [track permitting] [as the track will permit]. 

(4) Speed of gate. Allowing sufficient time so that the speed of the gate can be increased gradually, the following minimum speeds will be maintained: 

(a) For the first one-eighth (1/8) mile, not less than eleven (11) miles per hour.

(b) For the next one-sixteenth (1/16) of a mile not less than eighteen (18) miles per hour.

(c) From that point to the starting-point, the speed will be gradually increased to maximum speed.

(5) On a mile track [mile track], a horse shall [horses will] be brought to the starting gate at the head of the stretch [and the relative speeds mentioned in subsection (4) of this section will be maintained].

(6) The starting point shall [will] be a point on the inside rail a distance of at least [not less than] 200 feet from the first turn. The starter shall give the word "go" at the starting point.

(7) Recall. When a speed has been reached in the course of a start there shall be no decree except in the case of a recall.

(7) Recall notice. If in case of a recall is necessary, a light plainly visible to the driver shall be flashed and a recall sounded. If [wherever] possible, the starter shall leave the wings of the gate extended and gradually slow the speed of the gate to assist in stopping the field of horses. The starter may [in an emergency, however, the starter shall use his discretion] close the wings of the gate if an emergency situation arises.

(8) There shall be no recall after the word, "go," has been given and any horse, regardless of [his] position or [an] accident, shall be considered [as] started. A starter from the time he enters the starter's control, unless dismissed by the starter or judges pursuant to subsection (10) of this section.

(9) Breaking horse. The starter shall endeavor to start [get] all horses [away] in position and on gate, but a recall shall not be sounded [no recall shall be had] for a breaking horse.

(10) Recall; reasons for. The starter may sound a recall only for the following reasons. If the starter believes the integrity of the race may be jeopardized:

(a) A horse scores ahead of the gate;

(b) There is interference;

(c) A horse has broken equipment;

(d) A horse falls before the word "go" is given;

(e) There is a malfunction of the starting gate.

(1) A horse comes to the gate out of position; or

(g) A circumstance arises which will not allow a fair start, as determined by the starter.

(11) A [any] driver committing any of the following offenses shall be in violation of this administrative regulation (12) Penalties. A fine not to exceed $100 or suspension for not to exceed fifteen (15) days, or both, may be applied to any driver, by the starter:

(a) Delaying the start;

(b) Failing to obey the starter's instructions;

(c) Rushing ahead of the inside or outside wing of the gate;

(d) Coming to the starting gate out of position;

(e) Crossing over before reaching the starting point;

(f) Interfering with another driver during the start;

(g) Failing to come up into position.

(12) [143] Riding in gate. Unless granted permission by the presiding judge, a person [any person] other than the starter, the starter's driver or operator, and a patrol judge [no person] shall not be allowed to ride in the starting gate [except the starter and his driver or operator, and a patrol judge, unless permission has been granted by the commission].

(13) [144] Loudspeaker. Use of a mechanical loudspeaker for any purpose other than to give instructions to drivers shall be [is] prohibited. The volume shall not be [are] higher than necessary to carry the voice of the starter to the drivers.

[145] The penalty for violation of this section shall be a fine not to exceed $500 or suspension not to exceed thirty (30) days, after a hearing by the commission. A hearing must be granted before any penalty is imposed.

Section 2. Holding Horses Before Start. A horse shall not be held on the backstretch for more than [not to exceed] three (3) minutes awaiting post time, except if when delayed by an emergency or by permission of the judges.

Section 3. Two (2) Tiers. (1) If [in the event] there are two (2) tiers of horses, the withdrawal [withdrawing] of a horse that has drawn or earned a position in the front tier shall not affect the position of the horses that have drawn or earned positions in the second tier.

(2) If Whenever a horse is drawn from any tier, horses on the outside shall [move in to] fill up the vacancy.

(3) If [In case of] a horse has drawn a post position in the second tier, the driver of the [such] horse may elect to score out behind any horse in the first tier. If in case of the driver does not interfere with another trailing horse or deprive another trailing horse of a drawn position.

Section 4. Starters. A horse [The horses] shall be considered [deemed to have] started when the word, "go," is given, by the starter, and a horse shall be required to complete [all the horse must] the course except in case of [an] accident, broken equipment, or other circumstance in which, in [IT] the opinion of the judges, [shall] it is impossible or unsafe to complete [to go] the course.

Section 5. Unmanageable Horse. (1) If, in the opinion of the judges or the starter, a horse is unmanageable or may [able to] cause accidents or injury to another [any other] horse or to any driver, it shall be scratched and [may be] sent to the barn. If a horse is scratched and sent to the barn [When the action is taken], the starter shall [will] notify the judges, who shall then [will] in turn notify the public.

(2) A horse shall be considered unmanageable if it [such horse] causes more than one (1) recall in the same chase, or in which case it [such horse] may be scratched [excluded by the starter] and sent to the barn.

Section 6. Bad Acting Horse. At a [any] meeting [meetings] where there is no wagering, the starter may place a bad acting horse on the outside [at his discretion]. At a [any] pari-mutual meeting, this [such] action may be taken only if when there is time for the starter to notify the judges, who shall
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Section 7. Post Positions; Heat Racing. The horse winning a heat shall take the pole (or inside position) in the succeeding heat, unless otherwise specified in the published conditions, and all others shall take their positions in the order they were placed in the last heat. If, when two (2) or more horses finish [shall] have made a dead heat, their positions shall be settled by lot.

Section 8. Shield. The arms of a [all] starting gate [gatees] shall be provided with a screen or a shield in front of the position for each horse, and the [such] arms shall be perpendicular to the rail.

Section 9. If a horse comes to the gate out of its assigned post position and gains an unfair advantage by moving either to the left or right to its assigned post position before the starter gives the word "go", that horse shall [may] be disqualified and placed by the judges.

Section 10. Malfunction of the Gate. A [Every] licensed starter shall [is required to] check the [the] starting gate for malfunctions before commencing a [any] meeting and shall [is] practice the measures [procedure] to be followed in the event of a malfunction. Both the starter and the driver of the gate shall [must] know and practice emergency measures [procedure], and the starter shall be [is] responsible for the training of drivers in taking emergency measures [the] [such] [procedure].

Section 11. Penalties. A [Any] person or association that violates any of the provisions of this administrative regulation shall have committed a Category I violation and shall be subject to the penalties set forth in 811 KAR 1:055, Section 4(1)(4).

JOHN W. CLAY, Deputy Secretary
CHRISTOPHER L. LILLY, Commissioner
WILLIAM STREET, Chairman
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006 at 9 a.m.
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended by ARRIS, February 12, 2007)

811 KAR 1:080. Placing; money distribution.

RELATES TO: KRS 230.215, 230.260(1) [230.630(4)–(9), 230.640]

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3), 230.361(1) [230.630(3), (4)–(7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse [to regulate conditions under which horses] racing shall be conducted in Kentucky. KRS 230.361(1) authorizes the Authority to promulgate regulations concerning the pari-mutuel wagering system. This administrative regulation establishes procedures concerning [The function of the administrative regulation is to regulate] the conditions, placing, and money distribution.

Section 1. Unless otherwise provided in the conditions, the purses [all purses] shall be distributed on the dash basis with the money awarded according to a horse's position in each separate dash or heat of the race. Purses money distribution in overnight events shall be limited to five (5) monies.

Section 2. Dashes. (1) Except in the case of stakes or futurities as set forth in [KRS 811 KAR 1:040], Section 7, unless otherwise specified in the conditions, the money distribution in dashes shall be in the following percentages: fifty (50) [fifty-five (55)], twenty-five (25), twenty (20), eight (8) [fifteen (15), ten (10)] and five (5).

(2) In early closing races, where time on the race and/or any events, if there are less than five (5) starters, the remaining purses, if any, shall be paid to the winner.

Section 3. Every Heat a Race. The purses shall be distributed as in dash races with nothing set aside for the race winner.

Section 4. Placing System. If the placing system is specified in the conditions, the purses shall be distributed according to the placing of the horses in the summary. In order to share in the purses, a horse must have been placed first in one (1) heat shall be ranked better than any other horse making a dead heat for first in any race that has been placed second in any number of heats. A horse that has been placed second in one (1) heat shall be ranked better than any other horse that has been placed third in any number of heats, etc. (e.g., a horse finishing 3-6 would be ranked ahead of another horse finishing 4-4.) A horse finishing in a dead heat would be ranked below another horse finishing in the same position and not in a dead heat. If there be any premium for which no horse has been awarded a position, it shall go to the race winner, but the number of premiums awarded need not exceed the number of horses that started in the race. Unless otherwise specified in the conditions, the money shall be divided in the following percentages: fifty (50), twenty-five (25), twenty (20), eight (8), and five (5).

Section 5. Two in three. In a two in three race, a horse must win the [two] heats to win the race and shall be ten (10) percent set aside for the race winner. The purses shall be divided and awarded according to the finish in each of the first two or three heats, as the case may be. If the race is unfinished at the end of a third heat, all the heat winners or horse making a dead heat for first shall be ranked equal. The fourth heat, when required, shall be ranked for the ten (10) percent set aside for the winner. There shall be no premium awarded if two (2) or more horses finish an equal heat and the ten (10) percent shall be divided equally between them.

JOHN W. CLAY, Deputy Secretary
WILLIAM STREET, Chairman
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969.
STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3), (6); 230.320(1), (2), (3)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the terms and conditions under which horse racing shall be conducted in Kentucky. KRS 230.320(1) authorizes the Authority (commissioners) to promulgate administrative regulations under which any license may be denied, suspended, or revoked (governing disciplinary procedures). This administrative regulation establishes the requirements for hearings conducted by the racing judges and the Authority, and for appeals from their decisions (reviews and appeals).

Section 1. Definition. "Judge" means a racing judge.

Section 2. Judges’ Hearing. (1) In accordance with KRS 230.320(2) and (3), the judges shall have the authority to conduct an informal hearing to review any alleged violation of the provisions of KRS Chapter 230 relating to harness racing or KARR Chapter 3.

(2) A person charged with a violation of the provisions of KRS Chapter 230 relating to harness racing or KARR Chapter 3 shall be provided with prior notice, either personally or by mail, before a judges’ hearing is held concerning the violation, unless the person charged waives the notice requirement in writing. Prior notice shall not, however, be required for any routine driving or racing offense as set forth in KARR 1:075.

(b) The notice shall consist of:

1. The date, time, and place of the hearing;
2. A specific designation of the particular statute or administrative regulation alleged to have been violated;
3. A clear and concise factual statement sufficient to inform each party of the reasonable particularity of the facts of the acts or practices alleged to be in violation of the statute or administrative regulation;
4. A statement advising the party of the right to be represented at the hearing by counsel or by a member of any racing trade association;
5. A statement advising the party of his or her right to subpoena witnesses and documentary evidence through the Authority;
6. A judges’ hearing shall be conducted no less than five (5) and no more than thirty (30) days after service of the notice. The judges may grant a continuance of the hearing if all parties agree. The executive director and the chairman of the Authority shall be promptly notified of any continuance of a judges’ hearing;
7. A judges’ hearing shall be closed to the public, and the judges shall cause no public announcement to be made concerning a matter under investigation until the hearing has concluded and the party charged has been notified of the decision;
8. The presiding judge shall conduct the hearing to ascertain and determine the substantial rights of the parties involved, and shall not be bound by technical rules of procedure and evidence;
9. The presiding judge and at least one (1) associate judge who was serving as judge at the time of the incident in question shall be present at all times at a judges’ hearing;
10. Testimony shall be given under oath and a record shall be made of the hearing, either by use of a tape recorder or by court reporter’s transcript. The party charged with the violation may, however, waive the recording and the transcription of the testimony. The judges shall not be required to receive testimony under oath in cases in which their ruling is based solely upon a review of a video tape of a race;
11. If, at the conclusion of the hearing, the judges shall find that a statute or an administrative regulation has been violated, they shall within five (5) days issue a written ruling which sets forth

the:

(a) Full name of the person charged with the violation;
(b) Identification of the person, if licensed, by license classification and address;
(c) Statute or administrative regulation number and pertinent parts of the statute or administrative regulation violated;
(d) Finding, by the judges as to the violation of the statute or administrative regulation, and
(e) Penalty assessed by the judges;
(f) A copy of the ruling shall be delivered to the party charged and to the Authority. A copy of the ruling shall also be posted in the racing secretary’s office, and forwarded to the office of the Association of Racing Commissioners International and the United States Trotters Association;
(g) Appeal and review. A party who is the subject of any order or ruling of the judges may appeal to the Authority for a review of the judge’s order or ruling—except for a disqualification of a horse in a race or as to a finding of fact concerning any incident occurring in the running of a race;
(h) Application for review. An application to the Authority for review of the judge’s order or ruling shall be made within five (5) days after a party has received notice of the order orally or in writing and shall:

(a) Be in writing and addressed to the Authority secretary at the Authority general office;
(b) Contain the signature of the applicant and the address to which notice may be mailed to the applicant;
(c) Be set forth in the ruling requested to be reviewed and the date of the ruling;
(d) Be set forth with particularity, all factual and legal issues which the applicant believes justify review by the Authority of the judge’s ruling, with specific cites to all relevant statutory provisions and administrative regulations; and
(e) Request a hearing;
(f) The applicant for appeal may request from the Authority the Form, "Notice of Appeal," KARR Form 200-1, (8/06). Completion and filing of this form by the applicant shall (will) satisfy the filing requirements of this section;
(g) A person charged with a violation of the provisions of KRS Chapter 230 or KARR Chapter 3 may request a waiver of a judges’ hearing and appeal directly to the Authority by making written request to the presiding judge within five (5) days of receipt of a notice of violation. The judges may consent to the waiver if the judges determine that waiver is in the best interest of racing. If the judges consent to the waiver, the judges shall issue a ruling and recommended penalty in accordance with the evidence available to them, and deliver it to the Authority and the person charged. If the judges refuse to grant a waiver, the judges' hearing shall be scheduled and shall proceed pursuant to subsection (3) of this section.

Section 3. Authority Hearing on Appeal from Judges’ Hearing. (1) A hearing by the Authority of an appeal from a judges’ ruling pursuant to Section 2(10) of this administrative regulation shall be conducted in all respects in accordance with KRS Chapter 13B.

(2) A hearing by the Authority on appeal from a judges’ ruling shall be held within sixty (60) days of the filing of the appeal. A continuance of thirty (30) additional days may be granted for good cause shown.

Section 4. Frivolous Appeal. (1) The Authority may determine that an appeal to the Authority from a judges’ ruling or an appeal to the Authority by means of waiver of the judges’ hearing pursuant to Section 2(12) of this administrative regulation is a frivolous appeal. An appeal shall be presumed to be frivolous if:

(a) The applicant applies for an appeal to the Authority but fails without good cause to appear at the KRS Chapter 13B hearing before the Authority’s hearing officer or
(b) The applicant appears at the KRS Chapter 13B hearing but fails without good cause to offer evidence at the hearing to support his application for review;
(c) If the Authority finds that an appeal is frivolous, the fact shall be considered an aggravating circumstance and may be considered in assessing any penalty pursuant to KARR 1:095.
[(1) Any person, licensee or association aggrieved by any order or revocation, suspension, exclusion, ruling of, fine, or other decision or ruling of the judges, may file a written appeal with the commission not later than five (5) days after the ruling or decision.
(2) If a ruling is in regard to a violation that occurred during the racing season, the written appeal shall be filed before the winnings are paid over.
(3) Appeals resulting from rulings at fairs shall be filed within five (5) days of a ruling.
(4) An appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision or ruling of the judges complained of and the date when the decision was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the judges is based.

Section 2. (1) If the chairman of the commission, executive director, or the director of standardbred racing has information that any licensee or other person has violated any administrative regulations of the commission or the provisions of the Kentucky Revised Statutes, he shall have the authority to revoke or suspend the license of that licensee or other person; provided, however, that the licensee or other person may have a review of that action by filing a written appeal with the commission not later than ten (10) days after the action is taken.
(2) The appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision, ruling or action of the chairman of deputy commissioner (supervisor of racing) complained of and the date when the decision was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the chairman or deputy commissioner (supervisor of racing) was based.

Section 5. Authority Hearing Initiated by the Authority. (1) If the authority, commission or any association, licensee or other person has violated a provision of KRS Chapter 811, the chairman or executive director or any other instance may issue an administrative regulation or statute, alleged to have been violated and the time and place where that violation occurred, and
(2) The appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision, ruling or action of the chairman or executive director or any other instance complained of and the date when the decision was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the chairman or executive director or any other instance was based.

Section 6. Stay of Enforcement. A stay of enforcement of the imposition of a judge's decision shall be governed by KRS 230.220.
(1) If an order of denial, suspension, or revocation is imposed against a licensee pursuant to KRS 230.230(1) by a racing official, the chairman of the commission, or the director of standardbred racing, the licensee may request a stay of the sanction pending appeal to the commission in accordance with KRS 230.230(2).
(2) The stay shall be granted effective immediately upon filing the notice of appeal and request for stay on the Notice of Appeal form provided by the commission at:
(a) The commission's office, or
(b) The office of the Director of Standardbred Racing located at the operating track.
(3) The notice of appeal shall be filed within forty-eight (48) hours after the sanction is imposed.
(4) The commission shall hear the appeal within sixty (60) days of the filing of the appeal and request for stay.
(5) If the previous decision of the racing official, the chairman of the commission, or the director of standardbred racing is upheld by the commission, the licensee, at the discretion of the commission, shall serve any suspension imposed.
(a) During the current racing meet, if there are enough remaining days to serve out the suspension;
(b) During the next regularly scheduled racing meet at the operating track where the suspension took place;
(c) During a racing meet at another operating track in the state where the licensee seeks to engage in the activity for which he or she is licensed; or
(d) Any combination of the provisions of paragraphs (a) through (c) of this subsection.
(6) If licensee withdraws an appeal or otherwise fails to pursue an appeal once filed, the licensee shall, at the discretion of the commission, serve any suspension imposed.
(a) During the current racing meet, if there are enough remaining days to serve out the suspension;
(b) During the next regularly scheduled racing meet at the operating track where the suspension took place;
(c) During a racing meet at another operating track in the state where the licensee seeks to engage in the activity for which he or she is licensed; or
(d) Any combination of the provisions of paragraphs (a) through (c) of this subsection.
(7) Upon the withdrawal of an appeal, failure to attend a scheduled appeal hearing, or upon hearing an appeal, the commission may:
(a) Increase a penalty of suspension to a penalty of revocation; or
(b) Reduce a penalty of revocation to a period of suspension.

Section 8. Witnesses. A witness may be subpoenaed by the chairman, vice chairman, executive director, director of standardbred racing or licensing officer.

Section 9. All actions of the commission may be appealed to the Franklin Circuit Court in accordance with the provisions of KRS 418.440.

Section 10. Incorporation by Reference. (1) "Notice of Appeal", Form 200-1, (806), (KRC 17-7(1025)) is incorporated by reference.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law at the Kentucky Horse Racing Authority [Commission], 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.
(3) This material may also be obtained from the Kentucky Horse Racing Authority Web site www.khra.by.gov.

JOHN W. CLAY, Deputy Secretary
CHRISTOPHER L. LILLY, Commissioner
WILLIAM STREET, Chairman
APPROVED BY AGENCY: August 14, 2006
FILED WITH LRC: August 15, 2006 at noon
CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3969.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:130. Security-[persons permitted on licensed premises].


STATUTORY AUTHORITY: KRS 230.215(2), 230.220, 230.630(4), (7)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.220 authorize the Authority to promulgate administrative regulations prescribing the conditions under which horses [to regulate security] racing shall be conducted in Kentucky. This administrative regulation establishes requirements for [the function of the administrative regulation is to regulate] persons permitted on licensed premises.

Section 1. Persons Permitted on Licensed Premises. (1) A [Each] licensee of the Authority shall immediately report to association officials the presence of any person not authorized by this administrative regulation to be on all or any portion of association grounds [as defined herein]-shall cause to be excluded from the association grounds all persons designated by order of the commission or statute to be excluded.

(2) A [Each] licensee shall take all necessary [such] measures that are not prohibited by law [to] maintain the security of horses on association [the association's] grounds and to protect horses from injury due to mistreatment, fright, [lightening of] or tampering with [each] horse.

(3) Persons [Other than] [Each] licensee shall exclude from the paddock area, race track, and apron parts of the track, with the following exceptions:

(a) Members, officers, employees of the Authority;
(b) Racing officials;
(c) Police officers;
(d) Officials and directors of the United States Trotting Association and American Standardbred Circuit, and duly accredited members of the media; persons employed by or invited to the race by the racing association or the owner or trainer of a horse scheduled to run that day shall be excluded from the paddock area, race track, and apron parts of the track, with the following exceptions:

1. The licensor's officers, employees, guards, and watchmen;
2. Drivers; and
3. Owners and trainers and their employees, assistants, grooms, and attendants.

(b) A licensee shall have the right to recall identification cards or badges upon reasonable cause to believe a violation of the law has occurred or as reasonably necessary to maintain effective security procedures.

(c) Identification cards or badges shall be collected from owners and trainers and their employees, assistants, grooms, and attendants when the horses of the owners or trainers are removed from the licensed premises.

(d) An identification card or badge shall not be transferable.

(e) An identification card or badge shall be subject to forfeiture if utilized or attempted to be utilized by a person other than the person to whom it was issued.

(f) The Authority shall specifically identify by color designation, each association under its control. The licensee shall only authorize admittance to the association upon the showing of a properly color-coded identification card or badge. An identification card or badge shall be subject to forfeiture if the holder utilizes the card or badge to attempt to gain entry or access to an association other than the one for which the card or badge applies.

Section 2. Admission to Premises. A current [each and every] badge or button, regardless of when issued, by the Authority, or a current [commission and] badge or button issued by the National Association of State Racing Commissions, International, shall be honored for admission to any location [place] on association grounds [the track] operating under the jurisdiction of the Authority [commission].

Section 3. [badge and buttons issued to deputy commissioners (supervisors of racing), their assistants and security personnel shall be surrendered to the commission upon termination of employment.]

Section 4. Limited Admission. (1) [Other than members, of the Authority, racing officials, and police officers, persons not possessing and displaying a properly issued badge or identification card shall not be permitted to enter any part of the licensed premises except the clubhouse, grandstand, or]
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ENIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:140. Post time; races per program; postponements [entry-number].

RELATES TO: KRS 230.215, 230.260(1) [230.630(1)(3), 230-640]

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3)
[230.630(3)(4), (7)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse [to regulate conditions under which harness] racing shall be conducted in Kentucky. This administrative regulation establishes requirements for post times and horse numbering, the number of races authorized for each program, and postponements of races. (The function of this administrative regulation is to regulate post times and horse-numbering.)

Section 1. Post Time. (1) If racing in the event that races pursuant to the hours prescribed by the license for the meeting] is conducted at night or twilight, the racing program shall [must] be completed no later than 12:00 a.m. [12 midnight].

(2) Post time for the first race of the evening shall [may] be fixed by the license. A delay in the first post of not more than ten (10) minutes from the [which] established post time may be taken without prior approval of the Authority.

Section 2. Number of Races Per Program. (1) If eight (8) races are programmed, four (4) completed races shall constitute a completed program.

(2) If nine (9) or more races are programmed, five (5) completed races shall constitute a completed program.

(3) If ten (10) or more races are programmed, six (6) completed races shall constitute a completed program.

Section 3. Postponements. (1) Racing shall not be conducted by a licensee over a track that is dangerous to drivers or horses.

(2) If inclement weather or other conditions appear to make the track dangerous, the presiding judge, a representative of the association, and a representative of the Kentucky Harness Horsemen's Association shall determine whether racing shall be conducted or postponed.

(3) If a difference of opinion exists between the representatives of the association and the representatives of the Kentucky Harness Horsemen's Association as to whether racing shall be conducted or postponed, the decision of the presiding judge shall be final.

Section 4. Penalties. A licensee that violates a provision of this administrative regulation shall have committed a Category 1 violation and shall be subject to the penalties set forth in 811 KAR 1:095. Section 4(1).

WILLIAM STREET, Chairman
CHRISTOPHER L. LILLY, Commissioner
JON W. CLAY, Deputy Secretary

APPROVED BY AGENCY: August 14, 2006
FILED WITH LFC: August 15, 2006 at 9 a.m.

CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-3959.

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ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, February 12, 2007)

811 KAR 1:225. Substance abuse by Authority [commission] employees and licensees.

STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3),
[230.290(3)], 230.410, 230.320(1)
NECESSITY, FUNCTION, AND CONFORMITY: KRS
230.215(2) and 230.260(3) authorize the Authority to promulgate administrative regulations prescribing the conditions under which horse racing shall be conducted in Kentucky. KRS 230.320 provides that all licensees shall be subject to all administrative regulations promulgated by the commission. KRS 230.320(1) authorizes the Authority [Kentucky Racing Commission] from abusing alcohol or engaging in illegal drug use or activity while performing their duties, provides for drug and alcohol testing, and establishes consequences for violations of this administrative regulation.

Section 1. Definitions. (1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.
(2) "Association" is defined by KRS 230.210(4).
(3) "Commission" is defined by KRS 230.210(2).
(4) "Crimes involving drugs and drug paraphernalia" means all activities involving drugs and drug paraphernalia which are [made] illegal under KRS Chapter 218A and of other statutes or administrative regulations of this Commonwealth, and similar laws and regulations of other states and the United States, and which include the use of, possession of, or trafficking in marijuana, cocaine, or any other controlled substances; possession or distribution of drug paraphernalia, or obtaining or using prescription drugs without a valid prescription.
(3) "Documentation" means proof of regular attendance at meetings, counseling sessions, clean drug test results, service record from the treatment program indicating full compliance with treatment and completion of the program.
(4) "Drug paraphernalia" means all equipment, products, and material of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body an illegal drug in violation of any law or administrative regulation of this Commonwealth, any state, or the United States.
(5) "Licensee" means a person who:
(a) Has been [duly] issued a current and valid license to participate in horse racing in this Commonwealth;
(b) Is actively involved with the day-to-day activities associated with the training and handling of a horse;
(c) Is not attending or participating in the sale [sales] of horses conducted on the premises of associations,
(d) "Under the influence of intoxicants" means a person's mental or physical abilities are impaired by the presence of alcohol or other drugs in his body to the degree that the person is not able to safely and properly perform his job functions.

Section 2. Prohibited Activities. A licensee shall not:
(1) Be under the influence of intoxicants while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(2) Commit any crime involving drugs or drug paraphernalia;
(3) Fail to comply with substance abuse treatment required [imposed] pursuant to an evaluation conducted under this administrative regulation;
(4) Tamper with a drug or alcohol test; or
(5) Refuse to submit to drug or alcohol testing upon request of the Authority [commission], a steward, a [or] judge, or any other authorized employee of the Authority [commission].

Section 3. Evidence of Violation. The following shall be presumptive evidence of a violation of this administrative regulation:
(1) A breath, urine, or blood test result revealing an alcohol concentration of 0.05 percent or more while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(2) A positive result from a drug test for marijuana, cocaine, or other controlled substances for which the licensee does not have a current and valid prescription while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(3) A positive result for [from] a prescribed medication for [in] which the individual has a valid prescription, but [except the prescription for which indicates that the medication may impair vision, impair the ability to perform normal daily functions, or cause drowsiness, or the prescription for which indicates that the medication may impair vision, impair the ability to perform normal daily functions] while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(4) A positive result indicating more than one [1] prescribed medication for [in] which the individual has valid prescriptions, but [except the prescription directions for which advises against taking more than one (1) prescribed medication at a time], while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(5) A result that exceeds the allowable limit prescribed on the medication label, while:
(a) Engaged in the activities for which the license is held; or
(b) On association grounds;
(6) A conviction in any court of law for a drug-related offense.

Section 4. Discipline. (1) First offense.
(a) For a first time violation of this administrative regulation, the offender's license shall be suspended for up to thirty (30) days.
(b) The offender shall be required to undergo an evaluation by a professional in the field of addictive or substance abuse disorders approved by the Authority [commission].
(c) If the evaluator determines the existence of a substance abuse problem, the offender shall be required to comply with the recommended course of treatment.
(d) Upon the expiration of seven (7) calendar days from the date of the suspension, the offender may request to be reinstated by the Authority [commission] stewards.
(e) For a first time violation of this administrative regulation for an alcohol infraction or crime involving drugs and drug paraphernalia, the presiding judge [stewards] [stewards] shall have the discretion to impose a lesser penalty and may excuse the offense for counting purposes under this administrative regulation.
(2) Second offense.
(a) For a second violation of this administrative regulation within a three (3) year period, the offender's license shall be suspended for up to sixty (60) days.
(b) The offender shall be required to enroll in and complete a substance abuse program approved by the Authority [commission].
(c) Upon the expiration of sixty (60) calendar days from the date of the suspension, the offender may request to be reinstated by the presiding judge [commission] stewards or judges.
(3) Third offense. A third violation of this administrative regulation within a three (3) year period shall result in the revocation of the offender's license.
(4) Zero tolerance offense. Conviction in any court of law of a drug trafficking offense shall result in revocation of the offender's license even if it is a first offense under this administrative regulation.
(5) Preexisting offenses. A previous violation of [841–KAR...}
(g) Information supplied by:
1. A law enforcement agency;
2. The United States Trotting Association;
3. The Kentucky Horseman’s Association;
4. The Standardbred Investigative Services;
5. The Association or Racing Commissions International; or
6. The racing commission of any state or country;
(i) Any other [physical] conduct at the track which can be documented and which provides [would indicate] reasonable grounds to suspect [believe the existence of, dependence on, possession of, or usage of]:
1. Dependence on, possession of, or usage of a controlled substance;
2. An alcohol violation;
(b) Refusal to provide a urine or blood sample [if [when] requested to do so in accordance with 811 KAR Chapter 1 [within this administrative regulation]; or
(c) Recent arrest or pending criminal charges regarding the sale, possession, manufacture, cultivation, or use of illegal drugs.

Section 7. Payment for Expenses Related to this Administrative Regulation. A licensee [Lessee] shall be responsible for all or part of the expenses associated with violating this administrative regulation, including the cost of treatment and reinstatement of the license. The responsibility for payment of expenses shall be as follows:
(1) For a first offense, the offender’s responsibility for costs shall be based upon consideration of the factors set forth in Section 6(4)(e) through (i) of this administrative regulation, and determined by [at the discretion of] the presiding judge [stewards or judges] or other authorized Authority [commission] employee
(2) For a second offense, the offender shall bear all costs.
(3) For a drug or alcohol test initiated by the Authority [commission] to determine if a violation has occurred, the Authority [commission] shall bear the cost unless the test reveals a violation. If the test reveals a violation, subsections (1) and (2) of this section shall apply.
(4) Failure to pay any costs imposed shall be grounds for denial of reinstatement.

Section 8. Administration of Administrative Regulation. The Authority [commission] shall employ a competent individual to oversee and assist in the administration of this administrative regulation. The presiding judge of the Authority [stewards and judges of the commission] shall enforce this administrative regulation under the direction of the Authority [commission] and its authorized employee.

WILLIAM STREET, Chairman
CHRISTOPHER L. LILLY, Commissioner
JOHN W. CLAY, Deputy Secretary

CONTACT PERSON: P. J. Cooksey, Kentucky Horse Racing Authority, Environmental and Public Protection Cabinet, 100 Airport Road, Suite 300, Frankfort, Kentucky 40601, phone (502) 564-7760, fax (502) 564-1442.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Inspector General
(As Amended at ARRS, February 12, 2007)


RELATES TO: KRS 2168.010-2168.130, 2168.450-2168.459, 2168.990

STATUTORY AUTHORITY: KRS 2168.042, 2168.105[—EQ 2004-726]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 2168.042 and 2168.105 mandate that the Kentucky Cabinet for Health and Family Services regulate health facilities and services. This administrative regulation establishes physical plant requirements for psychiatric residential treatment facilities. This adminis-
Section 4. Facility Requirements and Special Conditions. (1) A facility [facilities] shall be accessible to and usable by persons with disabilities in compliance with the provisions of the Americans With Disabilities Act, 42 U.S.C. 12101 et seq.

(2) Access to a facility shall be by means of a paved or gravel roadway that is open, free from obstruction, and in good repair [which shall be available for use by traffic prior to a license being issued to a facility for occupancy].

(3) A copy of the narrative program for a [each] project shall be provided to the licensure agency by the applicant or licensee and shall describe [spooner which describes] the functional space requirements, staffing patterns, departmental relationships, and organizational plans [other basic information] relating to the fulfillment of the mission and objectives of the facility.

(4) The number and type of [types-of-rooms-of-the] diagnostic, clinical, and administrative rooms [facilities-to-be-provided] shall be sufficient to meet the needs of the patient census as described in the facility’s narrative program document [determined by the services to be provided and the estimated patient load as described in the narrative program].

Section 5. Living Unit. A living unit shall be located within a single building and shall comply with the requirements in this section [include]:

1. Bedrooms.
   (a) A bedroom [Bedrooms] shall not be used for sleeping accommodations for [to sleep] more than two [2] residents [children] and shall have clearances of at least three (3) feet between each bed, and four (4) feet from the foot of the bed.
   (b) A bedroom shall be equipped with a bed for each resident that shall:
      1. Be at least thirty-six (36) inches wide and sixty (60) inches long;
      2. Accommodate the resident's size;
      3. Be positioned to allow at least three (3) feet of free space between beds and four (4) feet of free space extending directly away from the foot of the bed; and
      4. Be located sufficient distance from radiators, heat outlets, and drafts to avoid discomfort.
   (c) A resident's bed shall be equipped with:
      1. A support mechanism and a clean mattress;
      2. A mattress cover with rubber or impervious sheets. If necessary:
      3. Two (2) sheets, a pillow, and bed covering of sufficient quality to maintain resident comfort. [Bedrooms shall be equipped with a bed for each resident. Beds shall be no less than thirty-six (36) inches wide and no less than five (5) feet in length and shall be long and wide enough to accommodate the resident-s size. A mattress cover, two (2) sheets, a pillow, bed covering as is required to keep the resident comfortable shall be provided for each bed. Rubber or impervious sheets shall be placed over the mattress cover if appropriate. Each bed shall be equipped with a support mechanism and a clean mattress.]
   (d) Beds occupied by residents shall be placed so that no child will experience discomfort because of proximity to radiators, heat outlets, or exposure to drafts.
   (d) [These shall be] Separate sleeping quarters shall be maintained for male and female residents. [Facilities shall be provided for each sex or same sex.] (e) A resident [Residenie] shall not be housed in a room, detached building, or other enclosure which has not been [rooms, detached buildings, or other enclosures which have not been previously] inspected and approved for occupancy [residential use] by the licensure agency and the Office of Housing, Buildings, and Construction.
   (f) A room shall not be used as a resident bedroom if the access is through another resident's bedroom.

2. Bathrooms.
   (a) Each bedroom shall have at least a minimum of one (1) bathtub or shower with hot and cold water, one (1) flush toilet, and one (1) sink.
or fraction thereof] residing within the living unit.

(b) [Separate toileting, bathing, and showering facilities shall be maintained and be available provided] for each sex (1)

(c) [Each bathroom shall have a wastebasket and an adequate supply of toilet paper, towels, and soap- and waste baskets].

(d) [If more than one (1) toilet is required or available provided] in the same room, each [toilet shall be partitioned for privacy and shall include a door capable of remaining closed [which affords full visual privacy].

(e) [Bathing and showering facilities (6-bath-tubs-and-showers) shall have enclosures or screens for individual privacy. Shower heads shall be of institutional safety type.]

(f) [At least one (1) bathroom facility shall have space that is accessible to a resident who uses [or] a wheelchair (resident with an assisting attendant). The wheelchair-accessible bathroom facility [it may serve both sexes, and the facility shall provide staff to assist residents during bathing and showering.]

(g) [Each bathroom shall contain at least one (1) nondistorting mirror secured to the wall at a [convenient] height which shall accommodate [for both] individuals with disabilities and other residents.

(h) A bathroom shall not be constructed in such a way as to require a resident to pass through another resident's bedroom for access.

(i) The bathrooms shall not be constructed to create a through traffic [bathroom-to-bedroom] relationship. The bathroom shall [only have] only one (1) door.

(j) A resident's wardrobe or closet shall have minimum dimensions of [Wardrobe or closet for each resident. Minimum clear dimensions: one (1) foot and ten (10) inches deep by one (1) foot and eight (8) inches wide with full-length hanging space including: provide] clothes rod and shelf. Additional areas shall be provided for storage of residents' winter coats, raincoats, and other bulky articles of clothing and shall be locked and under staff control. These areas shall be key-locked and under staff control.

(k) Each resident shall have a chair and desk with minimum dimensions of [Desk and chair for each resident. Minimum clear dimensions for the desk: one (1) foot and six (6) inches deep by three (3) feet wide by two (2) feet high.

(l) Windows accessible to the outside shall be secure and shall prevent unauthorized ingress and egress. Safety features shall be included on windows to ensure glass and glass fragments do not constitute a safety hazard. Window--Degree of security required shall be as determined by the program. Where glass fragments could create a hazard, safety-glazing or other appropriate security features shall be incorporated.

(m) If a staff call system is available [in the facility], provisions shall be made to permit removal of call buttons or use of blank plates if appropriately documented in a resident's treatment plan (as appropriate).

(7) [Residents] Living, dining, and recreation, [area--]

(a) The total area provided for living and recreation shall not be [not less than forty (40) square feet per resident;]

(b) The total area provided for dining shall not be less than fifteen (15) square feet per resident.

(c) The living area shall include [provide] comfortable seating for at least ten (10) persons.

(d) Indoor recreation equipment shall be available and appropriate for the ages served and shall be maintained in good condition; and appropriate for the ages of residents on the living-unit shall be provided and maintained.

(e) Enclosed storage shall be provided for recreational equipment and supplies. [Such as wall-cabinets or closets.]

(f) The facility shall provide space for outdoor recreation activities for residents. The outdoor area shall be free from litter, glass, and other objects which pose a [unexplained] safety hazard; and [hazard-to-residents.]

(g) Outdoor recreation equipment in good condition and appropriate for the ages [age] of the residents shall be provided and maintained.

(8) Each service area [Service areas for each living unit. The size and location of each area shall depend on the number of residents served and shall include a duty station and medicine dispensing area (i)]

(a) A duty station shall be constructed to include adequate space for charting and for conducting all other aspects of a patient's care. [Adequate space for charting and other required administrative functions shall be provided.]

(b) Provision shall be made for twenty-four (24) hour distribution of medicine to residents. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system.

1. Medication shall be kept in a locked storage area, a secure, self-contained dispensing unit, or other system capable of maintaining secure and controlled storage.

4. Provision shall be made for twenty-four (24)-hour distribution of medicine to residents and this may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system.

5. The medication dispensing unit (if a medication preparation unit is used) shall be under the treatment staff's visual control and shall contain a work counter, refrigerator, sink and locked storage for biologicals and drugs.

3. The medication dispensing unit (if a medication dispensing unit is used) may be located at the duty station, in a clean workroom, or in an alcove under direct control of the treatment or pharmacy staff.

6. At all control substances shall be maintained by staff. [Controlled substances shall be kept under double lock.

(c) A dedicated linen storage area shall be available and shall be used for storing clean linens. [Clean linen storage shall be kept in an enclosed room.]

(9) The living unit shall have at least one (1) operable food preparation area with a [working] sink, stove, and refrigerator, unless a kitchen is directly available within the same building as the living unit.

Section 6. Kitchen Area. (1) If a commercial service is used or if meals are provided by an adjacent facility, dietary areas and equipment shall ensure [be designed to accommodate the requirements for] sanitary, efficient and safe storage, processing, and handling of food products.

(2) If meals are prepared on site, the facility shall have a food service area large enough to accommodate residents and staff, and which shall be capable of maintaining a three (3) day supply of refrigerated and dry foods.

(3) The kitchen area shall include a janitor's closet with sufficient space for storage of otherwise the following shall be provided:

(1) Food serving facilities to accommodate residents and staff.

(2) Refrigerated storage to accommodate a three (3) day supply minimum.

(3) Dry storage to accommodate a three (3) day supply minimum.

(4) Janitor's closet--Storage for housekeeping supplies and equipment shall include: a locked area [shall be provided] for hazardous materials.

Section 7. Administration Area. Sufficient space shall be available [allocated] for administrative operations.

Section 8. Consultation and Visitaton Rooms. Professional consultation rooms shall be available for [provided which provide for the privacy and dignity of the patient during] interview, examination, treatment, and visitation. These rooms shall afford privacy for the resident.

Section 9. Pharmacy or Drug Area. [There shall be: Adequate facilities shall be available to accommodate for the safe storage and handling of pharmaceuticals including double locking of controlled substances and refrigeration for biologicals and drugs which require refrigeration.

Section 10. Seclusion Room. (1) If a seclusion room is provided, it shall be [A seclusion room may be provided.]

(2) A seclusion room--

(a) [Shall be] Completely padded and [be] constructed to mini-
mize the possibility of a resident's hiding, escape, injury, or suicide and shall not include fixtures, hardware, furniture, receptacles, switches, or other items that may present a risk to a secluded resident; and

(b) [ Shall-be- Used only for short-term occupancy by a resident [occupancy-by-residents] who may have become violent or suicidal.]

(2)

(3) Special fixtures, hardware, furniture, or other items which might potentially endanger the safety of the secluded resident shall not be placed in a secluded room.

(4) Electrical switches, receptacles, etc. shall not be provided in a secluded room.

(5) A secluded room door shall swing outward and shall have provisions for constant staff observation while maintaining privacy [from the public and other patients].

(6) A secluded room shall be designed to allow for constant visual inspection of the entire room.

Section 11. Storage and Service Areas. [The facilities shall be included.]

(1) Sufficient storage space shall be provided.

(2) Engineering service and equipment areas. [The following shall provide and shall include as applicable:]

(a) Storage room for housekeeping equipment that cannot be accommodated by a janitor's closet or other storage area. [and]

(b) Refuse area located in an area convenient to the service entrance, for holding trash prior to disposal, shall be located adjacent to service entrance.

Section 12. Details and Finishes. The facility shall be constructed and maintained to minimize risk to occupants, staff, and visitors, and shall comply with the following requirements. [The following shall include the following:]

(1) Details.[The following shall be excluded from this requirement.]

(a) All doors opening onto corridors shall be swing-type except elevator doors. [and]

(b) All doors to residents' bathrooms shall be swing-outward or shall be equipped with hardware that permits immediate access in case of any emergency.[and]

(c) Thresholds and expansion joint covers may be used to close the floor. [and]

(d) A towel rack or dispenser [disposable] shall be provided at all lavatories and sinks used for handwashing.[and]

(e) Ceiling height (height) shall be not less than seven (7) feet and six (6) inches.[and]

(2) Finishes.

(a) Floors shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchen and related spaces shall be waterproof and grease-proof. Floors shall have a nonslip finish in all areas that are subject to moisture.[and]

(b) Adjacent dissimilar floor materials shall be flush with each other to provide an even transition,[unbroken surface.]

(c) Walls shall be washable and kept clean and shall be moisture-proof in areas that are adjacent to plumbing fixtures.[and]

(d) Ceilings shall be washable and kept clean and in good repair.[and]

(e) Rooms containing heat-producing equipment such as laundry and food preparation areas shall be insulated and vented to prevent any floor surface from exceeding a temperature of ten (10) degrees Fahrenheit above the ambient room temperature.

Section 13. Construction. (1) Foundations shall rest on natural soil ground if a satisfactory soil is available at reasonable depths.

(2) Proper soil bearing values shall be established in accordance with recognized standards.

(3) If soil ground is not encountered at practical depths, the structure shall be supported on driven piles or drilled piles designed to support the intended load without detrimental settlement.

Section 14. Mechanical Requirements. (1) Steam and hot water systems. If boilers are provided in residential treatment facilities the design and installation shall comply with 815 KAR 15:010 through 15:050.

(2) Temperature. (a) A minimum temperature of sixty-eight (68) degrees Fahrenheit shall be provided for occupied areas during winter [winter conditions].

(b) A maximum temperature of eighty-five (85) degrees Fahrenheit shall be provided for occupied areas during summer [summer conditions].

(3) Plumbing and piping systems. (a) All showers and bathtubs shall be equipped with a temperature-limiter device at the point of source or point of use [control device] which controls hot water at a maximum temperature of 120 [110] degrees Fahrenheit.

(b) Fixtures used in the dietary area, the clean work room and the medical area shall be trimmed with valves which can be operated without the use of hands.

(c) If valves are equipped with handle blades, the controls [are used as handles] shall be approximately four (4) inches in length.

(d) Fixtures shall be installed to provide adequate side clearance [clearances] for proper use of the blade handles.

(4) Water supply systems. (a) A supply of water shall be delivered to the fixtures and equipment on the upper floors at a minimum pressure of fifteen (15) pounds per square inch during maximum demand periods.

(b) An operable valve shall be installed at each water service main, branch main, riser, and branch to a group of fixtures [shall be accessible]. Stop valves shall be installed [provided] at each fixture.

(c) Insulation shall be maintained on hot, cold and chilled water piping and waste piping on which condensation may occur [shall be insulated]. Insulation of chilled and chilled water lines shall include an exterior barrier.

(d) Backflow preventers (vacuum breakers) shall be installed on hose bibs and on all fixtures onto [to] which hoses or tubing can be attached [such as janitor's sinks and bedpan-flushing attachments].

(e) Hot water distribution systems shall be arranged to provide hot water at each fixture [at all-taps].

(f) Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to prevent these areas from possible leakage of, or condensation from, [necessary] overhead piping systems.

(5) Hot water heaters and tanks. (a) [The] Hot water heating equipment shall have sufficient capacity to supply the water at the temperature and amounts indicated below:

<table>
<thead>
<tr>
<th>Gallons/hour</th>
<th>Temperature (Degrees Fahrenheit)</th>
</tr>
</thead>
<tbody>
<tr>
<td>6 1/2</td>
<td>100-120</td>
</tr>
</tbody>
</table>

(b) A storage tank, [or tanks, if necessary] shall be provided and shall be fabricated of corrosion-resistant metal [or have a noncorrosive lining].

(c) Plumbing approval. Prior to licensure [and relicense], all plumbing specifications shall be approved by the Kentucky Division of Plumbing, Office of Housing, Buildings and Construction.

Section 15. Electrical Requirements. (1) [General] Electrical requirements of the Kentucky Building Code shall apply [if applicable].

(2) The wiring in each branch circuit [home] shall be inspected by a certified electrical inspector and a certificate of approval shall be issued to the facility prior to occupancy; except, the wiring in existing buildings shall be approved by a certified electrical inspector.
only if the building has not been previously so approved for health care occupancy or if the State Fire Marshal finds that a hazardous condition exists.

(3) (Switchboard-and-power-panel) All breakers and switches shall be indexed.

(4) Lighting.
(a) All Spaces occupied by people, machinery, and equipment within buildings, and the corresponding approaches, and parking lots shall have electric lighting.

(5) (b) Residents’ bedrooms shall have general lighting, a reading light, and, if appropriate, a reading light.

(6) A resident’s bedroom

[4] A reading light shall be provided for each resident if appropriate.

2. Residents’ reading lights and other fixed lights not switched at the door shall have switch controls convenient for use at the Luminary.

3. Night lights shall be provided in each resident’s room.

(5) (a) (Convenience outlets).
(a) Bedroom. Each resident bedroom shall have duplex receptacles as follows:

(a) [1] One (1) side of the head of each bed; receptacles for luminaries, television and motorized beds, if used, and one (1) receptacle on another wall.

(b) [2] Receptacles shall be of a safety type or protected with five (5) milliamperage ground fault interrupters.

(b) (a) Convenience receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends of corridors. Receptacles shall be of a safety type or protected with five (5) milliamperage ground fault interrupters.

MARK D. BIRDWHISTELL, Secretary
MIKE BURNSIDE, Undersecretary
ROBERT J. BENVENUTI, III, Esq., Inspector General
APPROVED BY AGENCY: December 13, 2006
FILED WITH LRC: December 13, 2006 at 1 p.m.
CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES
OFFICE OF INSPECTOR GENERAL
Division of Fraud, Waste, and Abuse, Identification and Prevention
(As Amended at ARRS, February 12, 2007)

902 KAR 55:070. Storage of controlled substances in an emergency medication kit in certain long-term care facilities.

RELATES TO: KRS 218A.180, 218A.200
STATUTORY AUTHORITY: KRS [Chapter--13B.] 194A.050
194A.050, 218A.250; EO 06-862
NECESSITY, FUNCTION, AND CONFORMITY: KRS 218A.250 directs the Cabinet for Health and Family Services to adopt rules and administrative regulations for carrying out the provisions of KRS Chapter 218A relating to controlled substances. This [The purpose of the] administrative regulation [authorized the] storage in an emergency medication kit in certain long-term care facilities of limited quantities of controlled substances to be administered if prescribed by an authorized practitioner [a physician-Executive Order 06-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health-and its programs under the Cabinet for Health Services].

Section 1. Storage of Controlled Substances in an Emergency Medication Kit. A pharmacy provider may store controlled substances in an emergency medication kit in a residential hospice facility, nursing home, nursing facility, skilled nursing facility, intermediate care facility, or intermediate care facility for the mentally retarded if the following conditions are met:

1. The written policies and procedures of the facility regarding the procurement, use, storage, security, replacement, and recordkeeping of controlled substances in the kit shall be filed with the facility and with the provider pharmacy;

2. The controlled substances in the kit shall be the property of the provider pharmacy, which is responsible for their proper labeling, storage, security, and accountability;

3. The controlled substances stored in the kit shall be selected jointly by the facility’s medical director or other physician, consultant pharmacist, and the director of nursing;

4. The controlled substances [selected for inclusion] in the kit shall not exceed six (6) individual doses each of six (6) [are interchangeable and limited to two (2) doses each of three (3) different controlled substances];

5. The controlled substances in the kit shall be administered only upon the order of an authorized practitioner [a physician] who determines that the patient has an immediate medical need;

6. The Access to the controlled substances in the kit shall be [is limited to a physician, pharmacist, registered nurse, or other person authorized by law in this state to access and administer the prescribed medication;]

7. The provider pharmacy shall be [is notified] by the facility within twenty-four (24) hours after the kit has been opened;

8. The prescribing practitioner shall issue [the physician] a written prescription for the controlled substance [prescribed for the] to the provider pharmacy within seventy-two (72) hours after administration of a controlled substance from the kit;

9. The facility shall maintain [maintains] a record of the administration of controlled substances from the kit in accordance with applicable state and federal laws;

10. The provider pharmacy shall document a physical inventory of the controlled substances in the kit at least monthly;

11. The loss of any controlled substance from the kit shall [is] reported to the Cabinet for Health and Family Services in accordance with KRS 218A.200(14)(4) and to the Federal Drug Enforcement Administration in accordance with 21 C.F.R. 1301.74(c).

Section 2. The Cabinet for Health and Family Services may deny, suspend, or revoke the privilege of storing controlled substances in an emergency medication kit if any provision in Section 1 of this administrative regulation is violated. All administrative hearings shall be conducted in accordance with 902 KAR 1:400.

ROBERT J. BENVENUTI, III, Esq., Inspector General
MIKE BURNSIDE, Deputy Secretary
MARK D. BIRDWHISTELL, Secretary
APPROVED BY AGENCY: December 13, 2006
FILED WITH LRC: December 13, 2006 at 1 p.m.
CONTACT PERSON: Jill Brown, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, Kentucky 40601, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Family Support
(As Amended at ARRS, February 12, 2007)

821 KAR 3:050. Claims and additional administrative provisions.

RELATES TO: 7 C.F.R. 272.1, 272.5, 272.6, 273.16, 273.17,
273.18, 26 C.F.R. 301.6402-6
STATUTORY AUTHORITY: KRS 194A 010(2), 194A.050(1), 7
C.F.R. 271.4, 273.18
NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.010(2) requires the Cabinet for Health and Family Services to administer income-supplement programs that protect, develop, preserve, and maintain families and children in the Commonwealth. KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law or to qualify for the receipt of federal funds and neces-
sary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. 7 C.F.R. 271.4 requires each state to administer a Food Stamp Program. 7 C.F.R. 273.18 requires the agency administering the Food Stamp Program to develop a process to establish and collect claims. This administrative regulation establishes the criteria for recipient claims, collection provisions, and additional provisions used by the cabinet in the administration of the Food Stamp Program.

Section 1. Responsibility for a Claim. (Civil Rights Compliance. In accordance with 7 C.F.R. 273.6, the cabinet shall not discriminate against an applicant or participant in any aspect of program administration for reasons of age, race, color, sex, disability, religious creed or national origin.

Section 2. Restoration of Lost Benefits. (1) Benefits shall be restored to a household if the household has lost benefits.
(a) Due to an administrative error, or
(b) By an administrative disqualification for intentional program violation that is subsequently reversed.
(c) Benefits shall be restored for a period of not more than twelve (12) months from the date:
(A) The agency receives a request for restoration; or
(B) A final order is implemented, if no request for a restoration is received.
(2) Benefits to be restored shall be calculated by determining the difference between what the household was entitled to receive and what the household actually received.
(3) Benefits to be restored shall be used to offset an unpaid or suspended claim the household may owe.

Section 3. Program Informational Activities. (1) A low income, or disadvantaged household shall be informed of the availability of the program and program rights and responsibilities through program information activities including posters and pamphlets from the Food and Nutrition Service.
(2) Other programs that a household shall be encouraged to use are the:
(A) Special Supplemental Food Program for Women, Infants and Children, and
(B) Expanded Food and Nutrition Education Program.

Section 4. Identification and Classification of a Claim Against a Household. (1) The following individuals shall be responsible for paying a recipient claim as defined in 921 KAR 3:010:
(1) (a) An individual who was an adult member of the household when the overissuance (overpayment) or trafficking occurred;
(b) An individual who was an adult member of the household if the sponsor is at fault;
(c) An individual who was a minor member of the household when the overissuance (overpayment) or trafficking occurred;
(d) An individual who was a minor member of the household if the sponsor is at fault.

Section 2. Claim Category. (1) As specified in 921 KAR 3:010, a recipient claim shall be classified as:
(a) Inadvertent household error (IHE)-or-IEH;
(b) Agency error (AE)-or-AE;
(c) Intentional program violation (IPV)-or-IPV;
(d) Unintentional program violation (IPV)-or-IPV;
(e) Suspended or suspended claim (IPV), indicator.

Section 4. Section 2. Claim Category. (1) As specified in 921 KAR 3:010, a recipient claim shall be established as an:
(a) Inadvertent household error (IHE)-or-IEH;
(b) Agency error (AE)-or-AE;
(c) Intentional program violation (IPV)-or-IPV;
(d) Suspended or suspended claim (IPV), indicator.

Section 3. Section 4. Acting on a Change. (1) A claim shall be established if a household:
(a) Fails to report a change in circumstance in accordance with the timeframes specified in 921 KAR 3:035; or
(b) Reports a change within the required timeframe, but the cabinet fails to act on the change within ten (10) days of the date the change is reported.
(2) The first month of overissuance, as defined in 921 KAR 3:010, shall:
(a) Be the first month that the change would have been effective had it been timely.
1. Reported by the household; or
2. Acted upon by the cabinet; and
(b) Not exceed two (2) months from the month the change in circumstance occurred.

Section 4. Section 5. KCD-1. (1) A "KCD-1, General Claims Notice" shall serve many purposes in the administration of claims collections. Including the use to:
(a) An appointment notice;
(b) A demand letter;
(c) Notice of benefit reduction;
(d) A past due notice;
(e) A repayment agreement;
(f) A claim adjustment notice;
(g) A claim termination notice;
(h) A payment receipt;
(i) Notice of a suspended claim;
(j) Notice of a claim being paid in full; or
(k) Notification that a delinquent claim shall be sent to the U.S. Department of Treasury for collection.
(2) The language on the KCD-1 shall differ according to the purpose of the notice as described in subsection (1) of this section.
(3) Acting on a Change in the Household's Circumstances. (1) A claim shall be established if a household:
(a) Fails to report a change in circumstance in accordance with the timeframes specified in 921 KAR 3:035; or
(b) Reports a change within the required timeframe, but the
cabinet does not act on the change within ten (10) days of the date
the change is reported.

(2) The first month of overissuance shall:
(a) Be the first month that the change would have been effective
had it been timely;
(b) Not exceed two (2) months from the month the change in
circumstance occurred.

Section 6.7 Notification of a Claim. (1) A household with a
suspected claim shall be mailed a KCD-1 (General Claims Notice) notifying the household of an appointment to:
(a) Discuss the potential claim;
(b) Determine the classification of the claim, as specified in
Section 2.4 of this administrative regulation; and
(c) Offer the recipient an opportunity to waive the administra-
tive disqualification hearing if the claim is suspected (determined)
to be an IPV.
(2) If a household requests to reschedule the appointment
within ten (10) days of the date of the notice, the appointment shall
be rescheduled.
(3) The cabinet shall determine the classification and the
amount of the recipient claim based on the information that is
available to the cabinet if the household:
(a) Fails to attend the appointment to discuss the potential
claim; and
(b) Does not contact the cabinet to reschedule the appoint-
ment.
(4) When the cabinet determines the amount of a recipient
claim, in accordance with Section 4.6 of this administrative regu-
lation, collection shall be initiated and a KCD-1 shall be mailed to
notify the household of the claim:
(a) Amount;
(b) Time period;
(c) Reason; and
(d) Category as specified in Section 2.4 of this administrative
regulation.
(5) The household shall return the KCD-1 within ten (10) days
of receipt if the household chooses to:
(a) Initiate a repayment agreement; or
(b) Request a hearing on the claim.

Section 7. Collection Methods. (1) Benefit reduction:
(a) A household that is participating in the Food Stamp Pro-
gram shall have payments on the claim made by reducing its
monthly food stamp benefits through benefit reduction by the fol-
lowing amounts:
1. For an IPV claim, the amount reduced shall be the greater of
   twenty (20) dollars per month or twenty (20) percent of the house-
   hold's monthly benefits, unless the household agrees to a higher amount;
or
2. For an IFH or AF claim, the amount reduced shall be the
greater of ten (10) dollars per month or ten (10) percent of the
   household's monthly benefits, unless the household agrees to a
   higher amount.
(b) The cabinet shall not use additional collection methods
   against individuals in a household that is already having its benefits
   reduced unless the:
1. Additional payment is voluntary;
or
2. Source of the payment is irregular and unexpected such as a
   federal or state tax refund or lottery winnings offset.
(2) A household may pay its claim using benefits from its EBT
benefit account if the household gives the cabinet permission:
(a) By completing and returning a KCD-1 or other written state-
ment requesting this option; or
(b) Through an oral request for a one (1) time reduction and the
   cabinet provides the household with a receipt for the transac-
tion within ten (10) days.
(3) If the cabinet becomes aware of expired EBT benefits,
the claim balance shall be reduced by an amount equal to the ex-
pired benefits.
(4) During the claim establishment and collection process, the
cabinet shall:

(a) Deduct the amount of an outstanding recipient claim from
benefits that may be owed to a household; and
(b) Send the household a KCD-1 as notification of the adjust-
ment.
(5) A lump sum payment on a recipient claim:
(a) Shall be requested by the cabinet; and
(b) May be a full or partial payment.
(6) If a household is not participating in the Food Stamp Pro-
gram, the cabinet shall:
(a) Negotiate a repayment agreement, either orally or in writ-
ing, which includes a repayment schedule; and
(b) Utilize additional collection methods if the claim becomes
deficient through the household's failure to submit a payment in
accordance with the negotiated repayment agreement.
(7) In accordance with 7 C.F.R. 273.18(e), the cabinet may
employ other collection methods to collect a recipient claim, such as
(a) Refer to a public or private sector collection agency;
(b) Refer to the state or local collection agency;
(c) The interest of unemployment compensation benefits;
(d) A state income tax refund intercept; or
(e) A federal tax refund through Treasury Offset Program, or TOP.
(8) The cabinet shall:
(a) Refer a recipient claim that is delinquent for 180 or more
days to TOP unless the debtor is a member of a participating
household that is undergoing benefit reduction to collect a recipient
claim; and
(b) Refer a recipient claim from TOP to the:
1. Food and Nutrition Service or Treasury instructs the cabinet
to withdraw a recipient claim;
2. Cabinet discovers that the debtor:
   (a) is a member of a food stamp household undergoing benefit
   reduction; or
   (b) Has made an arrangement to resume payments;
3. The cabinet:
   (a) Has been paid off;
   (b) Was disposed through a hearing, termination, or com-
   promise; or
   (c) Was referred to TOP in error, by mailing the household a
   KCD-1, which includes a repayment agreement.
(9) The language of the KCD-1 shall differ based on:
(a) Whether the household is currently receiving food stamp
benefits;
(b) The category of the claim, as specified in Section 4 of this
administrative regulation;
(c) The current status of the claim; and
(d) The action the cabinet is taking on the claim; and
(e) If a court has established the claim:
   1. Amount;
   2. Category;
   3. Amount and category.
(10) Upon receipt of a KCD-1, a household shall:
(a) Select a method of collection, in accordance with Section
10 of this administrative regulation, by completing the repayment
agreement; and
(b) Return the form to the cabinet within ten (10) days from
the date of the written notification.
(11) If the household fails to return a completed repayment
agreement within the time specified in subsection (9) of this sec-
tion, the:
(a) Claim shall be considered delinquent, pursuant to Section 8
of this administrative regulation; and
(b) Cabinet shall impose involuntary collection action pursuant
to Section 10(4)(b) of the administrative regulation.
(12) If an error is made in the computation of a recipient claim, a
KCD-1 shall be sent to notify the household of the correct amount
of the claim.
(13) If the claim is paid in full, a KCD-1 shall be sent to notify the
household that collection is complete.

Section 8. Delinquent Recipient Claims. (1) In accordance with
7 C.F.R. 273.18(e)(6), a recipient claim shall be considered delin-
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quent if:
(a) The claim has not been paid by the due date and a satis-
factory payment arrangement has not been made; or
(b) A payment arrangement has been established and a
scheduled payment has not been made by the due date.
(2) The date of delinquency for a claim shall be the due date
on the:
(a) Initial written notification if the claim meets the criteria of
subsection (1)(a) of this section; or
(b) Missed installment payment if the claim meets the criteria of
subsection (1)(b) of this section
(3) Pursuant to 7 C.F.R. 273.18(e)(5)(ii), the claim shall remain
delinquent until:
(a) Payment is received in full;
(b) Benefit (Alleviate) reduction, as described in Section
710(d) of this administrative regulation, is implemented; or
(c) A satisfactory payment agreement is negotiated for a claim
meeting the criteria of subsection (1)(a) of this section.
(4) A claim shall not be considered delinquent if:
(a) Another claim for the same household is currently being
paid either through an installment agreement or benefit
(alleviate) reduction; and
(b) The cabinet expects to begin collection on the claim once
the prior claim is settled.
(5) If the cabinet is unable to determine delinquency status
because claim collection is coordinated through the court system, a
claim shall be subject to the requirements for delinquent debts if
the cabinet is unable to determine delinquency status
because collection is coordinated through the court system.
(6) A claim awaiting a fair hearing decision shall not be consid-
ered delinquent.
(7) If a hearing official determines that a claim does, in fact,
exist against the household, the cabinet shall:
(a) Notify the household of the claim; and
(b) Base delinquency on the due date of the subsequent
notice.
(8) If a hearing official determines that a claim does not exist,
the cabinet shall:
(a) Dispose of the recipient claim in accordance with Section
9(2) of this administrative regulation; and
(b) Send a KCD-1 to notify the household of the terminated
claim.

Section 9. Compromising, Terminating, and Writing-off Claims.
(1) Except for a recipient claim that is established by a court of
the appropriate jurisdiction, the cabinet may compromise a claim or
a portion of a claim if:
(a) A request for compromise is received from the household;
and
(b) In accordance with 7 C.F.R. 273.18(e)(7), the cabinet can
make a reasonable determination that the household will be unable
to pay off the claim within three (3) years.
(2) In accordance with 7 C.F.R. 273.18(e)(3), a claim shall be
terminated and written off if:
(a) The claim:
1. Is invalid, unless it is appropriate to pursue the overissuance
[everissue] as a different type of claim;
2. Balance is twenty-five (25) dollars or less and the claim has
been delinquent for ninety (90) days or more, unless other claims
exist against the household resulting in an aggregate claim total
of greater than twenty-five (25) dollars; or
3. [6-$125 or less-in accordance with Section 5(4) of this ad-
iministrative regulation; or
4. Has been delinquent for at least three (3) years and, in
accordance with 7 C.F.R. 273.18(n), cannot be pursued through
the Treasury Offset Program, or TOP;
(b) All adult household members, as specified in Section 1(1)
of this administrative regulation, die; or
(c) The cabinet is unable to locate the household.

Section 10. Restoration of Benefits
(1) Benefits shall be re-
stored to a household if the household has lost benefits:
(a) Due to an administrative error; or
(b) By an administrative disqualification for an IPV that is sub-
sequently reversed.
(2) Benefits shall be restored for a period of not more than
twelve (12) months from the date:
(a) The agency receives a request for restoration; or
(b) A final order is implemented, if no request for full restoration
is received.
(3) Benefits to be restored shall be calculated by determining
the difference between what the household was entitled to receive
and what the household actually received.
(4) Benefits to be restored shall be used to offset any [er]
unpaid or suspended claim that the household has [pay have].

[Collateral Methods. (1) Alleviation reduction.
(a) A household that is participating in the Food Stamp Pro-
gram may voluntarily elect to pay a recipient claim by reducing its
monthly food stamp benefits through alleviation-reduction by the
following amount:
1. For an IPV claim, the amount reduced shall be the greater of
twenty (20) dollars per month or twenty (20) percent of the house-
hold's monthly allotment or entitlement, unless the household
agrees to a higher amount; or
2. For an IHME or AE claim, the amount reduced shall be the
greater of ten (10) dollars per month or ten (10) percent of the
household's monthly allotment, unless the household agrees to a
higher amount.
(b) If a household that is participating in the Food Stamp Pro-
gram fails to timely return a completed repayment-agreement pur-
SUant to Section 7(d) of this administrative regulation, the cabinet
shall invoke involuntary allotment reduction pursuant to paragraph
(a) or (b) of this subsection.
(c) The cabinet shall not use additional collection methods
against individuals in a household that is already using its benefit
reduced unless the:
1. Additional payment is voluntary
or
2. Source of the payment is regular and unexpected such as a
federal or state tax refund or lottery winnings.
(2) A household may pay its claim using benefits from its EBT
benefit account if the household gives the cabinet permission:
(a) By completing and returning a KCD-1 requesting this op-
ion; or
(b) Through an oral request for a one (1)-time-reduction and
the cabinet provides the household with a receipt for the transac-
tion within ten (10) days.
(3) If the cabinet becomes aware of expunged EBT benefits,
the claim balance shall be reduced by an amount equal to the ex-
punged benefits.
(4) During the claim establishment and collection process, the
office shall:
(a) Deduct the amount of an outstanding recipient claim from
benefits that may be owed to a household; and
(b) Send the household a KCD-1 as notification of the adjust-
ment.
(5) A lump sum payment on a recipient claim:
(a) Shall be accepted by the cabinet; and
(b) May be a full or partial payment.
(6) If a household is not participating in the Food Stamp Pro-
gram, the cabinet shall:
(a) Negotiate a repayment agreement, either orally or in writ-
ing, which includes a repayment schedule;
(b) Accept installment payments on a recipient claim; and
(c) Employ additional collection methods if the claim becomes
delinquent through the household's failure to submit a payment
in accordance with the negotiated repayment agreement.
(7) In accordance with 7 C.F.R. 273.18(g), the cabinet may
employ other collection methods to collect a recipient claim, such as:
(a) Referral to a public or private-sector collection agency;
(b) Lottery offsets;
(c) Wage garnishment;
(d) The interception of unemployment compensation benefits;
(e) State income tax refund intercept; or
(f) The interception of a federal tax refund through TOP.
(8) The cabinet shall:
(a) Refer a recipient claim that is delinquent for 180 or more
days to the TOP, unless the debtor is a member of a participating
household that is having its allotment reduced to collect a recipient claim; and
(b) Remove a recipient claim from TOP if the
1. Food and Nutrition Service or Treasury instructs the cabinet to
2. Cabinet discovers that the recipient
a. Is a member of a food stamp household undergoing allot-
ment reduction; or
b. Has made an arrangement to resume payments; or
3. Claim:
a. Has been paid off;
4. Was disposed of through a hearing, termination, or com-
promise; or
5. Was referred to TOP in error.

Section 11. Disclosure of Information. The disclosure or use of information regarding Food Stamp Program participants shall be restricted to an individual:
(1) Directly connected with the administration or enforcement of:
(a) The Food Stamp Program;
(b) A federal assistance program; or
(c) A state program which receives federal funding and pro-
vides assistance to low-income households on a means-tested basis;
or
(2) Who meets the criteria specified in 7 C.F.R. 272.1(c).

Section 12. Retention of Records. (1) In accordance with 7 C.F.R. 272.1(f), the cabinet shall retain program records:
(a) In an orderly fashion, for audit and review purposes; and
(b) Except for records specified in subsection (2) of this sec-
tion, for a period of three (3) years from the:
1. Month of origin of each record; or
2. Date of fiscal or administrative closure for fiscal records and accountable documents, such as claims.
(2) The cabinet shall retain records on IVFP disqualifications and work violations indefinitely.

Section 13. Civil Rights Compliance. In accordance with 7 C.F.R. 272.6, the cabinet shall not discriminate in any aspect of program administration on the basis of age, race, color, sex, dis-
ability, religion, political beliefs, or national origin.

Section 14. Incorporation by Reference. (1) "KCD-1, General Claims Notice, edition 6/06", is incorporated by reference
(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.

TOM EMBERTON, Jr., Acting Undersecretary
MIKE BURNSIDE, Undersecretary
MARK D. BIRDWHISTELL, Secretary
APPROVED BY AGENCY: December 15, 2006
FILED WITH LRC: December 15, 2005 at 9 a.m.
CONTACT PERSON, Jill Brown, Office of Legal Services, 275 East Main Street SW-B, Frankfort, Kentucky 40621, phone (502) 564-7905, fax (502) 564-7573.

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Protection and Permanency
(As Amended at ARRS, February 12, 2007)

922 KAR 1:400. Supportive services.


NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill responsibilities vested in the cabinet [for Health and Family Services]. KRS 605.150 authorizes the cabinet to promulgate administrative regulations to implement the provisions of KRS Chapter 605, including KRS 605.130(4), which authorizes the cabinet to perform services to a youth currently or formerly in foster care, necessary for the protection of children. 2006 Ky. Acts Ch. 252 Part 1, H.109 requires the cabinet to promulgate an admin-
istrative regulation to implement the Foster Youth Transitional Assistance Program. This administrative regulation establishes standards for provision of supportive services to a family receiving ongoing case management services or to safely maintain a child in his or her home through the cabinet [for Health and Family Ser-
vices], to the extent funds are available.

Section 1. Definitions. (1) "Cabinet" is defined by [at] KRS 209.0202.
(2) "Child" is defined by [at] KRS 199.011(4) and as extended by KRS 610.110(5).
(3) "Intensive family-based support services" means the goal of keeping the family united or if removal of a child is necessary, plac-
ing the child in the least restrictive setting consistent with his or her individual needs.
(4) "Kentucky Transitional Assistance Program" or "K-TAP" means Kentucky's Temporary Assistance for Needy Families Pro-
gram, a money payment program for a child who is deprived of parental support or care, as described at 921 KAR 2 006, Section 1(2) (a).
(5) "Kentucky Works" means a program that assists a:
(a) Recipient of K-TAP in obtaining education, training, experi-
ence and employment necessary to leave public assistance; or
(b) Former K-TAP recipient with job retention service.
(6) "Paraprofessional attendant" means a person with a high school diploma or bachelor's degree and training related to the services he or she provides, under the supervision of a licensed professional.
(7) "Preventative assistance" means a service to provide emer-
gency funds to a family during crisis.
(8) "Rehabilitative services" means medical or remedial services recommended by a physician or other licensed prac-
titioner of the healing arts, within the scope of his or her prac-
tice under state law, for maximum reduction of physical or mental disability and restoration of a recipient to his or her best possible functional level.
(9) "Safety net services" means:
(a) A short-term intervention or maintenance service to help an individual or family develop and maintain skills and abilities to pre-
vent out-of-home placement for a child in that family; or
(b) Monetary benefits to assist in maintaining self-sufficiency.
(10) "Rehabilitative service" is defined at 907-KAR-3 020, Section 1(2).
(11) "Targeted case management" means a set of activities which assist an individual in accessing needed medical, so-
cial, educational, and other support services, is defined at 907-
KAR-3 020, Section 1(2).
(12) "Youth" means a person age eighteen (18) through twenty-three (23) years inclusive.

Section 2. Child Care Services. The cabinet may refer an indi-
vidual or family for child care services pursuant to 922 KAR 2 160 if the individual or family:
(1) Makes a request for assistance for child care expenses;
(2) Needs child care for protection or prevention of child abuse, neglect or exploitation; or
(3) Needs child care for a child of a teen parent attending high school.

Section 3. Child Support Service. The cabinet may make a referral for child support services, by means of the process de-
scribed at 921 KAR 1 380, Section 2, on behalf of a child entering out-of-home care through:
(1) Voluntary commitment agreement; or
(2) Court order assigning legal responsibility for the child to the cabinet.

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Section 4. Intensive Family-based Support Services. (1) Intensive family-based support services shall be provided through a contractual agreement, for the purpose of: (a) Stabilizing a child in the child's own home or foster home; (b) Preventing further hospitalization or institutionalization, and (c) Enabling a child and the child's family to improve their lives. (2) An intensive family-based support service may be provided to a child with one (1) or more of the following: (a) Mental retardation or developmental disability; (b) Emotional or behavioral disturbance; (c) Dual diagnosis; or (d) Risk of institutionalization; or (e) Need for aftercare services following release from an institution or other highly structured setting. (3) Except for the assessment and discharge planning, intensive family-based support services shall not start while a child is in a hospital or an institution. (4) Intensive family-based support services shall be available to a family with a child living in a: (a) Biological home; (b) Foster home; or (c) Adoptive placement. (5) The cabinet may make a referral for intensive family-based support services which may include the following: (a) A comprehensive assessment, to include: 1. Review of medical, psychiatric, social and educational assessments conducted within the last twelve (12) months; and 2. An in-home assessment; (b) If appropriate, discharge planning provided through the service provider's involvement with a foster or biological family, the child and the hospital or institution to ensure: 1. A coordinated approach upon discharge; and 2. That communication is clear regarding behaviors, goals, and recommended interventions; (c) Planned support services provided to assist with routine day-to-day activity that is crucial to stabilizing a child within the family unit; (d) Family intervention services such as behavioral and family counseling to assist a child and family in: 1. Identifying and resolving issues underlying the dysfunctional behaviors within a family; or 2. Eliminating barriers to change; (e) Respite care services provided to allow a biological or a foster parent relief for a designated period of time from the stress of caring for an emotionally disturbed or physically disabled child or to allow time to attend to other needs; (f) A paraprofessional attendant to provide direct in-home services to a child, or a biological or foster parent, as identified in the case plan; (g) Purchase of care in an alternate living unit, as a component of an intensive family-based support services contract, (h) Art or music therapy from a qualified professional; (i) Educational consultation and support; (j) Crisis intervention; (k) Skilful development; or (l) Other services identified in the case plan. (6) The type, frequency, intensity and duration of services shall be determined according to each individual situation. (7) A family case plan shall be developed to address: (a) Family strengths and needs; (b) Goals, objectives, and tasks; (c) Time frames; and (d) Anticipated outcomes. Section 5. Safety Net Services. (1) Safety net services shall be provided for a former K-TAP recipient who: (a) Has total income at or below 200 percent of federal poverty level; and (b) Is no longer eligible for K-TAP benefits due to: 1. Failure to comply with Kentucky Works requirements of 921 KAR 2:370, Section 7(2); or 2. Reaching benefit time limitations established at 921 KAR 2:006, Section 20 (14). (2) A safety net service shall include contact with the family and may address the following: (a) Assistance to the individual or family to identify the problem and resources available to improve the situation; (b) Linkage to the appropriate resources; or (c) Intervention in a crisis situation including: 1. Fuel shortages; 2. Utility shutting off; or 3. Insufficient food, clothing, housing, or employment; or (d) Response to an inquiry regarding the family situation. (3) The cabinet may authorize fund distribution to an appropriate vendor, in order to provide for a family's safety net services. (4) Up to a total of $355 may be paid over a period of four (4) months during a twelve (12) month period. Section 6. Medicaid Services. (1) Rehabilitative services shall be provided to a Medicaid-eligible child under the age of twenty-one (21) who meets the Department for Community Based Services' conditions and circumstances as a child in the custody of, or under the supervision of, or at risk of being in the custody of, the cabinet. (2) Targeted case management services shall be provided to a Medicaid-eligible individual in accordance with 907 KAR 3:020, Section 3(1). Section 7. Preventative Assistance. (1) Preventative assistance services shall be provided in order to: (a) Assist an individual who is identified at-risk and in need of protective services intervention; (b) Prevent the removal of a child from his or her home; or (c) Facilitate the return of a child to his or her natural parents. (2) Preventative services may be utilized for: (a) Shelter; (b) Food; (c) Clothing; (d) Utilities; or (e) Other necessary services. (3) The cabinet may authorize up to $500 in a state fiscal year to the appropriate vendor for a family. Section 8. K-TAP Determination for Domestic Violence Victims. If a report of alleged domestic violence is made the cabinet shall: (1) Attempt to arrange a face-to-face interview with the alleged victim to conduct an assessment or investigation, according to the procedure established at 921 KAR 2:006, Section 24 (23), and, if necessary, shall offer protective and general adult services; and (2) Upon completion of the assessment or investigation, provide information to K-TAP whether the reported victim: (a) Is in a domestic violence situation; and (b) Has agreed to services. Section 9. Assessment of Minor Teenage Parents. (1) If a determination is made that a minor teenage parent [we] is an applicant or recipient of K-TAP and is not living with an adult or legal guardian, the minor teenage parent shall be referred for an assessment of his safety, including assistance with an alternative living arrangement if necessary. (2) The cabinet shall: (a) Conduct a face-to-face contact with the minor teenager's parent and the minor parent's child; (b) Conduct a face-to-face interview with the minor parent in order to assess the minor parent's current situation and the safety issues for the minor teenager parent and child; and (c) Determine if the minor teenager's parent or guardian accepts the minor teenager's living arrangement; (d) Refer the family to the appropriate services; and (e) Provide the following to the Division of Family Support: 1. Identification of safety issues; 2. A recommendation regarding opening a protective or preventive services case on the family; and 3. Services to which the minor teenage parent has been referred. Section 10. Foster Youth Transitional Assistance (FYTA) (1) In accordance with 2006 Ky. Acts ch. 252, Part 1, H.10, grants or
vouchers from the Foster Youth Transitional Assistance program shall be provided to a youth who:
(a) Was in foster care on the youth’s eighteenth birthday;
(b) Is currently in foster care; or
(c) Was formerly in foster care; and
(1) Is:
1. Currently working; or
2. Currently working and attending a community;
[a. Community college, or
3. Currently working and attending a [b.] four (4) year college or university.]
(2) A recipient in the FYTA program shall submit documentation of program eligibility under paragraph (c) of this section [subsection] to the cabinet monthly.
(3)(2) A youth shall utilize funds for transitional assistance into independence for the following:
(a) Housing;
(b) Clothing;
(c) Transportation;
(d) Tuition;
(e) Medical or dental services. [or]
(f) Dental services; or
(g) Other expenses that the cabinet may authorize for the youth.
(4)(3) For each state fiscal year, the cabinet may authorize:
(a) Up to $7,500 per working youth; or
(b) Up to $1,000 per working youth also attending a:
[1. Community college; or
2. Four (4) year college or university.]
(3) A youth that is eighteen to twenty-three (23) years of age; and
(b) Is currently in foster care; or
2. Formerly in foster care;
(3) A youth shall utilize funds for transitional assistance into independence for the following:
(a) Housing;
(b) Clothing;
(c) Transportation;
(d) Tuition; or
(e) Medical and dental services; and
(f) Other expenses that the cabinet may authorize for the youth.
(3) For each fiscal year, the cabinet may authorize:
(a) Up to $7,500 per working youth; and
(b) Up to an additional $2,500 per youth while attending a:
[1. Community college; or
2. Four (4) year college or university.]
(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 40624, Monday through Friday, 8 a.m. to 4:30 p.m.]
ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Environmental Protection
Division of Water
(Amended After Comments)

401 KAR 8:070. Public notification.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.40, Part 141 Subpart Q Appendix A, 141.201-141.210, 143.3 STATUTORY AUTHORITY: KRS 224.10-100(30), 224.10-110, 40 C.F.R. 141.40, Part 141 Subpart Q Appendix A, 141.201-141.210, 42 U.S.C. Chapter 6A Subchapter XII [900f, 900g, 900h, 900j]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(30) and 224.10-110 authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. This administrative regulation establishes the requirements for notification of the public when a public water system violates provisions of 401 KAR Chapter 8. Some provisions relating to the certification of a public notification may be considered more stringent than federal requirements. Those provisions relate to documenting how the public notification was performed and information to identify the water system and the violation for which the public notification was performed. The information is administrative only and is necessary so that the cabinet can ensure that the public is adequately notified of violations of the standards of 401 KAR Chapter 8.

Section 1. General Provisions The owner or operator of a public water system shall give public notice according to this administrative regulation.

1. The owner or operator of a public water system shall give notice for a violation of the standards in 401 KAR Chapter 8, and for other situations, as listed in this subsection. Appendix A to 40 C.F.R. Part 141, Subpart Q (July 29, 2004) identifies the tier assignment for each specific violation or situation that requires a public notice. [Appendix A is adopted without change in Section XI of this administrative regulation.]

(a) Violations of 401 KAR Chapter 8, which shall be:
1. Failure to comply with an applicable maximum contaminant level, or MCL, or maximum residual disinfectant level, or MRDL;
2. Failure to comply with a prescibed treatment technique, or TT;
3. Failure to perform water quality monitoring, as required by 401 KAR Chapter 8; and
4. Failure to comply with testing procedures as prescribed by 401 KAR Chapter 8.
(b) Variance and exemptions issued pursuant to 401 KAR 8:060:
1. Operation under a variance or an exemption issued pursuant to 401 KAR 8:060; and
2. Failure to comply with the requirements of a schedule that has been set under a variance or exemption issued pursuant to 401 KAR 8:060.
(c) Special public notices:
1. Occurrence of a waterborne disease outbreak or other waterborne emergency;
2. Exceedance of the nitrate MCL for a noncommunity water system, if granted permission by the cabinet under 401 KAR 8:250; [40 C.F.R. 141.14(d), (e), and]
3. Exceedance of the secondary maximum contaminant level, or SMCL, for fluoride; and
4. Availability of unregulated contaminant monitoring data; and
2. If the cabinet determines that a situation violates the provisions of 401 KAR Chapter 8, the cabinet may require public notice pursuant to this administrative regulation.

(2) Tiers. Three (3) tiers of public notifications shall be used that take into consideration the seriousness of the violation or situation and of potential adverse health effects that may be involved. The public notice requirements shall be determined by the tier to which it is assigned, as follows. Appendix A to 40 C.F.R. Part 141, Subpart Q (July 29, 2004) identifies the tier assignment for each specific violation or situation.

(a) Tier 1 public notice: for violations of 401 KAR Chapter 8 and situations with significant potential to have serious adverse effects on human health as a result of short-term exposure;
(b) Tier 2 public notice: for all other violations of 401 KAR Chapter 8 and situations with potential to have serious adverse effects on human health; and
(c) Tier 3 public notice: for all other violations of 401 KAR Chapter 8 requiring public notification and situations not included in Tier 1 or Tier 2.

(3) Notification.

(a) A public water system shall provide public notice to persons served by the water system in accordance with this administrative regulation.
1. A public water system that sells or otherwise provides drinking water to other public water systems, or consecutive water systems, shall give public notice to the owner or operator of the other system or consecutive system.
2. The consecutive system shall provide public notice to the persons it serves.
(b) If a public water system has a violation in a portion of the distribution system that is physically or hydraulically isolated from other parts of the distribution system, the system may limit distribution of the public notice to only persons served by that portion of the system that is out of compliance. The system shall obtain written permission from the cabinet for limiting distribution before distributing the notice.
(c) Certification. After the public notification has been made, the public water system shall send a copy of the public notice and a certification of its distribution to the cabinet in accordance with the following requirements:
1. Within ten (10) days of completing the public notification requirements of this administrative regulation, the public water system shall submit to the cabinet for the initial public notice and any repeat notices, a certification that it has fully complied with the public notification requirements of this administrative regulation.
2. The certification shall include:
   a. The system's name;
   b. PWSID number;
   c. The violation's monitoring period covered by the notice;
   d. The violation number, type of violation, and contaminants included in the violation;
   e. An explanation of how the system distributed the public notification to its customers;
   f. The names of the consecutive systems that were given public notice pursuant to paragraph (a) of this subsection and their PWSID numbers; and
   g. A verification that the public notice contains the ten (10) elements required in a public notification, as specified in Section 5(1) of this administrative regulation.
3. The public water system shall include with the certification a copy of each type of notice distributed, published, posted, and made available to the persons served by the system and to the media. If printed in the newspaper, the page of the newspaper with the public notice shall be submitted, showing the name of the newspaper and the date it was published.
4. The certification shall be signed and dated by the person responsible for preparing and distributing the public notice.
5. The system shall submit the certification and required documentation to the cabinet at the following address: Division of Water [Enforcement], ATTN: FN, 14 Reilly Road, Frankfort, Kentucky 40601.
(d) Record maintenance. The public water system shall retain a copy of each public notice issued pursuant to this administrative regulation and its certification pursuant to paragraph (c) of this subsection for at least three (3) years after its issuance.
Section 2. Tier 1 Public Notice - Form, Manner, and Frequency. (1) Tier 1 notices shall be given for the following violation categories and other situations:

(a) Violation of the MCL for total coliforms if fecal coliform or E. coli are present in the water distribution system, as specified in 401 KAR 8:200; or

(b) If the water system fails to test for fecal coliforms or E. coli when a repeat sample tests positive for coliform, as specified in 401 KAR 8:200; or

(c) Violation of the MCL for nitrate, nitrite, or total nitrate and nitrite, as specified in 401 KAR 8:250; or

(d) If the water system fails to take a confirmation sample within twenty-four (24) hours of the system's receipt of the first sample showing an exceedance of the nitrate or nitrite MCL, as specified in 401 KAR 8:250;

(e) Exceedance of the nitrite MCL by a noncommunity water system, if permitted to exceed the MCL by the cabinet under 401 KAR 8:250 [40 C.F.R. 141.11(a)], as allowed under Section 9 (b) of this administrative regulation,

(f) Violation of the MRDL for chlorine dioxide, as specified in 401 KAR 8:510, if one (1) or more samples taken in the distribution system the day following an exceedance of the MRDL at the entrance of the distribution system exceeds the MRDL; or

(g) Violation of treatment techniques specified in the surface water treatment rule in 401 KAR 8:150, [40 C.F.R. 141.7[a]], or the treatment techniques and water treatment rule in 401 KAR 8:160, and 401 KAR 8:162 [40 C.F.R. 141.7[b]], resulting from a single exceedance of the maximum allowable turbidity limits, as identified in Appendix A to 40 C.F.R. Part 141, Subpart Q (July 29, 2004), if the cabinet determines after consultation that a Tier 1 notice shall occur;

(h) If consultation does not occur within twenty-four (24) hours after the system learns of the violation;

(i) Occurrence of a waterborne disease outbreak, as defined in 401 KAR 8:010, or other waterborne emergency, such as a: 1. Failure or significant interruption in key water treatment processes;

2. Natural disaster that disrupts the water supply or distribution system; or

3. Chemical spill or unexpected loading of possible pathogens into the source water that significantly increases the potential for drinking water contamination; and

(g) Other violations or situations with significant potential to have serious adverse effects on human health as a result of short-term exposure.

(h) When Tier 1 notice required. A public water system shall:

(a) Provide a public notice of a Tier 1 violation as soon as practical but no later than twenty-four (24) hours after the system learns of the violation;

(b) Initiate consultation with the cabinet as soon as practical, but no later than twenty-four (24) hours after the public water system learns of the violation or situation, to determine additional public notice requirements; and

(c) Comply with additional public notification requirements, including repeat notices or direction on the duration of the posted notice, that are established as a result of the consultation with the cabinet. These requirements may include the timing, form, manner, frequency, and content of any repeat notices, and other actions designed to reach all persons served.

(i) Tier 1 notices - form and manner. (a) A public water system shall provide the Tier 1 public notice within twenty-four (24) hours in a form and manner reasonably calculated to reach all persons served.

(b) The form and manner of a Tier 1 public notice used by the public water system shall fit the specific situation, and shall be designed to reach residential, transient, and nonresident users of the water system.

(c) To reach all persons served, a water system shall use, at a minimum, one (1) or more of the following forms of delivery, as applicable to the system:

1. Appropriate broadcast media, such as radio and television;

2. Posting of the notice in conspicuous locations throughout the area served by the water system;

3. Hand delivery of the notice to persons served by the water system; or

4. Another delivery method that has been approved in writing by the cabinet.

Section 3. Tier 2 Public Notice - Form, Manner, and Frequency of Notice. (1) Tier 2 public notices shall be given for the following violation categories and other situations:

(a) A violation of the MCL, MRDL, and treatment technique requirements, unless a Tier 1 notice is required under Section 2 of this administrative regulation, or the cabinet determines that a Tier 1 notice is required;

(b) A violation of the monitoring and testing procedure requirements, if the cabinet determines that a Tier 2 rather than a Tier 3 public notice is required, taking into account potential health impacts and persistence of the violation; and

(c) Failure to comply with any of the terms and conditions of a variance or exemption in place.

(2) When Tier 2 notice required.

(a) Initial notice.

1. A public water system shall provide public notice of a Tier 2 violation as soon as practical, but no later than thirty (30) days after the system learns of the violation.

2. If the public notice is posted, the notice shall remain in place while the violation or situation persists, but for no less than seven (7) days, even if the violation or situation is resolved.

3. Except as provided in clause b of this subparagraph, the cabinet may allow additional time for the initial notice of up to three (3) months from the date system learns of the violation.

b. The cabinet shall not:

(i) Grant an extension to the thirty (30) day deadline for an unresolved violation; or

(ii) Allow across-the-board extensions for other violations or situations that require a Tier 2 public notice.

(c) Follow-up notice. The public water system shall repeat the notice every three (3) months while the violation or situation persists, unless the cabinet determines in writing that appropriate circumstances warrant a less frequent repeat notice.

2. The repeat notice shall not be given less frequently than once per year.

3. The system shall not give less frequent repeat notice for:

a. An MCL violation under the total coliform rule; or

b. A treatment technique violation under the federal surface water treatment rule (December 31, 1997), or interim or long-term enhanced surface water treatment rule (December 11, 1999), or long-term enhanced surface water treatment rule (January 14, 2000).

4. There shall be no across-the-board reductions in the repeat notice frequency for other ongoing violations that require a Tier 2 repeat notice.

5. Cabinet determinations allowing repeat notices to be given less frequently than once every three (3) months shall be in writing.

(d) Turbidity violations.

1. The system shall consult with the cabinet for a violation of the treatment technique requirement from the surface water treatment rule or interim or long-term enhanced surface water treatment rule, resulting from a single exceedance of the maximum allowable turbidity limit.

2. For a turbidity violation specified in subparagraph 1 of this paragraph, a public water system shall consult with the cabinet as soon as practical, but no later than twenty-four (24) hours after the public water system learns of the violation, to determine if a Tier 1 public notice under Section 2 of this administrative regulation is required to protect public health.

3. If consultation does not take place within the twenty-four (24) hours of the violation, the water system shall first provide a Tier 1 notice of the violation within the next twenty-four (24) hours, when shall be no less than forty-eight (48) hours after the system learns of the violation, following the requirements under Section 2(2) and (3) of this administrative regulation.

(3) Tier 2 notices - form and manner. A public water system shall provide the initial public notice and repeat Tier 2 notices in a
form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it shall meet at least the following requirements:

(a) Community water system. A community water system shall provide notice by:
   1. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and
   2.a. Other methods reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph 1 of this paragraph. These persons may include those who do not pay water bills or do not have service connection addresses, for example, house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.
   b. Other methods may include:
      (i) Publication in a local newspaper;
      (ii) Delivery of multiple copies for distribution by customers who provide their drinking water to others, for instance apartment building owners or large private employers;
      (iii) Posting in public places served by the system or on the Internet; or
      (iv) Delivery to community organizations.
(b) Noncommunity water system. A noncommunity water system shall provide notice by:
   1. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection, if known; and
   2.a. Other methods reasonably calculated to reach other persons served by the system if they would not normally be reached by the notice required in subparagraph 1 of this paragraph. Those persons may include those served who may not see a posted notice because the posted notice is not in a location they routinely pass by.
   b. Other methods may include:
      (i) Publication in a local newspaper or newsletter distributed to customers;
      (ii) Use of e-mail to notify employees or students; or
      (iii) Delivery of multiple copies in central locations, for example, community centers.
(c) Upon written request from the water system, the cabinet may allow a different form and manner of public notice.

Section 4. Tier 3 Public Notice - Form, Manner, and Frequency of Notice. (1) The following violations or situations shall require a Tier 3 public notice:
(a) A monitoring violation under 401 KAR Chapter 8, except that required to be a Tier 1 or Tier 2 violation under Section 2 or 3 of this administrative regulation;
(b) Failure to comply with a testing procedure established in 401 KAR Chapter 8, unless a Tier 1 notice is required by Section 2 of this administrative regulation;
(c) Operation under a variance or an exemption granted under 401 KAR 8:060; and
(d) Availability of unregulated contaminant monitoring results, as required under Section 7 of this administrative regulation; and
(e) Exceedance of the fluoride secondary maximum contaminant level, as required under Section 8 of this administrative regulation;
(f) When Tier 3 notice provided.
(a1. Initial notice. A public water system shall provide public notice of a Tier 3 violation no later than one (1) year after the public water system learns of the violation or situation or begins operating under a variance or exemption.
2. Repeat notice. Following the initial notice, the public water system shall repeat the notice annually while the violation, variance, exemption, or other situation persists. If the public notice is posted, the notice shall remain in place while the violation, variance, exemption, or other situation persists, but for no less than seven (7) days, even if the violation or situation is resolved.
(b1. Instead of individual Tier 3 public notices, a public water system may use an annual report detailing all violations and situations that occurred during the previous twelve (12) months, if the timing requirements of paragraph (a) of this subsection are met.
(3) Tier 3 notices - form and manner. A public water system shall provide the initial notice and any repeat notices of a Tier 3 violation in a form and manner that is reasonably calculated to reach persons served in the required time period. The form and manner of the public notice may vary based on the specific situation and type of water system, but it shall meet at least the following requirements:
(a) Community water system. A community water system shall provide notice by:
   1. Mail or other direct delivery to each customer receiving a bill and to other service connections to which water is delivered by the public water system; and
   2.a. Other methods reasonably calculated to reach other persons regularly served by the system, if they would not normally be reached by the notice required in subparagraph 1 of this paragraph. These persons may include those who do not pay water bills or do not have service connection addresses, for instance house renters, apartment dwellers, university students, nursing home patients, prison inmates, etc.
   b. Other methods may include:
      (i) Publication in a local newspaper;
      (ii) Delivery of multiple copies for distribution by customers who provide their drinking water to others, for instance apartment building owners or large private employers;
      (iii) Posting in public places served by the system or on the Internet; or
      (iv) Delivery to community organizations.
(b) Noncommunity water system. A noncommunity water system shall provide notice by:
   1. Posting the notice in conspicuous locations throughout the distribution system frequented by persons served by the system, or by mail or direct delivery to each customer and service connection, if known; and
   2. Other methods reasonably calculated to reach other persons served by the system, if they would not normally be reached by the notice required in subparagraph 1 of this paragraph. Those persons may include those served who may not see a posted notice because the notice is not in a location they routinely pass by.
   b. Other methods may include:
      (i) Publication in a local newspaper or newsletter distributed to customers;
      (ii) Use of e-mail to notify employees or students; or
      (iii) Delivery of multiple copies in central locations, for example, community centers.
(c) Upon written request from the water system, the cabinet may allow a different form and manner of public notice.

Section 5. Public Notice Contents. (1) Each public notice required by Section 1 of this administrative regulation shall include the following elements:
(a) A description of the violation or situation, including the contaminants of concern, and as applicable, the contaminant levels;
(b) When the violation or situation occurred;
(c) The potential adverse health effects from the violation or situation, including the standard language under subsection (4)(a) or (b) of this section, whichever is applicable;
(d) The population at risk, including subpopulations particularly
vulnerable if exposed to the contamination in their drinking water;
   (e) If alternative water supplies should be used;
   (f) What actions consumers should take, including when they
       should seek medical help, if known;
   (g) What the water system is doing to correct the violation or
       situation;
   (h) When the water system expects to return to compliance or
       resolve the situation;

(i) The name, business address, and phone number of the water
    system owner, operator, or designee of the public water
    system as a source of additional information concerning the notice;

   (j) A statement to encourage the notice recipient to distribute
       the public notice to other persons served, using the standard
       language in subsection (4)(c) of this section, if applicable.

   (2) Exemption or variance. A public water system operating
       under a variance or exemption shall include the following
       information in a public notice:

       (a) If a public water system has been granted a variance or an
           exemption, the public notice shall contain:

           1. An explanation of the reasons for the variance or exemption;
           2. The date on which the variance or exemption was issued;
           3. A brief status report on the steps the system is taking to
              install treatment, find alternative sources of water, or otherwise
              comply with the terms and schedules of the variance or exemption;

        (b) A notice of opportunity for public input in the review of the
            variance or exemption.

   (3) Presentation. A public notice required by Section 1 of this
       administrative regulation shall:

        (a) Be displayed in a conspicuous way when printed or posted;
        (b) Not contain overly-technical language or very small print;
        (c) Not be formatted in a way that defeats the purpose of the
            notice;
        (d) Not contain language that nullifies the purpose of the
            notice; and
        (e) Comply with the following multilingual requirement:

            1. The public notice shall contain information in an appropriate
               language to reach a large proportion of non-English speaking
               consumers regarding the importance of the notice or contain a
               telephone number or address so that persons served by the system
               may contact the water system to obtain a translated copy of the
               notice or to request assistance in the appropriate language.

        2. If the system has not determined what constitutes a large
           proportion of non-English speaking consumers, the public water
           system shall include in the public notice the same information
           required in subparagraph 1 of this paragraph, as appropriate to reach
           a large proportion of non-English speaking persons served by the
           water system.

   (4) Standard language. A public water system shall include the
       following standard language in its public notice:

        (a) Standard health effects language for an MCL or MRDL
            violation, treatment technique violation, and violation of the condi-
            tions of a variance or exemption. A public water system shall
            include in each public notice the health effects language specified in
            Section 11 [40] of this administrative regulation corresponding to
            each MCL, MRDL, and treatment technique violation listed in
            Appendix A to 40 C.F.R. Part 141, Subpart Q (July 22, 2008), and for
            each violation of a condition of a variance or exemption.

        (b) Standard language for monitoring and testing procedure violations. A public water system shall include the following lan-
            guage in its notice, including the language necessary to complete
            the information in the braces, for all monitoring and testing procedure
            violations listed in Appendix A to 40 C.F.R. Part 141, Subpart Q (July 22, 2008): "We are required to monitor your drinking water
            for the following contaminants on a regular basis. Results of regular
            monitoring are an indicator of whether or not your drinking water
            meets health standards. During [compliance period] we ("did not
            monitor or test" or "did not complete all monitoring or testing") for
            [contaminants], and therefore cannot be sure of the quality of your
            drinking water during that time".

        (c) Standard language to encourage the distribution of the
            public notice to all persons served. A public water system shall
            include in its notice the following language, if applicable: "Please
            share this information with all the other people who drink this water,
            especially those who may not have received this notice directly (for
            example, people in apartments, nursing homes, schools, and busi-
            nesses). You can do this by posting this notice in a public place or
            distributing copies by hand or mail."

   Section 6. New Billing Units or Customers. (1) A community
   water system shall give a copy of the most recent public notice for
   any continuing violation, the existence of a variance or exemption, or
   other ongoing situations requiring a public notice to all new billing
   units or new customers before or when service begins.

   (2) A noncommunity water system shall continuously post the
   public notice in conspicuous locations to inform new consumers of a
   continuing violation, variance or exemption, or other situation
   requiring a public notice while the violation, variance, exemption, or
   other situation persists.

   Section 7. Special Notice of Unregulated Contaminant Moni-
   toring Results Availability. (1) The owner or operator of a commu-
   nity or nontransient noncommunity water system that is required to
   monitor under 40 C.F.R. 141.40 (October 28, 2002) shall notify the
   persons served by the system of the availability of the results of the
   sampling no later than twelve (12) months after the monitoring
   results are known.

   (2) The form and manner of the public notice required by sub-
       section (1) of this section shall follow the requirements for a Tier 3
       public notice prescribed in Section 4(3), (4)(a), (c), and (d) of this
       administrative regulation. The notice shall also identify a person
       and provide the telephone number to contact for information on the
       monitoring results.

   Section 8. Special Notice for Fluoride Exceedances. (1)(a) A
   community water system that exceeds the fluoride secondary
   maximum contaminant level of two (2) mg/l as specified in 401
   KAR 8.600, as determined by the last single sample taken in acco-
   rdance with 401 KAR 8.250, but does not exceed the maximum
   contaminant level of four (4) mg/l for fluoride, as specified in 401
   KAR 8.250, shall provide the public notice in subsection (3) of this
   section to persons served by the system.

   (b) Public notice shall be provided as soon as practical but no
       later than twelve (12) months from the date the water system
       learns of the exceedance.

   (c) A copy of the notice shall also be sent to all new billing units
       and new customers when service begins and to the public health
       officer in the Cabinet for Health and Family Services, the public
       water system shall include in the public notice the same information
       required in subparagraph 1 of this paragraph, as appropriate to reach
       a large proportion of non-English speaking persons served by the
       water system.

   (d) The public water system shall repeat the notice at least
       annually while the secondary MCL is being exceeded.

   (e) If the public notice is posted, the notice shall remain in
       place while the secondary MCL is being exceeded, but for no less
       than seven (7) days, even if the exceedance is eliminated.

   (f) The cabinet may require an initial notice sooner than twelve
       (12) months and repeat notices more frequently than annually, if
       necessary to notify the customers of an exceedance.

   (2) Form and manner. The form and manner of the special
       public notice required by this section, including repeat notices,
       shall follow the requirements for a Tier 3 public notice in Section
       4(3), (4)(a), (c), and (d) of this administrative regulation.

   (3) The notice shall contain the following mandatory language,
       including the language necessary to complete the information in the
       braces: "This is an alert about your drinking water and a cos-
       metic dental problem that might affect children under nine years of
       age. At low levels, fluoride can help prevent cavities, but children
       drinking water containing more than 2 milligrams per liter (mg/l) of
       fluoride may develop cosmetic discoloration of their permanent teeth
       (dental fluorosis). The drinking water provided by your commu-
       nity water system [name] has a fluoride concentration of [insert
       value] mg/l."

   *Dental fluorosis, in its moderate or severe forms, may result in a
   brown staining and/or pitting of the permanent teeth. This prob-
   lem occurs only in developing teeth, before they erupt from the
   gums. Children under nine should be provided with alternative
sources of drinking water or water that has been treated to remove the fluoride to avoid the possibility of staining and pitting of their permanent teeth. You may also want to contact your dentist about proper use by young children of fluoride-containing products. Older children and adults may safely drink the water.

"Drinking water containing more than 4 mg/l of fluoride (The U.S. Environmental Protection Agency's drinking water standard) can increase your risk of developing bone disease. Your drinking water does not contain more than 4 mg/l of fluoride, but we're required to notify you when we discover that the fluoride levels in your drinking water exceed 2 mg/l because of the cosmetic dental problem.

For more information, please call [name of water system contact] of [name of community water system] at [phone number]. Some home water treatment units are also available to remove fluoride from drinking water. To learn more about available home water treatment units, you may call NSF International at 1-877-8-NSF-HELP.*

Section 9. [Blank]

Section 9, [Blank] Special Notice for Specific Nitrate Exceedances. (1) The owner or operator of a noncommunity water system that has been granted permission by the cabinet to exceed the nitrate MCL under 401 KAR 8:250 [40-C.F.R. 141.4(e)] shall provide notice to persons served according to the requirements for a Tier 1 notice under Section 2(1) and (2) of this administrative regulation.

(2) A noncommunity water system granted permission by the cabinet to exceed the nitrate MCL under 401 KAR 8:250 [40-C.F.R. 141.4(e)] shall provide continuous posting of the fact that nitrate levels exceed ten (10) mg/l and the potential health effects of exposure, according to the requirements for a Tier 1 notice delivery under Section 2(3) of this administrative regulation and the content requirements in Section 5 of this administrative regulation.

Section 10, [Blank] Notice by Cabinet. (1) The cabinet may give the notice required by this administrative regulation on behalf of the owner and operator of the public water system if the cabinet complies with the requirements of this administrative regulation.

(2) The owner or operator of the public water system shall remain responsible for ensuring that the requirements of this administrative regulation are met, even if the cabinet provides the notice on behalf of the owner and operator.

Section 11, [Blank] Standard Health Effects Language. In its public notice of a violation required by Section 1 of this administrative regulation, a public water system shall provide the following health effects language for the indicated contaminant:

(1) Microbiological contaminants.

(a) Total coliforms and coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems.

(b) Fecal coliform. E. coli. Fecal coliforms and E. coli are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.

(c) Turbidity. Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(d) Giardia lamblia, viruses, heterotrophic plate count bacteria, Legionella, or Cryptosporidium. Inadequately treated water may contain disease-causing organisms. These organisms include bacteria, viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.

(e) Inorganic chemicals.

(a) Antimony. Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

(b) Arsenic. Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.

(c) Asbestos. Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.

(d) Barium. Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.

(e) Beryllium. Some people who drink water containing beryllium well in excess of the MCL over many years could develop interstitial lesions.

(f) Cadmium. Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.

(g) Chromium, total. Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.

(h) Cyanide. Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

(i) Fluoride. Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, especially in children 6-12 years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.

(j) Mercury, inorganic. Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.

(k) Nitrate. Infants below the age of six (6) months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(l) Nitrite. Infants below the age of six (6) months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(m) Total nitrate and nitrite. Infants below the age of six (6) months who drink water containing nitrate and nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.

(n) Selenium. Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could have symptoms similar to those seen in conditions like Creutzfeldt-Jakob disease (CJD), a rare and fatal neurologic disease.

(o) Thallium. Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.

(3) Lead and copper.

(a) Lead. Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.

(b) Copper. Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level could experience gastrointestinal distress. People who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.

(4) Synthetic organic chemicals.

(a) 2,4-D. Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.

(b) 2,4,5-TP. Silvex. Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
(c) Alachlor. Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.

(d) Atrazine. Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular or reproductive difficulties.

(e) Benzo(a)pyrene, PAHs. Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.

(f) Carbofuran. Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.

(g) Chlordane. Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.

(h) Dalapon. Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.

(i) Di (2-ethylhexyl) adipate. Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement, or possible reproductive difficulties.

(j) Di (2-ethylhexyl) phthalate. Some people who drink water containing di (2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.

(k) Dibromochloropropane or DBCP. Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(l) Dinoseb. Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

(m) Dioxin, 2,3,7,8-TCDD. Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.

(n) Dquat. Some people who drink water containing dquat in excess of the MCL over many years could get cataracts.

(o) Endosulfan. Some people who drink water containing endosulfan in excess of the MCL over many years could experience problems with their stomach or intestines.

(p) Endrin. Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.

(q) Ethylene dibromide. Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.

(r) Glyphosate. Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.

(s) Heptachlor. Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.

(t) Heptachlor epoxide. Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.

(u) Hexachlorobenzene. Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.

(v) Hexachlorocyclopentadiene. Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.

(w) Lindane. Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.

(x) Methoxychlor. Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

(y) Oxamyl, or vinatate. Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.

(z) Pentachlorophenol. Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.

(aa) Pesticide. Some people who drink water containing pesticide in excess of the MCL over many years could experience problems with their liver.

(bb) Polychlorinated biphenyls, or PCBs. Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.

(cc) Simazine. Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.

(dd) Toxaphene. Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their liver, kidneys, or thyroid, and may have an increased risk of getting cancer.

(5) Volatile organic chemicals.

(a) Benzene. Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.

(b) Carbon tetrachloride. Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(c) Chlorobenzene, or monochlorobenzene. Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.

(d) o-Dichorobenzene. Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circular systems.

(e) p-Dichlorobenzene. Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.

(f) 1,2-Dichloroethane. Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.

(g) 1,1-Dichloroethylene. Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(h) cis-1,2-Dichloroethylene. Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.

(i) trans-1,2-Dichloroethylene. Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.

(j) Dichloromethane. Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.

(k) 1,2-Dichloropropane. Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.

(l) Ethylbenzene. Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory system.

(m) Styrene. Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

(n) Tetrachloroethylene. Some people who drink water containing tetrachloroethylene in excess of the MCL over many years...
could have problems with their liver, and may have an increased risk of getting cancer.

(o) Toluene. Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.

(p) 1,2,4-Trichlorobenzene. Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.

(q) 1,1,1-Trichloroethane. Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.

(r) 1,1,2-Trichloroethane. Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.

(s) Trichloroethylene. Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.

(t) Vinyl chloride. Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.

(u) Xylenes, total. Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.

(v) Radioactive contaminants.

(x) Beta or photon emitters. Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(y) Alpha emitters. Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.

(z) Combined radium, 226 and 228. Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.

(aa) Uranium, for a community water system. Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.

(bb) Disinfection by-products, by-product precursors, and disinfectant residuals.

(cc) Total trihalomethanes, or THMs. Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous system, and may have an increased risk of getting cancer.

(dd) Haloacetic acids, or HAA. Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.

(ee) Bromate. Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.

(ff) Chlorite. Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorite in excess of the MCL. Some people may experience anemia.

(gg) Chlorine. Some people who use water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort or anemia.

(hh) Chlorine dioxide. Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

b. Add for public notification only: The chlorine dioxide violations reported today are the result of exceedances at the treatment facility only, not within the distribution system which delivers water to consumers. Continued compliance with chlorine dioxide levels within the distribution system minimizes the potential risk of these violations to consumers.

2. If one (1) or more distribution system samples are above the MRDL for chlorine dioxide

a. Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.

b. Add for public notification only: The chlorine dioxide violations reported today include exceedances of the EPA standard within the distribution system which delivers water to consumers. Violations of the chlorine dioxide standard within the distribution system may harm human health based on short-term exposures. Certain groups, including fetuses, infants, and young children, may be especially susceptible to nervous system effects from excessive chlorine dioxide exposure.

(c) Control of DBP precursors, or TOC. Total organic carbon, or TOC, has a health effect. However, total organic carbon provides a medium for the formation of disinfection by-products. These by-products include trihalomethanes (THMs) and haloacetic acids (HAA). Drinking water containing these by-products in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

(d) Other treatment techniques.

(e) Atrazine or Simazine. Some people who drink water containing high levels of atrazine or simazine over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.

(f) Chlorophenoxy herbicides. Some people who drink water containing high levels of chlorophenoxy herbicides over a long period of time could experience stomach discomfort, and may have an increased risk of getting cancer.


LLOYD R. CRESS, Deputy Secretary
for TERESA J. HILL, Secretary
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 15, 2007 at noon
CONTACT PERSON: Justin Dearing, Regulations Coordinator, Division of Water, Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: David W. Morgan
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation prescribes the requirements that a public water system must follow for public notification when the water system incur a violation of a drinking water standard in 401 KAR Chapter 8. These requirements generally are the same as those in 40 C.F.R. Part 141, Subpart G (40 C.F.R. 141.201 – 141.210).
(b) The necessity of this administrative regulation: This regulation is required so that Kentucky can maintain primacy from U.S. Environmental Protection Agency for the implementation and enforcement of the federal regulation for public notification.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation is the same as the federal regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation improves the regulatory procedures used by the cabinet and supports Kentucky's comprehensive program for public and semipublic water systems in providing drinking water to citizens of the Commonwealth.

(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 to the regulation includes language pertaining to unregulated contaminant monitoring and the federal Long-Term 1 Enhanced Surface Water Treatment Rule (January 14, 2002), which are required by the federal regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment to the regulation is required so that Kentucky can maintain primacy from the U.S. Environmental Protection Agency for the implementation and enforcement of the federal regulation for public notification.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation meets the authorizing statutes of KRS 224.10-300(30) and 224.10-110 which authorizes the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic water systems.

(d) How the amendment will assist in the effective administration of the statute: The information contained in the amendment to the regulation is administrative only and is necessary so that the cabinet can ensure that the public is adequately notified of violations of the standards of 401 KAR Chapter 8.

(3) List the type and number of individuals, businesses, organizations, or state or local governments affected by this administrative regulation: A public water system that receives a violation of the requirements of the regulations in 401 KAR Chapter 8 would be required to issue a "public notification" to its customers according to the requirement in this amended regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All public water systems will comply with the public notification requirements of this amendment, which may require them to provide notifications to the public as described.

(b) In the case of an amendment, in complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? The only cost associated with this amendment would be realized in the various formats of public notification available to each public water system.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Meeting the requirements of this amendment are necessary to avoid any compliance deficiencies regarding public notification.

(5) Provide an estimate of how much it will cost the administrative body 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: 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: No increase in fees or funding will be needed to implement this amendment.

(3) TIERING: Is tiering applied? Yes, due to the federal definitions of various sized public water systems and how the regulation applies to each, it is necessary to address various size systems differently.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. This amendment to the regulation complies with federal requirements provided in 40 C.F.R. 141.40 and 40 C.F.R. Part 141 Subpart Q Appendix A.

2. State compliance standards. N/A

3. Minimum or uniform standards contained in the federal mandate. This regulation and its amendment are required so that Kentucky can maintain primacy from the U.S. Environmental Protection Agency for the implementation and enforcement of the federal regulation for public notification.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? Most of the regulation and its amendments are the same as the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The provisions related to the certification of the public notification are more stringent to ensure the cabinet that the public was correctly notified of any violations. These requirements are essential in nature and do not impose a financial burden on the system.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirement of a state or local government (including cities, counties, fire departments, or school districts)? Yes.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water systems must meet the requirements of this amended administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141.40, 141 Subpart Q Appendix A, 141.201 - 141.210, 143.3, and 42 U.S.C. Chapter 6A Subchapter XII.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? None

(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

Revenues (+/-): No anticipated impact.

Expenditures (+/-): No anticipated impact.

Other Explanation: None

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Environmental Protection
Division of Water

(Amended After Comments)

401 KAR 8:075. Consumer confidence reports.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.25(e), 141.40 [141-142, 141-143], 141.151-141.155, 42 U.S.C. Chapter 6A Subchapter XII [300h, 300g-300h, 300l]

STATUTORY AUTHORITY: KRS 224.10-100(30), 224.10-110, 40 C.F.R. 141.25(e), 141.40 [141-142, 141-143], 141.151-141.155, 42 U.S.C. Chapter 6A Subchapter XII [300h, 300g-300h, 300l]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(30) and 224.10-110 authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. This administrative regulation establishes the requirements for consumer confidence reports. This administrative regulation establishes requirements different from the federal regulation for reporting and recordkeeping to ensure that accurate reports are prepared and distributed to customers by specified dates, and for content and distribution requirements to ensure that a precise and clear report is distributed to customers.

Section 1. Applicability. (1) Notwithstanding 401 KAR 8:020, Section 2, a community water system shall submit an annual report to its customers and to the cabinet according to the requirements in this administrative regulation. The report shall contain information on the quality of the water delivered by the system and shall characterize the risks from exposure to contaminants detected in the drinking water in an accurate and understandable manner.

(2) (a) An existing community water system shall deliver its report by July 1 of each year.

(b) The report shall contain data prescribed by Section 2(2)(3)(c) of this administrative regulation collected during or before the previous calendar year.

(3) A new community water system shall deliver its first report by July 1 of the year after its first full calendar year in operation. Subsequent reports shall be delivered by July 1 of each year.

(4) A community water system that sells water wholesale to another community water system shall deliver the applicable information required in Section 2 of this administrative regulation to the buyer system:

(a) By April 1 of each year; or

(b) On a date mutually agreed upon by the seller and the purchaser. The date shall be specifically included in a contract between the parties.

Section 2. Report Contents. The report required by this administrative regulation shall contain the information specified in this section and Section 3 of this administrative regulation. The report shall include the name of the water system near the top of the report, or on the front cover.

(1) Information on the source of the water delivered.

(a) The report shall identify each source of the water delivered by providing information on:

1. The type of water, either surface water, groundwater, or other specified water type; and

2. The commonly used name and location of the body of water.

(b) If a source water assessment has been completed, the report shall notify consumers of the availability of the information and how to obtain it. A system may highlight in the report significant sources of contamination in the source water area.

2. If the cabinet has performed a source water assessment of the system, the report shall include a brief summary of the system's susceptibility to potential sources of contamination, using language provided by the cabinet or written by the operator.

(2) Definitions. The report shall contain the definitions found in 401 KAR 8:010 for the following terms:

(a) Maximum contaminant level goal, or MCLG;

(b) Maximum contaminant level, or MCL;

(c) Variance and exemption. If the system is operating under a variance or an exemption issued under 401 KAR 8:060; and

(d) Treatment technique, action level, maximum residual disinfectant level goal, or MRDGL, or maximum residual disinfectant level or MRDL, as applicable. If the report contains data on a contaminant for which the U.S. EPA has set a treatment technique, action level, MRDGL, or MRDL.

3 Definitions. The report shall contain the definitions found in 401 KAR 8:010 for the following terms:

(a) Maximum contaminant level goal, or MCLG;

(b) Maximum contaminant level, or MCL;

(c) Variance and exemption. If the system is operating under a variance or an exemption issued under 401 KAR 8:060; and

(d) Treatment technique, action level, maximum residual disinfectant level goal or MRDGL, or maximum residual disinfectant level or MRDL, as applicable. If the report contains data on a contaminant for which the U.S. EPA has set a treatment technique, action level, MRDGL, or MRDL.

(3) Information on detected contaminants.

(a) The report shall contain information on the following contaminants that are detected in the water, subject to mandatory monitoring, except Cryptosporidium:

1. The regulated contaminants that are subject to an MCL, action level, maximum residual disinfectant level, or treatment technique; and

2. The unregulated contaminants for which monitoring is required by 40 C.F.R. 141.40 (October 23, 2002) [Disinfection by-products and microbial contaminants for which monitoring is required by 40 C.F.R. 141.42 and 141.143, except as provided under subsection (4)(a) of this section, and that are detected in the finished water].

(b) The data relating to the contaminants in paragraph (a) of this subsection shall be displayed in one (1) table or several adjacent tables. If a community water system includes in the report other monitoring results including a nondetected contaminant, the results shall be displayed separately.

(c) The data shall be derived from data collected to comply with cabinet and U.S. EPA monitoring and analytical requirements during the previous calendar year except that:

1. a) The table shall include the date and results of the most recent sampling.

2. b) The report shall include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the administrative regulations in 401 KAR Chapter 8.

3. e) Data that are older than five (5) years may be reported.

2. Results of monitoring in compliance with 40 C.F.R. 141.142 and 141.143 shall be included for only five (5) years from the date of the last sample or until the detected contaminant becomes regulated and subject to routine monitoring requirements, whichever occurs first.

(d) For detected regulated contaminants listed in Table A in this paragraph, the table in the report shall contain the information required in subparagraphs 1 to 10 of this paragraph.

Table A. Converting MCL Compliance Values for Consumer Confidence Reports

<table>
<thead>
<tr>
<th>Contaminant</th>
<th>Traditional MCL in mg/L</th>
<th>To convert for CCR, multiply by</th>
<th>MCL in CCR Units</th>
<th>MCLG in CCR Units</th>
</tr>
</thead>
<tbody>
<tr>
<td>Microbiological contaminants</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total coliform bacteria</td>
<td>For a system that collects &lt; 40 samples per month; 5% of monthly samples are positive; For a system that collects &lt; 40 samples per month: 1 positive monthly sample</td>
<td>For a system that collects &gt; 40 samples per month; 5% of monthly samples are positive; For a system that collects &gt; 40 samples per month: 1 positive monthly sample</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Fecal coliform and E. coli</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Total organic carbon</td>
<td>0.0 ppb</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Turbidity</td>
<td>TT, NTU</td>
<td>TT, NTU</td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------</td>
<td>---------</td>
<td>-----</td>
<td></td>
</tr>
<tr>
<td>Beta or photon emitters</td>
<td>4 mrem/yr**</td>
<td>4 mrem/yr**</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Alpha emitters</td>
<td>15 pCi/l</td>
<td>15 pCi/l</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Combined radium</td>
<td>5 pCi/l</td>
<td>5 pCi/l</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Uranium</td>
<td>30 μg/L</td>
<td>30 μg/L</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Inorganic contaminants</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antimony</td>
</tr>
<tr>
<td>Arsenic, until January 23, 2006; After January 23, 2006</td>
</tr>
<tr>
<td>Asbestos</td>
</tr>
<tr>
<td>Banum</td>
</tr>
<tr>
<td>Beryllium</td>
</tr>
<tr>
<td>Bromate</td>
</tr>
<tr>
<td>Cadmium</td>
</tr>
<tr>
<td>Chloramines</td>
</tr>
<tr>
<td>CHLORINE</td>
</tr>
<tr>
<td>Chlorine dioxide</td>
</tr>
<tr>
<td>Chlorite</td>
</tr>
<tr>
<td>Chromium</td>
</tr>
<tr>
<td>Copper</td>
</tr>
<tr>
<td>Cyanide</td>
</tr>
<tr>
<td>Fluoride</td>
</tr>
<tr>
<td>Lead</td>
</tr>
<tr>
<td>Mercury, inorganic</td>
</tr>
<tr>
<td>Nitrate</td>
</tr>
<tr>
<td>Nitrite</td>
</tr>
<tr>
<td>Selenium</td>
</tr>
<tr>
<td>Thallium</td>
</tr>
</tbody>
</table>

**Synthetic organic contaminants including pesticides and herbicides**

<table>
<thead>
<tr>
<th>Compound</th>
<th>TLV</th>
<th>1000</th>
<th>70 ppb</th>
<th>70</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4-D</td>
<td>.07</td>
<td>1000</td>
<td>70 ppb</td>
<td>70</td>
</tr>
<tr>
<td>2,4,5-TP, Silvex</td>
<td>.05</td>
<td>50 ppb</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Acrylamide</td>
<td>TT</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
</tr>
<tr>
<td>Atrazine</td>
<td>.002</td>
<td>2 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Atrazine</td>
<td>.003</td>
<td>3 ppb</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>Benz(a)pyrene, or PAH</td>
<td>.002</td>
<td>200 nanogram/L, or ppt</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Carbamate</td>
<td>.04</td>
<td>1000</td>
<td>40 ppb</td>
<td>40</td>
</tr>
<tr>
<td>Chlordane</td>
<td>.002</td>
<td>2 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Dieldrin</td>
<td>.02</td>
<td>200 ppb</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>D(cis-2-ethylhexyl) adipate</td>
<td>.4</td>
<td>400 ppb</td>
<td>400</td>
<td></td>
</tr>
<tr>
<td>D(bis-2-ethylhexyl) phthalate</td>
<td>.006</td>
<td>6 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Dibromochloropropane</td>
<td>.0002</td>
<td>200 ppb</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Dinoseb</td>
<td>.007</td>
<td>7 ppb</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>Diquat</td>
<td>.02</td>
<td>20 ppb</td>
<td>20</td>
<td></td>
</tr>
<tr>
<td>Dioxin, 2,3,7,8-TCDD</td>
<td>.00000003, or 3.0 × 10⁻⁶</td>
<td>1,000,000,000, or 1 X 10⁶</td>
<td>30 ppq</td>
<td>0</td>
</tr>
<tr>
<td>Endothall</td>
<td>.1</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
</tr>
<tr>
<td>Endrin</td>
<td>.002</td>
<td>2 ppb</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>Ethichlorohydrin</td>
<td>TT</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
</tr>
<tr>
<td>Ethylene dibromide</td>
<td>.00005</td>
<td>50 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Glyphosate</td>
<td>7</td>
<td>1000</td>
<td>700 ppb</td>
<td>700</td>
</tr>
<tr>
<td>Heptachlor</td>
<td>.0004</td>
<td>400 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Heptachlor epoxide</td>
<td>.002</td>
<td>200 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Hexachlorobenzene</td>
<td>.001</td>
<td>1 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Hexachlorocyclopentadiene</td>
<td>.05</td>
<td>50 ppb</td>
<td>50</td>
<td></td>
</tr>
<tr>
<td>Lindane</td>
<td>.0002</td>
<td>200 ppb</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>Methoxychlor</td>
<td>.04</td>
<td>40 ppb</td>
<td>40</td>
<td></td>
</tr>
<tr>
<td>Oxamyl, or Vydde</td>
<td>.2</td>
<td>200 ppb</td>
<td>200</td>
<td></td>
</tr>
<tr>
<td>PCBs, or Polychlorinated biphenyls</td>
<td>.0005</td>
<td>500 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>.001</td>
<td>1 ppb</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Perchloro</td>
<td>.005</td>
<td>500 ppb</td>
<td>500</td>
<td></td>
</tr>
<tr>
<td>Simazine</td>
<td>.004</td>
<td>4 ppb</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>Tioxaphene</td>
<td>.003</td>
<td>3 ppb</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

**Volatile organic contaminants**

<table>
<thead>
<tr>
<th>Compound</th>
<th>TLV</th>
<th>1000</th>
<th>5 ppb</th>
<th>0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benzene</td>
<td>.005</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

**Notes:**
- Bold text indicates values that are critical or exceed regulatory limits.
- Italics denote compounds that are not currently regulated but are included for completeness.
- The table includes a variety of compounds including radionuclides, inorganic and organic contaminants, synthetic organic contaminants, and volatile organic contaminants.
<table>
<thead>
<tr>
<th>Compound</th>
<th>AL</th>
<th>MCL</th>
<th>MCLG</th>
<th>MFL</th>
<th>MRDL</th>
<th>MRDGL</th>
<th>NTU</th>
<th>pCi/L</th>
<th>ppm</th>
<th>ppb</th>
<th>ppb/µL</th>
<th>ppt</th>
<th>ppp</th>
</tr>
</thead>
<tbody>
<tr>
<td>Carbon tetrachloride</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>Chlorobenzene</td>
<td>.1</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>o-Dichlorobenzene</td>
<td>.6</td>
<td>1000</td>
<td>600 ppb</td>
<td>600</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>p-Dichlorobenzene</td>
<td>.075</td>
<td>1000</td>
<td>75 ppb</td>
<td>75</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,2-Dichloroethane</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1,1-Dichloroethylene</td>
<td>.007</td>
<td>1000</td>
<td>7 ppb</td>
<td>7</td>
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<td></td>
<td></td>
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<tr>
<td>cis-1,2-Dichloroethylene</td>
<td>.07</td>
<td>1000</td>
<td>70 ppb</td>
<td>70</td>
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<td></td>
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<td></td>
</tr>
<tr>
<td>trans-1,2-Dichloroethylene</td>
<td>.1</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
<td></td>
<td></td>
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<td>Dichloromethane</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1,2-Dichloropropane</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Ethylenebenzene</td>
<td>7</td>
<td>1000</td>
<td>700 ppb</td>
<td>700</td>
<td></td>
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</tr>
<tr>
<td>Haloacetic acids, or HAA</td>
<td>.06</td>
<td>1000</td>
<td>60 ppb</td>
<td>n/a</td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Styrene</td>
<td>.1</td>
<td>1000</td>
<td>100 ppb</td>
<td>100</td>
<td></td>
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<td></td>
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<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Tetrachloroethylene</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
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<td>1,2,4-Trichlorobenzene</td>
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<td>70 ppb</td>
<td>70</td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>1,1,1-Trichloroethane</td>
<td>2</td>
<td>1000</td>
<td>200 ppb</td>
<td>200</td>
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</tr>
<tr>
<td>1,1,2-Trichloroethane</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>3</td>
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<tr>
<td>Tetrachloroethylene</td>
<td>.005</td>
<td>1000</td>
<td>5 ppb</td>
<td>0</td>
<td></td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>TTHMs, or Total trihalomethanes</td>
<td>.10</td>
<td>1000</td>
<td>100/80* ppb</td>
<td>n/a</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Toluene</td>
<td>1</td>
<td>1000</td>
<td>1 ppm</td>
<td>1</td>
<td></td>
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<td></td>
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<tr>
<td>Vinyl chloride</td>
<td>.002</td>
<td>1000</td>
<td>2 ppb</td>
<td>0</td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Xylenes</td>
<td>10</td>
<td>1000</td>
<td>10 ppm</td>
<td>10</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

* For a system that serves >10,000 people and that uses as its source surface water or groundwater under the direct influence of surface water;
For monitoring conducted after January 1, 2004, for a system that serves >10,000 and that uses as its source groundwater not under the direct influence of surface water or that serves ≤ 10,000 and that uses as its source surface water or groundwater under the direct influence of surface water.

**EPA considers 50 pCi/L to be the level of concern for beta particles.

Key:

AL = Action level
MCL = Maximum contaminant level
MCLG = Maximum contaminant level goal
MFL = Million fibers per liter
MRDL = Maximum residual disinfectant level
MRDGL = Maximum residual disinfectant level goal
mrem/yr = millirems per year, a measure of radiation absorbed by the body
n/a = Not applicable
NTU = Nephelometric turbidity units, a measure of water clancy
pCi/L = picocuries per liter, a measure of radioactivity
ppm = parts per million, or milligrams per liter, mg/l
ppb = parts per billion, or micrograms per liter, µg/l
ppt = parts per trillion, or nanograms per liter
ppq = parts per quadrillion, or picograms per liter
TT = Treatment technique

1. The MCL for that contaminant expressed as a number equal to or greater than one and zero-tenths (1.0), as provided in Table A;
2. The MCLG for that contaminant, expressed in the same units as the MCL;
3. If there is no MCL for a detected contaminant, the table shall indicate that there is a treatment technique, or specify the action level, applicable to that contaminant. The report shall include the definition for treatment technique or action level, as appropriate;
4. For a contaminant subject to an MCL, except turbidity, total organic compounds, and total coliforms: the highest contaminant level used to determine compliance with 401 KAR 8:010 to 401 KAR 8:550 and the range of detected levels, as indicated in this subparagraph, expressed in the same unit as the MCL. If a result is rounded to determine compliance with the MCL, rounding shall be done before multiplying the result by the factor listed in Table A:
a. If compliance with the MCL is determined annually or less frequently, the highest detected level at a sampling point and the range of detected levels;
b. If compliance with the MCL is determined by calculating a running annual average of all samples taken at a sampling point: the highest average of any of the sampling points and the range of all sampling points; or
c. If compliance with the MCL is determined on a system-wide basis by calculating a running annual average of all samples at all sampling points: the average and range of detection;
5. For turbidity reported pursuant to 401 KAR 8:150, [or] 401 KAR 8:160, or 401 KAR 8:162: the highest single measurement and

- 2990 -
the lowest monthly percentage of samples meeting the turbidity limits specified in 401 KAR 8:150, [and] 401 KAR 8:160, and 401 KAR 8:162 for the filtration technology being used. The report shall include an explanation of the reason for measuring turbidity;

6. For lead and copper: the 90th percentile value of the most recent round of sampling and the number of sampling sites exceeding the action level;

7. For total coliform:
   a. The highest monthly number of positive samples for systems collecting fewer than forty (40) samples per month; or
   b. The highest monthly percentage of positive samples for systems collecting at least forty (40) samples per month;

8. For fecal coliform: The total number of positive samples;

9. For total organic carbon, TOCs: The lowest running annual average of the percent removal of TOCs achieved to the percent removal required, calculated quarterly, the range of the monthly ratios, and an explanation of the treatment technique; and

10. The likely source of each detected contaminant, to the best of the operator's knowledge. Specific information on a contaminant may be available in a sanitary survey or source water assessment, and shall be used if it is available to the operator. If the operator lacks specific information on the likely source, the report shall include one (1) or more of the typical sources for that contaminant listed in Table B that are most applicable to the system.

| Table B. Major Sources and Health Effects Language for Regulated Contaminants |
|---------------------------------------------------------------|-----------------|
| **Contaminant** | **Major Sources in Drinking Water** | **Health Effects Language** |
| Total coliform bacteria | Naturally present in the environment. | Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially-harmful, bacteria may be present. Coliforms were found in more samples than allowed and this was a warning of potential problems. |
| Fecal coliform and E. coli | Human and animal fecal waste. | Fecal coliforms and E. coli bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, children, some of the elderly, and people with severely compromised immune systems. |
| Total organic carbon | Naturally present in the environment. | Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include chloroform, THMs, and haloacetic acids, or HAAs. Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer. |
| Turbidity | Soil runoff. | Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches. |

**Radioactive contaminants**

| **Beta or photon emitters** | Decay of natural and man-made deposits. | Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta particle and photon radioactivity in excess of the MCL over many years may have an increased risk of getting cancer. |
| **Alpha emitters** | Erosion of natural deposits. | Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer. |
| **Combined radium** | Erosion of natural deposits. | Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer. |
| **Uranium** | Erosion of natural deposits. | Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity. |

**Inorganic contaminants**

| **Antimony** | Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder. | Some people who drink water containing antimony in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar. |
| **Arsenic** | Erosion of natural deposits; runoff | Some people who drink water containing arsenic in excess of the MCL over.
<table>
<thead>
<tr>
<th>Compound</th>
<th>Definition</th>
<th>Health Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asbestos</td>
<td>Decay of asbestos cement water mains; erosion of natural deposits.</td>
<td>Some people who drink water containing asbestos in excess of the MCL over many years may experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Banum</td>
<td>Discharge of drilling wastes; discharge from metal refineries; erosion of natural deposits.</td>
<td>Some people who drink water containing banum in excess of the MCL over many years could experience an increase in blood pressure.</td>
</tr>
<tr>
<td>Beryllium</td>
<td>Discharge from metal refineries and coal-burning factories; discharge from electrical, aerospace, and defense industries.</td>
<td>Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.</td>
</tr>
<tr>
<td>Bromate</td>
<td>By-product of drinking water disinfection.</td>
<td>Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of cancer.</td>
</tr>
<tr>
<td>Cadmium</td>
<td>Corrosion of galvanized pipes; erosion of natural deposits; discharge from metal refineries; runoff from waste batteries and paints.</td>
<td>Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.</td>
</tr>
<tr>
<td>Chloramines</td>
<td>Water additive used to control microbes.</td>
<td>Some people who use water containing chloramines well in excess of the MRLD could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRLD could experience stomach discomfort or anemia.</td>
</tr>
<tr>
<td>Chlorine</td>
<td>Water additive used to control microbes.</td>
<td>Some people who use water containing chlorine well in excess of the MRLD could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRLD could experience stomach discomfort.</td>
</tr>
<tr>
<td>Chlorine dioxide</td>
<td>Water additive used to control microbes.</td>
<td>Some infants and young children who drink water containing chlorine dioxide in excess of the MRLD could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorine dioxide in excess of the MRLD. Some people may experience anemia.</td>
</tr>
<tr>
<td>Chlofite</td>
<td>Byproduct of drinking water disinfection</td>
<td>Some infants and young children who drink water containing chlorine in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant women who drink water containing chlorites in excess of the MCL. Some people may experience anemia.</td>
</tr>
<tr>
<td>Chromium</td>
<td>Discharge from steel and pulp mills; erosion of natural deposits.</td>
<td>Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.</td>
</tr>
<tr>
<td>Copper</td>
<td>Corrosion of household plumbing systems; erosion of natural deposits.</td>
<td>Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.</td>
</tr>
<tr>
<td>Cyanide</td>
<td>Discharge from steel and metal factories; discharge from plastic and fertilizer factories.</td>
<td>Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.</td>
</tr>
<tr>
<td>Fluoride</td>
<td>Erosion of natural deposits; water additive that promotes strong teeth; discharge from fertilizer and aluminum factories.</td>
<td>Some people who drink water containing fluoride in excess of the MCL over many years could get bone diseases, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children’s teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.</td>
</tr>
<tr>
<td>Lead</td>
<td>Corrosion of household plumbing systems; erosion of natural deposits.</td>
<td>Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.</td>
</tr>
<tr>
<td>Mercury, inorganic</td>
<td>Erosion of natural deposits; discharge from refineries and factories; runoff from landfills; runoff from cropland.</td>
<td>Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.</td>
</tr>
<tr>
<td>Nitrate</td>
<td>Runoff from fertilizer use; leaching from septic tanks; sewage; erosion of natural deposits.</td>
<td>Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.</td>
</tr>
<tr>
<td>Nitrite</td>
<td>Runoff from fertilizer use; leaching from septic tanks, sewage, erosion of natural deposits.</td>
<td>Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.</td>
</tr>
<tr>
<td>Selenium</td>
<td>Discharge from petroleum and metal refineries; erosion of natural deposits; discharge from mines.</td>
<td>Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail loss, numbness in fingers or toes, or problems with their circulation.</td>
</tr>
<tr>
<td>Substance</td>
<td>Description</td>
<td>Risks</td>
</tr>
<tr>
<td>-------------------</td>
<td>-----------------------------------------------------------------------------</td>
<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Thallium</td>
<td>Leaching from ore-processing sites, discharge from electronics, glass, and drug factories.</td>
<td>Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.</td>
</tr>
<tr>
<td>Synthetic organic contaminants including pesticides and herbicides</td>
<td>Runoff from herbicide used on row crops.</td>
<td>Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.</td>
</tr>
<tr>
<td>2,4-D</td>
<td>Residue of banned herbicide.</td>
<td>Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.</td>
</tr>
<tr>
<td>Acrylamide</td>
<td>Added to water during sewage or wastewater treatment.</td>
<td>Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Alachlor</td>
<td>Runoff from herbicide used on row crops.</td>
<td>Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Atrazine</td>
<td>Runoff from herbicide used on row crops.</td>
<td>Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.</td>
</tr>
<tr>
<td>Benzo(a)pyrene, or PAH</td>
<td>Leaching from linings of water storage tanks and distribution lines.</td>
<td>Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Carbofuran</td>
<td>Leaching of soil fumigant used on rice and alfalfa.</td>
<td>Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.</td>
</tr>
<tr>
<td>Chlordane</td>
<td>Residue of banned termicide.</td>
<td>Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Dalapon</td>
<td>Runoff from herbicide used on rights of way.</td>
<td>Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.</td>
</tr>
<tr>
<td>Di (2-ethylhexyl) adipate</td>
<td>Discharge from chemical factories.</td>
<td>Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects such as weight loss, liver enlargement, or possible reproductive difficulties.</td>
</tr>
<tr>
<td>Di (2-ethylhexyl) phthalate</td>
<td>Discharge from rubber and chemical factories.</td>
<td>Some people who drink water containing di (2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Dibromochloropropane</td>
<td>Runoff/leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards.</td>
<td>Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Dinoseb</td>
<td>Runoff from herbicide used on soybeans and vegetables.</td>
<td>Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.</td>
</tr>
<tr>
<td>Diquat</td>
<td>Runoff from herbicide use.</td>
<td>Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.</td>
</tr>
<tr>
<td>Dioxin, or 2,3,7,8-TCDD</td>
<td>Emissions from waste incineration and other combustion; discharge from chemical factories</td>
<td>Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Endothall</td>
<td>Runoff from herbicide use.</td>
<td>Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.</td>
</tr>
<tr>
<td>Endrin</td>
<td>Residue of banned insecticide.</td>
<td>Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.</td>
</tr>
<tr>
<td>Epichlorohydrin</td>
<td>Discharge from industrial chemical factories; an impurity of some water treatment chemicals</td>
<td>Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Ethylene dibromide</td>
<td>Discharge from petroleum refineries.</td>
<td>Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Glyphosate</td>
<td>Runoff from herbicide use.</td>
<td>Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.</td>
</tr>
<tr>
<td>Heptachlor</td>
<td>Residue of banned pesticide.</td>
<td>Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Heptachlor epoxide</td>
<td>Breakdown of heptachlor.</td>
<td>Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Hexachlorobenzene</td>
<td>Discharge from metal refineries and agricultural chemical factories.</td>
<td>Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Compound</td>
<td>Source/Activity</td>
<td>Health Effects</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------------------------------------</td>
<td>-------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Hexachlorocyclopentadiene</td>
<td>Discharge from chemical factories</td>
<td>Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.</td>
</tr>
<tr>
<td>Lindane</td>
<td>Runoff or leaching from insecticide used on cattle, lumber, gardens.</td>
<td>Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.</td>
</tr>
<tr>
<td>Methoxychlor</td>
<td>Runoff or leaching from insecticides used on fruits, vegetables, alfalfa, livestock.</td>
<td>Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.</td>
</tr>
<tr>
<td>Oxamyl, or Vydate</td>
<td>Runoff or leaching from insecticide used on apples, potatoes, and tomatoes.</td>
<td>Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.</td>
</tr>
<tr>
<td>PCBs, or Polychlorinated biphenyls</td>
<td>Runoff from landfills; discharge of waste chemicals.</td>
<td>Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Pentachlorophenol</td>
<td>Discharge from wood preserving factones.</td>
<td>Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Pictoram</td>
<td>Herbicide runoff.</td>
<td>Some people who drink water containing pictoram in excess of the MCL over many years could experience problems with their liver.</td>
</tr>
<tr>
<td>Simazine</td>
<td>Herbicide runoff.</td>
<td>Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their liver.</td>
</tr>
<tr>
<td>Toxaphene</td>
<td>Runoff or leaching from insecticide used on cotton and cattle.</td>
<td>Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.</td>
</tr>
</tbody>
</table>

**Volatile organic contaminants**

<table>
<thead>
<tr>
<th>Compound</th>
<th>Source/Activity</th>
<th>Health Effects</th>
</tr>
</thead>
<tbody>
<tr>
<td>Benzene</td>
<td>Discharge from factories, leaching from gas storage tanks and landfills.</td>
<td>Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Carbon tetrachloride</td>
<td>Discharge from chemical plants and other industrial activities.</td>
<td>Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Chlorobenzene</td>
<td>Discharge from chemical and agricultural chemical factories</td>
<td>Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.</td>
</tr>
<tr>
<td>o-Dichlorobenzene</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.</td>
</tr>
<tr>
<td>p-Dichlorobenzene</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.</td>
</tr>
<tr>
<td>1,2-Dichloroethane</td>
<td>Discharge from industrial chemical factories</td>
<td>Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>1,1-Dichloroethylene</td>
<td>Discharge from industrial chemical factories</td>
<td>Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.</td>
</tr>
<tr>
<td>cis-1,2-Dichloroethylene</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.</td>
</tr>
<tr>
<td>trans-1,2-Dichloroethylene</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.</td>
</tr>
<tr>
<td>Dichloromethane</td>
<td>Discharge from pharmaceutical and chemical factories.</td>
<td>Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>1,2-Dichloropropane</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Ethylbenzene</td>
<td>Discharge from petroleum refineries</td>
<td>Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.</td>
</tr>
<tr>
<td>Haloacetic acids, or HAA</td>
<td>Byproduct of drinking water disinfection</td>
<td>Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Styrene</td>
<td>Discharge from rubber and plastic factones; leaching from landfills</td>
<td>Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.</td>
</tr>
<tr>
<td>Tetrachloroethylene</td>
<td>Discharge from factones and dry cleaners.</td>
<td>Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Substance</td>
<td>Source Description</td>
<td>Health Effects</td>
</tr>
<tr>
<td>-----------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>1,2,4-Trichlorobenzene</td>
<td>Discharge from textile-finishing factories.</td>
<td>Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.</td>
</tr>
<tr>
<td>1,1,1-Trichloroethane</td>
<td>Discharge from metal degreasing sites and other factories.</td>
<td>Some people who drink water containing 1,1,1-Trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.</td>
</tr>
<tr>
<td>1,1,2-Trichloroethane</td>
<td>Discharge from industrial chemical factories.</td>
<td>Some people who drink water containing 1,1,2-Trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.</td>
</tr>
<tr>
<td>Trichloroethylene</td>
<td>Discharge from metal degreasing sites and other factories.</td>
<td>Some people who drink water containing trichloroethylene in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>TTHMs, or total trihalomethanes</td>
<td>By-product of drinking water disinfection.</td>
<td>Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Toluene</td>
<td>Discharge from petroleum factones.</td>
<td>Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.</td>
</tr>
<tr>
<td>Vinyl chloride</td>
<td>Leaching from PVC piping; discharge from plastics factories.</td>
<td>Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.</td>
</tr>
<tr>
<td>Xylenes</td>
<td>Discharge from petroleum factones; discharge from chemical factones.</td>
<td>Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.</td>
</tr>
</tbody>
</table>

**Key:**

- **AL** = Action level
- **MCL** = Maximum contaminant level
- **MCLG** = Maximum contaminant level goal
- **MFL** = Million fibers per liter
- **MRDL** = Maximum residual disinfectant level
- **MRDLG** = Maximum residual disinfectant level goal
- **mmHg** = millimeters per year, a measure of radiation absorbed by the body
- **n/a** = Not applicable
- **NTU** = Nephelometric turbidity units, a measure of water clarity
- **pCi/L** = picocuries per liter, a measure of radioactivity
- **ppm** = parts per million, or milligrams per liter, mg/L
- **ppb** = parts per billion, or micrograms per liter, µg/L
- **ppt** = parts per trillion, or nanograms per liter
- **ppq** = parts per quadrillion, or picograms per liter
- **TT** = Treatment technique

(e) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the table shall contain a separate column for each service area and the report shall identify each separate distribution system. Alternatively, a system may produce separate reports tailored to include data for each service area or use another mechanism to clearly indicate the detections from the various water sources.

(f) A table shall clearly identify the data indicating violations of MCLs, MRDLs, or treatment techniques, and the report shall contain a clear and readily understandable explanation of the violation, including the length of the violation, the potential adverse health effects, and actions taken by the system to address the violation. To describe the potential health effects, the system shall use the relevant language from Table B above for the contaminant that has a violation.

(g) For detected unregulated contaminants for which monitoring is required, except Cryptosporidium, the table shall contain the average and range at which the contaminant was detected. The report may include a brief explanation of the reason for monitoring for unregulated contaminants.

- **411** (48) Information on Cryptosporidium, radon, and other contaminants:
  - (a) If the system has performed monitoring for Cryptosporidium—excluding monitoring performed to satisfy the requirements of 40 C.F.R. §141.144(a)—and the monitoring indicates that Cryptosporidium may be present in the source water or the finished water, the report shall include:
    1. A summary of the results of the monitoring; and
    2. An explanation of the significance of the results.
  - (b) If the system has performed monitoring for radon that indicates that radon may be present in the finished water, the report shall include:
    1. The results of the monitoring; and
    2. An explanation of the significance of the results.

- **412** (38) Compliance with 401 KAR 8:010 to 401 KAR 8:550: In addition to the requirements of subsection (3) (2) (8) (9) of this section, the report shall note a violation that occurred during the year covered by the report of a requirement listed in paragraphs (a) through (g) of this subsection, and include a clear and readily understandable explanation of the violation, a potential adverse health effect, and the steps the system has taken to correct the violation.
  - (a) Monitoring and reporting of compliance data.
  - (b) Filtration and disinfection prescribed by 401 KAR 8.150. For a system that failed to install adequate filtration or disinfection equipment or processes, or had a failure of the filtration or disinfection equipment or processes that constitutes a violation, the report shall include the following language as part of the explanation of potential adverse health effects: "Inadequately treated water may
contain disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.*

(c) Lead and copper control requirements prescribed by 401 KAR 8:600. For a system that fails to take one (1) or more actions prescribed by 401 KAR 8:300, Sections 2(5), 3, 4, 5, or 6, the report shall include the applicable language of subsection (2) (2)(3)(i)(f) of this section for lead, copper, or both.

(d) Treatment techniques for acrylamide and epichlorohydrin prescribed by 401 KAR 8:100, Section 2. For a system that violates the requirements of 401 KAR 8:100, Section 2, the report shall include the relevant language from subsection (3) (3)(i)(f) of this section.

(e) Recordkeeping of compliance data.

(f) Special monitoring requirements of 40 C.F.R. 141.40 (October 23, 2002) and 401 KAR 8:250, Section 15 (H).

(g) Violation of a term of a variance, an exemption, or an administrative or judicial order.

(h) (6)(i) (6) Variances and exemptions. If a system is operating under the terms of a variance or an exemption issued under 401 KAR 8:600, the report shall contain:

(a) An explanation of the reason for the variance or exemption;

(b) The date on which the variance or exemption was issued;

(c) A brief status report on the steps the system is taking to install treatment, find an alternative source of water, or otherwise comply with the terms and schedules of the variance or exemption; and

(d) A notice of opportunity for public input in the review or renewal of the variance or exemption.

(i) (6)(j) Additional information.

(a) The report shall contain a brief explanation regarding contaminants that may reasonably be expected to be found in drinking water, including bottled water. This explanation may include the language of subparagraphs 1 through 3 of this paragraph, or a system may use its own comparable language. The report shall include the language of subparagraph 4 of this paragraph, as a separate paragraph.

1. The sources of drinking water, both tap water and bottled water, include rivers, lakes, streams, ponds, reservoirs, springs, and wells. As water travels over the surface of the land or through the ground, it dissolves naturally-occurring minerals and, in some cases, radioactive materials, and may pick up substances resulting from the presence of animals or from human activity.

2. Contaminants that may be present in source water include:

a. Microbial contaminants, such as viruses and bacteria, that may come from sewage treatment plants, septic systems, agricultural livestock operations, and wildlife.

b. Inorganic contaminants, such as salts and metals, that can be naturally-occurring or result from urban stormwater runoff, industrial or domestic wastewater discharges, oil and gas production, mining, or farming.

c. Pesticides and herbicides, which may come from a variety of sources such as agriculture, urban stormwater runoff, and residential uses.

d. Organic chemical contaminants, including synthetic and volatile organic chemicals, which are by-products of industrial processes and petroleum production, and can also come from gas stations, urban stormwater runoff, and septic systems.

e. Radioactive contaminants, which can be naturally-occurring or be the result of oil and gas production and mining activities.

3. To ensure that tap water is safe to drink, U.S. EPA prescribes regulations that limit the amount of certain contaminants in water provided by public water systems. FDA regulations establish limits for contaminants in bottled water that shall provide the same protection for public health.

4. Drinking water, including bottled water, may reasonably be expected to contain at least small amounts of some contaminants. The presence of contaminants does not necessarily indicate that water poses a health risk. More information about contaminants and potential health effects may be obtained by calling the Environmental Protection Agency's Safe Drinking Water Hotline (800-426-4791).

(b) The report shall include the telephone number of the owner, operator, or designee of the community water system as a source of additional information about the report.

(c) If a system has a significant proportion of non-English speaking residents, the system shall include in the report information in the appropriate language regarding the importance of the report or contain a telephone number or address where non-English speaking residents may contact the system to obtain a translated copy of the report or assistance in the appropriate language.

(d) The report shall include information, including time and place of regularly scheduled board meetings, about opportunities for public participation in decisions that may affect the quality of the water.

(e) A system may include additional information deemed necessary for public education consistent with, and not detracting from, the purpose of the report.

Section 3 Additional Health Information. (1) A report shall prominently display the following language as a separate paragraph: "Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised persons such as persons with cancer undergoing chemotherapy, persons who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. EPA/CDC guidelines on appropriate means to lessen the risk of infection by Cryptosporidium and other microorganisms are available from the Safe Drinking Water Hotline (1-888-426-4791)."

(2) A system that detects arsenic above 0.005 mg/L and up to and including 0.010 mg/L shall:

(a) Include in its report a short informational statement about arsenic, using language such as: "While your drinking water meets EPA's standard for arsenic, it does contain low levels of arsenic. EPA's standard balances the current understanding of arsenic's possible health effects against the costs of removing arsenic from drinking water. EPA continues to research the health effects of low levels of arsenic, which is a mineral known to cause cancer in humans at high concentrations and is linked to other health effects such as skin damage and circulatory problems," or

(b) Write its own educational statement that shall be approved by the cabinet before including it in the report.

(3) A system that detects nitrate at levels above five (5) mg/L, but below the MCL shall:

(a) Include a short informational statement about the impacts of nitrate on children using language such as: "Nitrate in drinking water at levels above ten (10) ppm is a health risk for infants of less than six months of age. High nitrate levels in drinking water can cause blue baby syndrome. Nitrate levels may rise quickly for short periods of time because of rainfall or agricultural activity. If you are caring for an infant you should ask advice from your health care provider."; or

(b) Write its own educational statement that shall be approved by the cabinet before including it in the report.

(4) A system that detects lead above the action level in more than five (5) percent, and up to and including ten (10) percent, of homes sampled shall:

(a) Include a short informational statement about the special impact of lead on children using language such as: "Infants and young children are typically more vulnerable to lead in drinking water than the general population. It is possible that lead levels at your home may be higher than at other homes in the community as a result of materials used in your home's plumbing. If you are concerned about elevated lead levels in your home's water, you may wish to have your water tested and flush your tap for thirty (30) seconds to two (2) minutes before using tap water. Additional information is available from the Safe Drinking Water Hotline, 800-426-4791."; or

(b) Write its own educational statement that shall be approved by the cabinet before including it in the report.

(5) A community water system that detects THM above 0.080 mg/L, but below the MCL in 401 KAR 8:600 as an annual average, monitored and calculated under the provision of 401 KAR 8:600, shall include health effects language for THM passing

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* This asterisk indicates a reference to a previous page or document.
by Section 2(3)(d) of the administrative regulation.

(6) Beginning in the report due after January 4, 2005 [the effective date of this administrative regulation], and ending January 22, 2006, a community water system that detects arsenic above 0.010 mg/L and up to and including 0.05 mg/L shall include the health effects language for arsenic prescribed by Section 2(3)(d) of this administrative regulation.

Section 4. Report Delivery and Recordkeeping (1) Except as provided in subsection (5) of this section, a community water system shall mail or otherwise directly deliver a copy of the report to each customer.

(2) The system shall make a good-faith effort to reach consumers who do not get water bills. An adequate good-faith effort shall be tailored to the consumer who is served by the system, but is not a bill-paying customer, such as a renter or worker. The system shall describe the good-faith efforts in the certification required in subsection (3) of this section. The good-faith efforts shall be made in addition to the distribution method that is used by the system to distribute its report as required for the size of the system. A good-faith effort to reach consumers may be a mix of methods appropriate to the particular system, such as:

(a) Posting the report on the Internet;
(b) Mailing to postal patrons in metropolitan areas;
(c) Advertising the availability of the report in the news media;
(d) Publishing the report in a local newspaper;
(e) Placing in a public place such as a cafeteria or lunch room of a public building;
(f) Delivering multiple copies for distribution by single-biller customers such as apartment buildings or large private employers;
(g) Delivering the report to a community organization; or
(h) Other means that accomplish the goal of notifying the consumer.

(3) (a) Within fourteen (14) days of distributing the report to its customers, but no later than the date specified in Section 1(2)(a) of this administrative regulation, the community water system shall also mail a copy of the report and the certification required in paragraph (b) of this subsection to the cabinet at the following address: Division of Water, Drinking Water Branch, Attn. CCR, 14 Reilly Road, Frankfort, Kentucky 40601. The system shall include a copy of the report and certification for each PWSID the system has, and shall include the name of the system and its PWSID number on all submittals. The system shall not mail the report or the certification to the cabinet until it has distributed the report to its customers.

(b) Certification.
1. The community water system shall mail a certification to the cabinet by July 1 annually.
2. The certification shall include the typed or printed name and title of the person responsible for the overall operation or management of the system, and shall be signed by that person. The certification shall contain the following documentation:
   a. The following two (2) statements that are true for the system. If the system cannot make the true statement, then it shall qualify the statement to make it true for the system:
      (i) "The report was prepared and distributed according to the requirements for our system"; and
      (ii) "The report contains information that is correct and consistent with the compliance monitoring data previously submitted to the Division of Water."
   b. An explanation of how and when the report was distributed to its customers. If a system serves a population of less than 10,000 and used the mailing waiver pursuant to subsection (6)(a) of this section, it shall include a copy of the report from the local newspaper, showing the date the report was printed, and the name of the newspaper;
   c. If the system serves a population of less than 10,000, and used the mailing waiver allowed in subsection (6)(a) of this section, a description of how the system qualified for the mailing waiver by demonstrating that it performed all three (3) actions required for the mailing waiver;
   d. If the system serves a population of less than 500 and used the waiver allowed in subsection (6)(b) of this section, documentation of how it notified its customers that the report was available; and

   e. A description of the system's good-faith efforts to reach its nonbill-paying customers, as required in subsection (2) of this section,
   f. A community water system shall make its report available to the public upon request.

(5) By the date specified in Section 1 of this administrative regulation, a community water system serving 100,000 or more persons shall post its current year's report to a publicly-accessible site on the Internet. The version that is posted shall be identical to the report that is made available to the customers, to the extent allowed by the computer or electronic system.

(6) Waiver. A system shall document in the certification required in subsection (3)(b) of this section how it qualified for the mailing waiver, by showing how it performed either the three (3) actions in paragraph (a) of this subsection, or the action required in paragraph (b) of this subsection, as applicable for the system's size.

(a) A community water system that serves fewer than 10,000 persons shall be waived from the mailing requirement in subsection (1) of this section if the system performs the following three (3) actions before the date specified in Section 1 of this administrative regulation:
   1. Publishes the report in at least one (1) newspaper serving the area in which the system is located. The version that is printed in the newspaper shall be the same as is submitted to the cabinet, to the extent allowed by the newspaper;
   2. Informs the customers that the reports will not be mailed unless requested, either in the newspapers in which the reports are published, or by another means approved by the cabinet by which the customers are notified; and
   3. Makes the reports available to the public upon request.

(b) A system that serves more than 500 persons may forego the requirements of paragraph (a)1 and 2 of this subsection if it provides notice to its customers at least once per year before the data specified by Section 1 of this administrative regulation by mail, door-to-door delivery, or by posting in an appropriate location that the report is available upon request.

(7) A community water system shall retain a copy of its consumer confidence report and certification for at least three (3) years.

LLOYD R. CRESS, Deputy Secretary
for TERENCE J. HILL, Secretary
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 15, 2007 at noon

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: David W. Morgan
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation prescribes the requirements that a community water system must follow for preparing and distributing a "consumer confidence report" to its customers. The report contains information on the quality of water the system provides to its customers. Requirements include the specific language to be contained in a report, how the report is to be distributed, when the reports are due to the customers and the Division of Water, and the content of the certification.
(b) The necessity of this administrative regulation: This regulation is required so that Kentucky can maintain primacy from the U.S. EPA for the Implementation and enforcement of the federal regulation for consumer confidence reports in 40 C.F.R. Part 141, Subpart O (40 C.F.R. 141.151 – 141.165).
(c) How this administrative regulation conforms to the content of the authorizing statutes. This regulation is consistent with the federal regulation.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation improves the regulatory procedures used by the Cabinet and supports Kentucky's comprehensive program for public and semipublic water systems in providing drinking water to citizens of the Commonwealth.
(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 will update Kentucky's current consumer confidence report regulation to comply with federal regulations for unregulated contaminant monitoring rule. The report contains information on the quality of water the system provides to its customers.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary for Kentucky to maintain primacy from the U.S. EPA for the implementation and enforcement of the federal regulation for consumer confidence reports.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms with the federal regulations in 40 C.F.R. Part 141, Subpart O (40 C.F.R. 141.151 to 141.155).

(d) How the amendment will assist in the effective administration of the statutes: Requirements of the amended regulation include the specific language to be contained in a consumer confidence report, how the report is to be distributed, when the reports are due to the customers and the Division of Water, and the content of the certifications.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. This amendment to the regulation affects community water systems in Kentucky.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: All Public Water Systems will meet the requirements of this amendment by complying with the reporting requirements for consumer confidence reports to the public.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The additional cost in complying with this amendment, if any, would be negligible.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public Water Systems would avoid any compliance implications that would result from non-compliance.

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

(a) Initially: None anticipated.

(b) On a continuing basis: None anticipated.

(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: No, or by the change, if it is an amendment: No increase in fees is anticipated as a result of this amendment to the regulation

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No establishment of fees nor increase in any existing fees as a result of this amendment.

(9) TIERING: Is tiering applied? Tiering may be implied in the form of "waivers" that are explained above, to large population systems or small population systems. These waivers are a benefit to the systems that meet the requirements of the waivers and its amendments are the same as the federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. The provisions related to the certification of the report to the Cabinet are more stringent to ensure the Cabinet that the reports were correctly distributed to the system's customers. Also, the regulation contains information on what is to be included in the report for total organic compounds. This information was not addressed by the U.S. Environmental Protection Agency in its regulation. These requirements are clerical in nature and do not impose a financial burden on the system.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water systems must meet the requirements of this amended administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141.25 & (c), 141.40, 141.151 - 141.155, 42 U.S.C. Chapter 6A Subchapter XII.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not increase revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not increase revenue.

(c) How much will it cost to administer this program for the first year? This amendment will not increase cost.

(d) How much will it cost to administer this program for subsequent years? This amendment will not increase cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation. Revenue (+/-): No increase or decrease in revenue. Expenditures (+/-): No increase or decrease in expenditures. Other Explanation: None

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Department for Environmental Protection
Division of Water
(Amended After Comment)

401 KAR 8:160. Enhanced filtration and disinfection for large systems serving at least 10,000 people.

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. 141.74, 141.170-141.175, 42 U.S.C. Chapter 6A Subchapter XII

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(3)(a) and 224.110 authorize the cabinet to promulgate administrative regulations for the regulation and control of the purification of water for public and semipublic use. This administrative regulation establishes requirements for filtration and disinfection for a public water system that serves at least [more-than] 10,000 people.

Section 1. Applicability [(4)] This administrative regulation shall
be considered a national primary drinking water regulation. This administrative regulation establishes requirements for filtration and disinfection that are in addition to the criteria in 401 KAR 8:150 under which filtration and disinfection are required for a public water system that uses surface water or groundwater under the direct influence of surface water.

Section 2. General Provisions. (1) This administrative regulation establishes or extends treatment technique requirements instead of maximum contaminant levels for the following contaminants: Giardia lamblia, viruses, heterotrophic plate count bacteria, legionella, Cryptosporidium, and turbidity. A system that uses surface water or groundwater under the direct influence of surface water and that serves at least 10,000 people shall provide treatment of its source water that complies with these treatment technique requirements, and that are in addition to those identified in 401 KAR 8:150. The treatment technique requirements shall consist of installing and properly operating water treatment processes that reliably achieve:

(a) At least ninety-nine (99) percent [2-log] or two (2) log removal, of Cryptosporidium between a point where the raw water is not subject to the administration's surface water water runoff and a point downstream before or at the first customer; and

(b) Compliance with the profiling and benchmark requirements in Section 3 of this administrative regulation.

(2) A public water system subject to this administrative regulation shall be considered to be in compliance with subsection (1) of this section if it meets the applicable filtration requirements in either Section 4 of this administrative regulation and 401 KAR 8:150, Section 2 and the disinfection requirements in Section 3 of this administrative regulation and 401 KAR 8:150, Section 1.

Section 3. Disinfection Profiling and Benchmarking. (1) Determination of systems required to profile. A public water system subject to this administrative regulation shall determine its total inactivation, or TTHM, annual average using the procedures in paragraph (a) of this subsection and its halocetic acid five (5), or HAAS, annual average using the procedure in paragraph (b) of this subsection. The annual average shall be the arithmetic average of the quarterly averages of four (4) consecutive quarters of monitoring.

(a) The TTHM annual average shall be the annual average during the same period as used for the HAAS annual average. A system that collected data under the provisions of 40 C.F.R. 141.140 to 141.141 shall use the results of the samples collected during the last four (4) quarters of required monitoring under 40 C.F.R. 141.142.

(b) A system that uses ground-derived HAAS-occurrence data that meet the provisions of paragraph (b) of subsection shall use TTHM data collected at the same time under the provisions of 401 KAR 8:600.

(c) A system that uses HAAS-occurrence data that meet the provisions of paragraph (b) of this subsection shall use TTHM data collected at the same time under the provisions of 401 KAR 8:600.

(d) The HAAS annual average shall be the annual average during the same period as is used for the TTHM annual average. A system that collected data under the provisions of 40 C.F.R. 141.140 to 141.141 shall use the results of the samples collected during the last four (4) quarters of required monitoring under 40 C.F.R. 141.142.

2. A system that collected four (4) quarters of HAAS occurrence data that meet the routine monitoring sample number and location requirements for TTHM in 401 KAR 8:500 and handling and analytical method requirements of 40 C.F.R. 141.142(b)(4) may use those data to determine if the requirements of this section apply.

3. A system without four (4) quarters of HAAS-occurrence data that meet the requirements of subparagraph 1 or 2 of the paragraph by March 31, 1999 shall have either:

(a) Conducted monitoring for HAAS that meets the routine monitoring sample number and location requirements for TTHM in 401 KAR 8:500 and handling and analytical method requirements of 40 C.F.R. 141.142(b)(4) to determine if the requirements of subsection (a) of the section apply;

(b) Conducted the monitoring shall have been completed so that the applicability determination was able to be made no later than March 31, 2000; or

(c) Complied with all the provisions of this section as if the HAAS monitoring had been conducted and the results required compliance with subsection (3) of this section.

(d) The system may require that the cabinet approve a more representative annual data set than the data set determined under paragraph (a) or (b) of this subsection for the purpose of determining applicability of the requirements of this section.

(e) The system shall submit data to the cabinet according to the following schedule:

1. A system that collected TTHM and HAAS data under 40 C.F.R. 141.140 to 141.144, as required by paragraph (a) and (b)(1) of this subsection, shall submit the results of the samples collected during the last twelve (12) months of required monitoring under 40 C.F.R. 141.142 not later than December 31, 1999. The cabinet shall use those data to determine whether or not the system is required to conduct monitoring for HAAS.

2. A system that collected four (4) consecutive quarters of HAAS-occurrence data that meet the routine monitoring sample number and location for TTHM in 401 KAR 8:600 and handling and analytical method requirements of 40 C.F.R. 141.142(b)(4), as allowed by paragraphs (a) and (b)(2) of this subsection, shall have submitted those data to the cabinet not later than April 16, 1999. Until the cabinet has approved the data, the system shall conduct monitoring for HAAS using the monitoring requirements specified under paragraph (b)(2) of this subsection.

3. A system that conducts monitoring for HAAS using the monitoring requirements specified by paragraphs (a) and (b)(2) of the subsection shall have submitted TTHM and HAAS data no later than March 31, 2000.

(f) A system that has either a TTHM annual average of greater than or equal to 0.064 mg/L or an HAAS annual average of greater than or equal to 0.048 mg/L [during the period identified in paragraph (a) and (b) of this subsection] shall comply with subsection (2) of this section.

(2) Disinfection profiling.

(a) A system that meets the criteria in subsection (1)(f) of this section shall develop a disinfection profile of its disinfection practice for a period of up to three (3) years.

(b) The system shall monitor daily for twelve (12) consecutive months to determine the total logs of inactivation for each day of operation, based on the appropriate CTₐ values in Tables 1.1 - 1.5, 2.1, and 3.1 of 40 C.F.R. 141.74(b), June 29, 2003, for appropriate through the entire treatment plant. This system shall have begun the monitoring no later than April 1, 2000. As a minimum, the system with a single point of disinfectant application before the entrance to the distribution system shall conduct the monitoring in subparagraphs 1 to 4 of this paragraph. A system with more than one (1) point of disinfectant application shall conduct the monitoring in subparagraphs 1 to 4 of this paragraph for each disinfection segment. The system shall monitor the parameters necessary to determine the total inactivation ratio, using analytical methods in 40 C.F.R. 141.74(a), June 29, 2003, as follows:

1. The temperature of the disinfected water shall be measured once each day at each residual disinfectant concentration sampling point during peak hourly flow;
2. If the system uses chlorine, the pH of the disinfected water shall be measured once per day at each chlorine residual disinfectant concentration sampling point during peak hourly flow;
3. The disinfectant contact time, or T, shall be determined for each day during peak hourly flow; and
4. The residual disinfectant concentration, or C, of the water before or at the first customer and before each additional point of disinfection shall be measured each day during peak hourly flow.

(c) Instead of the monitoring conducted under the provisions of paragraph (b) of this subsection to develop the disinfection profile, the system may elect to meet the requirements of subparagraph 1 of this paragraph. In addition to the monitoring conducted under the provisions of paragraph (b) of this subsection to develop the disinfection profile, the system may elect to meet the requirement of subparagraph 2 of this paragraph.

1. A public water system that has three (3) years of existing operational data may submit those data, a profile generated using those data, and a request that the cabinet approve use of those data instead of monitoring under the provisions of paragraph (b) of this subsection not later than March 31, 2000. The cabinet shall determine if these operational data are substantially equivalent to data collected under the provisions of paragraph (b) of this subsection. These data shall also be representative of Giardia lamblia inactivation through the entire treatment plant and not just of certain treatment segments. Until the cabinet approves this request, the system shall conduct monitoring under the provisions of paragraph (b) of this subsection.

In addition to the disinfection profile generated under paragraph (b) of this subsection, a public water system that has existing operational data may use those data to develop a disinfection profile for additional years. The system may use the additional yearly disinfection profiles to develop a benchmark under the provisions of subsection (3) of this section. The cabinet shall determine if these operational data are substantially equivalent to data collected under the provisions of paragraph (b) of this subsection. These data shall also be representative of inactivation through the entire treatment plant and not just of certain treatment segments.

(d) The system shall calculate the total inactivation ratio as follows:

1. If the system uses only one (1) point of disinfectant application, the system shall determine the total inactivation ratio for the disinfection segment based on either of the following methods:
   a. Determine one (1) inactivation ratio, \( CT_{inact}/CT_{90s} \), before or at the first customer during peak hourly flow; or
   b. Determine successive ratio values, \( CT_{inact}/CT_{90s} \), representing sequential inactivation ratios, between the point of disinfectant application and a point before or at the first customer during peak hourly flow. Under this alternative, the system shall calculate the total inactivation ratio by determining \( CT_{inact}/CT_{90s} \) values for each sequence and then adding the \( CT_{inact}/CT_{90s} \) values together to determine their summation, \( \Sigma(CT_{inact}/CT_{90s}) \).

2. If the system uses more than one (1) point of disinfectant application before the first customer, the system shall determine the CT value of each disinfection segment immediately before the next point of disinfectant application, or for the final segment, before or at the first customer, during peak hourly flow. The \( CT_{inact}/CT_{90s} \) value of each segment and \( \Sigma(CT_{inact}/CT_{90s}) \) shall be calculated using the method in subparagraph 1 of this paragraph.

3. The system shall determine the total logs of inactivation by multiplying the value calculated in subparagraph 1 or 2 of this paragraph by three and zero-tenths (3.0).

(e) A system that uses either chloramines or ozone for primary disinfection shall also calculate the logs of inactivation for viruses using a method approved by the cabinet.

(f) The system shall retain disinfection profile data in graphic form, as a spreadsheet, or in other some format acceptable to the cabinet for review as part of a sanitary survey conducted by the cabinet.

(3) Disinfection benchmarking.

(a) A system required to develop a disinfection profile under the provisions of subsections (1) and (2) of this section and that decides to make a significant change to its disinfection practice shall submit the proposed change to the cabinet for its approval before initiating any change. A significant change to disinfection practice shall be:

1. A change to the point of disinfection;
2. A change to the disinfectant used in the treatment plant;
3. A change to the disinfection process; and
4. Any other modification identified by the cabinet.

(b) A system that is modifying its disinfection practice shall calculate its disinfection benchmark using the following procedure:

1. For each year of profiling data collected and calculated under subsection (2) of this section, the system shall determine the lowest average monthly Giardia lamblia inactivation in each year of profiling data. The system shall determine the average Giardia lamblia inactivation for each calendar month for each year of profiling data by dividing the sum of daily Giardia lamblia of inactivation by the number of values calculated for that month, and
2. The disinfection benchmark shall be the lowest monthly average value, for a system with one (1) year of profiling data, or the average of lowest monthly average values, for a system with more than one (1) year of profiling data, of the monthly logs of Giardia lamblia inactivation in each year of profiling data.

(c) A system that uses either chloramines or ozone for primary disinfection shall also calculate the disinfection benchmark for viruses using a method approved by the cabinet.

(d) The system shall submit the following information to the cabinet as part of the approval process:

1. A description of the proposed change;
2. The disinfection profile for Giardia lamblia and viruses, if necessary, under subsection (2) of this section, and benchmark as required by paragraph (b) of this subsection; and
3. An analysis of how the proposed change will affect the current levels of disinfection.

Section 4. Filtration. A public water system subject to the requirements of this administrative regulation shall provide treatment consisting of both disinfection, as specified in 401 KAR 8:150, Section 1, and filtration treatment that complies with the requirements of subsections (1) and (2) of this section or 401 KAR 8:150, Section 2(2) or (3) [by December 31, 2004].

1. (a) Conventional filtration treatment or direct filtration.

   (i) For a system using conventional filtration or direct filtration, the turbidity level or representative samples of a system's filtered water shall be less than or equal to three-tenths (0.3) NTU in at least ninety-five (95) percent of the measurements taken each month, measured as specified in 401 KAR 8:150, Section 3.

   (ii) The turbidity level of representative samples of a system's filtered water shall not exceed one (1) NTU, measured as specified in 401 KAR 8:150, Section 3.

   (c) A system that uses lime softening may addie representative samples before analysis using a protocol approved by the cabinet.

2. Filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diatomaceous earth filtration.

   (a) A public water system may use a filtration technology not listed in subsection (1) of this section or in 401 KAR 8:150, Section 2(2) or (3), if it demonstrates to the cabinet, using a pilot plant study or other means, that the alternative filtration technology, in combination with disinfection treatment that meets the requirements of 401 KAR 8:150, Section 1, consistently achieves ninety-nine and nine-tenths (99.9) percent (2-log) removal or inactivation of Giardia lamblia cysts and ninety-nine percent (4-log) removal or inactivation of viruses, and ninety-nine (99) percent (2-log) removal of Cryptosporidium oocysts, and the cabinet approves the use of the filtration technology.

   (b) For an approval, the cabinet shall set turbidity performance requirements that the system shall meet at least ninety-five (95) percent of the time and that the system shall not exceed at a level that consistently achieves ninety-nine and nine-tenths (99.9) percent removal or inactivation of Giardia lamblia cysts, 99.99 percent removal or inactivation of viruses, and ninety-nine (99) percent removal of Cryptosporidium oocysts.

Section 5. Filtration: Sampling Requirements. (1) Monitoring requirements for a system using filtration treatment. In addition to monitoring required by 401 KAR 8:150, Section 3, a public water
system subject to the requirements of this administrative regulation that provides conventional filtration treatment or direct filtration shall conduct continuous monitoring of turbidity for each individual filter using an approved method in 40 C.F.R. 141.74(a), January 29, 2000, [adopted without change in Section 8 of the administrative regulation], and shall calibrate the turbidimeter (turbidity meter) using the procedure specified by the manufacturer. A system shall record the results of individual filter monitoring every fifteen (15) minutes.

(2) If there is a failure in the continuous turbidity monitoring equipment, the system shall conduct grab sampling every four (4) hours instead of continuous monitoring until the turbidimeter is repaired and back on-line. A system shall have a maximum of five (5) working days after failure to repair the equipment. If the equipment is not repaired in the five (5) days, the system shall be in violation.

Section 6. Reporting and Recordkeeping Requirements. In addition to the reporting and recordkeeping requirements in 401 KAR 8:020, Section 2(7), a public water system subject to the requirements of this administrative regulation that provides conventional filtration treatment or direct filtration shall report monthly to the cabinet the information required in this section [beginning January 1, 2009]. In addition to the reporting and record keeping requirements in 401 KAR 8:020, Section 2(7), a public water system subject to the requirements of this administrative regulation that provides conventional filtration treatment or direct filtration shall report monthly to the cabinet the information specified in subsection (1) of this section [beginning January 1, 2009]. The reporting in subsection (1) of this section shall be required instead of the reporting specified in 401 KAR 8:020, Section 2(7)(a).

(1) Turbidity measurements as required by Section 4 of this administrative regulation shall be reported within ten (10) days after the end of each month the system serves water to the public. The following information shall be reported:

(a) The total number of filtered water turbidity measurements taken during the month;

(b) The number and percentage of filtered water turbidity measurements taken during the month that are less than or equal to the turbidity limits specified in Section 4(1) or (2) of this administrative regulation; and

(c) The date and value of a turbidity measurement taken during the month that exceeds one (1) NTU for a system using conventional filtration treatment or direct filtration, or that exceeds the maximum level set by the cabinet under Section 4(2) of this administrative regulation.

(2) A system shall maintain the results of individual filter monitoring taken under Section 5 of this administrative regulation for at least three (3) years. A system shall report that it has conducted individual filter turbidity monitoring under Section 5 of this administrative regulation within ten (10) days after the end of each month the system serves water to the public. A system shall report individual filter turbidity measurement results taken under Section 5 of this administrative regulation within ten (10) days after the end of each month the system serves water to the public only if measurements demonstrate one (1) or more of the conditions in paragraphs (a) to (d) of this subsection. A system that uses lime softening may apply to the cabinet for an alternative exceedance level for the level specified in paragraphs (a) to (d) of this subsection if it demonstrates that a higher turbidity level in an individual filter is due to lime carryover only and is not due to degraded filter performance.

(3) Additional reporting requirements.

(a) If the turbidity exceeds one (1) NTU in representative samples of filtered water in a system using conventional treatment or direct filtration, the system shall notify the cabinet as soon as possible, but no later than the end of the next business day.

(b) If the turbidity in representative samples of filtered water exceeds the maximum level set by the cabinet under Section 4(2) of this administrative regulation for filtration technologies other than conventional filtration treatment, direct filtration, slow sand filtration, or diamonaceous earth filtration, the system shall notify the cabinet as soon as possible, but no later than the end of the next business day.

Section 7. Comprehensive Performance Evaluation. (1) If notified by a system pursuant to Section 6(2)(d) of this administrative regulation, the cabinet or third party approved by the cabinet shall conduct a comprehensive performance evaluation to:

(a) Identify factors that may be adversely impacting a plants capability to achieve compliance; and

(b) Emphasize an approach that a system may be able to implement without significant capital improvements.

(2) The comprehensive performance evaluation shall consist of at least the following:

(a) Assessment of plant performance;

(b) Evaluation of major unit processes;

(c) Identification and prioritization of performance-limiting factors;

(d) Assessment of the applicability of comprehensive technical assistance; and

(e) The final report of the results of the evaluation.

[Section 8. Federal Regulation Adopted Without Change, 40 C.F.R. 141.74, as in effect on July 1, 2000, is adopted without - 3001 -
VOLUME 33, NUMBER 9 – MARCH 1, 2007

Lloyd R. Cress, Deputy Secretary for Teresa J. Hill, Secretary
APPROVED BY AGENCY: February 14, 2007 FILED WITH LRC: February 15, 2007 at noon CONTACT PERSON: Justin Deaner, Regulations Coordinator Division of Water, Department for Environmental Protection, 14 Reilly Road, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David W. Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation establishes requirements for filtration and disinfection for specified public water systems that serve a population of 10,000 people or more and extends treatment technique requirements in lieu of maximum contaminant levels for giardia lamblia, viruses, heterotrophic plate count bacteria, legionella, cryptosporidium, and turbidity. It sets a removal credit for cryptosporidium, lowers filtered water turbidity limits, adds the requirements for disinfection profiling and disinfection benchmarking, and establishes monitoring and reporting criteria for individual filter turbidity. The regulation also establishes a process by which any disinfection changes must be approved by the cabinet to preserve the protection gained by the regulation. The U.S. EP recently promulgated another federal regulation, Subpart T, in January 2002, which applies to systems that serve populations of less than 10,000 people.

(b) The necessity of this administrative regulation: The regulation is necessary so that Kentucky can maintain parity from the U.S. EPA for the implementation and enforcement of the federal regulation for enhanced filtration and disinfection in 40 C.F.R. Part 141, Subpart P (40 C.F.R. 141.170 – 141.175).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation is consistent with the federal regulation.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation improves the regulatory procedures used by the cabinet and supports Kentucky’s comprehensive program for public and semipublic water systems in providing drinking water to citizens of the Commonwealth.

(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 to the regulation establishes requirements for filtration and disinfection for specified public water systems that serve a population of 10,000 people or more and extends treatment technique requirements in lieu of maximum contaminant levels for giardia lamblia, viruses, heterotrophic plate count bacteria, legionella, cryptosporidium, and turbidity. It sets a removal credit for cryptosporidium, lowers filtered water turbidity limits, adds the requirements for disinfection profiling and disinfection benchmarking, and establishes monitoring and reporting criteria for individual filter turbidity.

(b) The necessity of the amendment to this administrative regulation: This amendment incorporates into Kentucky’s regulations the same provisions that were amended by U.S. EPA during the promulgation of Subpart T.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the regulation updates the current regulation to meet the recently promulgated federal regulation, Subpart T, which applies to systems that serve populations of less than 10,000 people.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the regulation will incorporate into Kentucky’s regulations the same provisions that were amended by U.S. EPA during the promulgation of Subpart T.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amendment to the regulation applies to public water systems, community and noncommunity, that use as their source surface water or groundwater under the direct influence of surface water, and that serve a population of 10,000 or more. This amended regulation does not apply to small businesses.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Public Water Systems may have to add or modify their filtration system in order to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is a cost associated with the modification or addition of drinking water filtration systems. These costs are on a case-by-case basis.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public Water Systems meeting the requirements of this amendment would ensure the quality of the water provided to the public and aid in preventing any resulting non-compliance actions.

(5) Provide an estimate of (a) initial costs of implementing the administrative regulations: (a) Initial: None anticipated.

(b) On a continuing basis: None anticipated.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: NA

(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: This administrative regulation amendment will not need increased fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No.

(9) TIERING: Is tiering applied? (Explain why or why not): Tiering is applied simply due to the federal regulation, which addresses only systems serving 10,000 people or more.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. This amendment to the regulation complies with federal requirements provided in 40 C.F.R. 141.170 to 141.175, and U.S.C. Chapter 6 Subchapter XII.

2. State compliance standards, NA

3. Minimum or uniform standards contained in the federal mandate. This amended regulation will be consistent with the federal regulation.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No. The amended regulation will not be more stringent than the corresponding federal regulation.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water systems serving at least 10,000 people will be affected by this amended administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141.74, 141.170 to 141.175, & 42 U.S.C. Chapter 6A Subchapter XII.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
   (c) How much will it cost to administer this program for the first year? No additional cost.
   (d) How much will it cost to administer this program for subsequent years? No additional cost.
   Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None anticipated.
Expenditures (+/-): None anticipated.
Other Explanation: None

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Environmental Protection
Division of Water Quality
(Amended After Comments)

401 KAR 8:250. Inorganic chemical sampling, analytical techniques, and maximum contaminant levels.

RELATES TO: KRS 224.10-100(30). 224.10-110 [Chapter 224], 40 C.F.R. Part 141 [(1986)]
STATUTORY AUTHORITY: KRS 224.10-100(30) [224.10-110], 224.10-110, 40 C.F.R. 141.11. 141.23(a) [141.23], 141.41, 141.52 [(1986), 42 U.S.C. Chapter 6A Subchapter XI [(U.S.C.A.), 3006-1060)]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-110 directs the cabinet to enforce administrative regulations adopted by the secretary for the regulation and control of the purification of water for public and semipublic use. The Safe Drinking Water Act, as amended by the Safe Drinking Water Act Amendments of 1986, provides for primary enforcement responsibility by states that have adopted regulations "no less stringent than the national primary drinking water regulations", as well as meeting other criteria stipulated by the Act. The Commonwealth of Kentucky has accepted and is currently exercising this primary enforcement responsibility. This administrative regulation lists sampling and analytical requirements for certain inorganic chemicals and establishes maximum contaminant levels for these chemicals, which, if exceeded, could affect public health. These administrative regulations conforme to, and is no more stringent than, federal regulations.

Section 1. A community water system [system] and a non-transient, noncommunity water system [system] shall conduct monitoring to determine compliance with the maximum contaminant levels specified in Section 12 of this administrative regulation in accordance with this administrative regulation [see Section 12]. A transient, noncommunity water system [system] shall conduct monitoring to determine compliance with the nitrate and nitrite maximum contaminant levels in Section 12 of this administrative regulation. Monitoring shall be conducted as follows:
(1) A groundwater system [system] shall take a minimum of one (1) sample at every entry point to the distribution system that [which] is representative of each well after treatment, [thereafter] called a sampling point, [i] beginning in the initial compliance period [starting January 1, 1993]. The system shall take each sample at the same sampling point unless conditions make another sampling point more representative of each source or treatment plant.
(2) A surface water system, including a system [system, including a system] using a combination of surface and groundwater, shall take a minimum of one (1) sample at every entry point to the distribution system after any application of treatment or in the distribution system at a point that [which] is representative of each source after treatment, [thereafter] called a sampling point, [i] be-

<table>
<thead>
<tr>
<th>DETECTION LIMITS FOR INORGANIC CONTAMINANTS</th>
<th>Contaminant</th>
<th>MCL (mg/l)</th>
<th>Methodology</th>
<th>Detection Limit (mg/l)</th>
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<tr>
<td>Ammonia</td>
<td>0.006</td>
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<td></td>
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<td>Transmission Electron Microscopy</td>
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<td></td>
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<td></td>
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<table>
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<td>Technique</td>
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<tr>
<td></td>
<td>Atomic Absorption; Platform</td>
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<td>hydride</td>
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<td>Atomic Absorption; Platform</td>
<td></td>
</tr>
<tr>
<td></td>
<td>ICP-Mass Spectrometry</td>
<td>0.0003</td>
</tr>
</tbody>
</table>

*MFL = million fibers per liter greater than ten (10) \( \mu \)m.

*Using a 2X preconcentration step as noted in EPA Method 200.7. Lower MDLs may be achieved when using a 4X preconcentration.

*Screening method for total cyanides.

*Includes free* cyanides.

*Lower MDLs are reported using stabilized temperature graphite furnace atomic absorption.

The MDL reported for EPA Method 200.9, Atomic Absorption: Platform-Stabilized Temperature, was determined using a 2X concentration step during sample digestion. The MDL determined for samples analyzed using direct analyses, or no sample digestion, will be higher. Using multiple depositions, EPA Method 200.9 is capable of obtaining MDL of 0.0001 mg/l.

Using selective ion monitoring, EPA Method 200.8, ICP-Mass Spectrometry, is capable of obtaining a MDL of 0.0001 mg/L.

(b) If the population served by the system is greater than 3,000 persons, then composting may occur only [be permitted] at sampling points within a single system. In a system that serves [system serving] less than or equal to 3,300 persons, the cabinet may permit composting among different systems if the five (5) sample limit is maintained.

(c) If duplicates of the original sample taken from each sampling point used in the composite are available, the system may use these instead of resampling. The duplicates shall be analyzed by a certified laboratory [laboratories] and the results reported to the cabinet within fourteen (14) days after completing analysis of the composite sample. If the holding time is not exceeded [of col-

(5)(a) The frequency of monitoring for asbestos shall be in accordance with Section 2 of this administrative regulation;

(b) The frequency of monitoring for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium shall be in accordance with Section 3 of this administrative regulation;

(c) The frequency of monitoring for nitrates shall be in accordance with Section 4 of this administrative regulation; and

(d) The frequency of monitoring for nitrite shall be in accordance with Section 5 of this administrative regulation.

Section 2. Asbestos. The frequency of monitoring conducted to determine compliance with the maximum contaminant level for asbestos specified in Section 12 of this administrative regulation shall be as follows:

(1) Each community and nontransient, noncommunity water system shall monitor for asbestos during the first three (3) year compliance period of each nine (9) year compliance cycle beginning in the initial compliance period (starting Jan. 1, 1993).

(2) If the system believes it is not vulnerable to either asbestos contamination in its source water or due to corrosion of asbestos-cement pipe, or both, then may apply to the cabinet for a waiver of the monitoring requirement in subsection (1) of this section. If the cabinet grants the waiver, the system is not required to monitor for asbestos pursuant to subsection (1) of this section.

(3) The cabinet may grant a waiver of the monitoring requirement in subsection (1) of this section based on a consideration of the following factors:

(a) Potential asbestos contamination of the water source; and

(b) The use of asbestos-cement pipe for finished water distribution and the corrosive nature of the water.

(4) A waiver shall remain [remain] in effect until the completion of the three (3) year compliance period. Any waiver shall be requested and received for each compliance period. A system [system systems] not receiving a waiver shall monitor in accordance with the provisions of subsection (1) of this section.

(5) A system vulnerable to asbestos contamination solely due to corrosion of asbestos-cement pipe shall take one (1) sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(6) A system vulnerable to asbestos contamination solely due to source water shall monitor in accordance with the provision of Section 1 of this administrative regulation.

(7) A system vulnerable to asbestos contamination due both to its source water supply and corrosion of asbestos-cement pipe shall take one (1) sample at a tap served by asbestos-cement pipe and under conditions where asbestos contamination is most likely to occur.

(8) A system that [which] exceeds the maximum contaminant levels specified in Section 12 of this administrative regulation, as determined in Section 9 of this administrative regulation, shall monitor quarterly beginning in the next quarter after the violation occurred.

(9) The cabinet may decrease the quarterly monitoring requirement to the frequency specified in subsection (1) of this section if the cabinet has determined that the system is reliably and consistently below the maximum contaminant level. This determination by the cabinet shall not be made unless a groundwater system takes a minimum of two (2) quarterly samples and a surface water system takes a minimum of four (4) quarterly samples.

(10) If monitoring data collected after January 1, 1990 are generally consistent with the requirements of this section, then the cabinet may allow systems to use that data to satisfy the monitoring requirement for the initial compliance period that began [beginning] January 1, 1993.

Section 3 Inorganic Contaminants other than Asbestos, Nitrate, and Nitrite. The frequency of monitoring conducted to determine compliance with the maximum contaminant levels in Section 12 [4] of this administrative regulation for antimony, arsenic, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, and thallium shall be as follows: Groundwater
systems shall take one (1) sample at each sampling point once every three (3) years. Surface water systems, [or combined surface and ground, [J] shall take one (1) sample annually at each sampling point.

(1) A groundwater system [system] shall take one (1) sample at each sampling point during each compliance period [beginning in the compliance period beginning January 1, 1993]. A surface water system [system], or combined surface and groundwater system [system], shall take one (1) sample annually at each sampling point [beginning January 1, 1993].

(2) The system may apply to the cabinet for a waiver from the monitoring frequencies specified in subsection (1) of this section. The cabinet may grant a waiver for cyanide [may-be-granted] if the cabinet determines that the system is not vulnerable due to lack of any industrial source of cyanide.

(3) A public water system [system] shall take a minimum of one (1) sample while a waiver granted under subsection (2) of this section is effective. A waiver shall not be effective for more than one (1) compliance cycle (i.e., nine (9) years).

(4) A waiver may be granted if surface water systems have monitored annually for at least three (3) years and groundwater systems have conducted a minimum of three (3) rounds of monitoring. A system that uses a new water source shall not be [At least one (1) sample shall have been taken since January 1, 1990]. Both surface and groundwater systems shall demonstrate that all previous analytical results were less than the maximum contaminant level. Systems that use a new water source are not eligible for a waiver until three (3) rounds of monitoring from the new source have been completed.

(5) In determining the appropriate reduced monitoring frequency, the cabinet shall consider:
(a) Reported concentrations from all previous monitoring;
(b) The degree of variation in reported concentrations; and
(c) Other factors that [which] may affect contaminant concentrations such as:
1. Changes in groundwater pumping rates;
2. Changes in the system's configuration;
3. Changes in the system's operating procedures; [or]
4. Changes in stream flows or characteristics.

(6) A decision by the cabinet to grant a waiver shall be made in writing and shall set forth the basis for the determination. The determination may be initiated by the cabinet or upon an application by the public water system. The public water system shall specify the basis for its request. The cabinet shall review and, if appropriate, revise its determination of the appropriate monitoring frequency when the system submits new monitoring data or when other data relevant to the system’s appropriate monitoring frequency become available.

(7) A system that exceeds [Systems which exceed] the maximum contaminant levels as calculated in Section 9 of this administrative regulation shall monitor quarterly beginning in the next quarter after the violation occurred.

(8) The cabinet may decrease the quarterly monitoring requirement to the frequencies specified in subsections (1) and (2) of this section if it has determined that the system is reliably and consistently below the maximum contaminant level. This determination may only be made when a groundwater system takes a minimum of two (2) quarterly samples and a surface water system takes a minimum of four (4) quarterly samples.

(9) A new system or a system that uses a new source of water that began operation after the effective date of this administrative regulation shall demonstrate compliance with the maximum contaminant level within a period of time specified by the cabinet.

(10) The system shall also comply with the initial sampling frequencies specified by the cabinet to ensure that a system is able to demonstrate compliance with the maximum contaminant levels.

(11) Routine and increased monitoring frequencies shall be conducted in accordance with the requirements of this administrative regulation.

Section 4. Nitrates. A public water system, either community, nontransient noncommunity or transient noncommunity system, [All public water systems (community: nontransient, noncommunity; and transient, noncommunity systems)] shall monitor to determine compliance with the maximum contaminant level for nitrates in Section 12 of this administrative regulation.

(1) [An] A community or nontransient noncommunity water system served by a groundwater source shall monitor annually, and
(2) A community or nontransient noncommunity water system served by a surface water source shall monitor quarterly [and nontransient noncommunity water systems served by groundwater systems shall monitor annually beginning January 1, 1993, systems served by surface water shall monitor quarterly beginning January 1, 1993].

(2) For a community or [and nontransient:] noncommunity water system [system], the repeat monitoring frequency for groundwater systems shall be quarterly for at least one (1) year following any one (1) sample in which the concentration is greater than or equal to fifty (50) percent of the maximum contaminant level. The cabinet may allow a groundwater system to reduce the sampling frequency to annually after four (4) consecutive quarterly samples are reliably and consistently less than the maximum contaminant level.

(3) For a community or [and nontransient:] noncommunity water system [system], the cabinet may allow a surface water system to reduce the sampling frequency to annually if all analytical results from four (4) consecutive quarters are less than fifty (50) percent of the maximum contaminant level. A surface water system shall return to quarterly monitoring if any one (1) sample is greater than or equal to fifty (50) percent of the maximum contaminant level (MCL).

(4) Each transient noncommunity water system shall monitor annually [beginning January 1, 1993].

(5) After the initial round of quarterly sampling is completed, each community and nontransient noncommunity system that [which] is monitoring annually shall take subsequent samples during the quarters that [which] previously resulted in the highest analytical result.

(6) Noncommunity water systems may exceed the maximum contaminant level for nitrates if the conditions of Section 17 of this administrative regulation are met.

Section 5. Nitrites. A [All] public water system [system] (community, [nontransient,] noncommunity, or [and] transient noncommunity system) is monitored annually, and nontransient noncommunity system [system] shall monitor to determine compliance with the maximum contaminant level for nitrites in Section 12 of this administrative regulation.

(1) [All] public water system shall have taken [systems shall take] one (1) sample at each sampling point in the compliance period [beginning January 1, 1993 and ending December 31, 1996].

(2) After the initial sample, systems where an analytical result for nitrites is less than fifty (50) percent of the MCL shall monitor at the frequency specified by the cabinet.

(3) For a community, nontransient noncommunity, or [and] transient noncommunity water system [system], the repeat monitoring frequency for a water system shall be quarterly for at least one (1) year following any one (1) sample in which the concentration is greater than or equal to fifty (50) percent of the maximum contaminant level. The cabinet may allow a system to reduce the sampling frequency to annually after determining the system is reliably and consistently less than the maximum contaminant level.

(4) A system that is [Systems which are] monitoring annually shall take each subsequent sample during the quarters that [which] previously resulted in the highest analytical result.

Section 6. Confirmation Sampling. (1) If the results of sampling for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, or thallium indicate an exceedance of the maximum contaminant level, the cabinet may require that one (1) additional sample be collected within two (2) weeks after the initial sample was taken at the same sampling point.

(2) If nitrate or nitrite sampling results indicate an exceedance of the maximum contaminant level, the system shall take a confirmation sample within twenty-four (24) hours of the system's receipt of notification of the analytical results of the first sample. A public
water system [systems] unable to comply with the twenty-four (24) hour sampling requirement shall immediately notify the consumers served by the area served by the public water system in accordance with the requirements for a Tier 1 notice in 401 KAR 8.070. A system [Systems] exercising this option shall take and analyze a confirmation sample within two (2) weeks of notification of the analytical results of the first sample.

(3) If a confirmation sample is taken for any contaminant, then the results of the initial and confirmation sample shall be averaged. The resulting average shall be used to determine the system's compliance in accordance with Section 9 of this administrative regulation. The cabinet may delete results of obvious sampling errors.

Section 7. The cabinet may require more frequent monitoring than specified in Sections 2 to 5 of this administrative regulation or may require confirmation samples for positive and negative results, if necessary to ensure the protection of public health.

Section 8. Public water systems may apply to the cabinet to conduct more frequent monitoring than the minimum monitoring frequencies specified in this administrative regulation.

Section 9. Compliance Determinations. Compliance with Section 12 of this administrative regulation shall be determined based on the analytical result obtained at each sampling point.

(1) For a system that is [systems which are] conducting monitoring at a frequency greater than annual, compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, or thallium shall be determined by a running annual average at any sampling point. If the average at any sampling point is greater than the maximum contaminant level, the system shall be deemed to be out of compliance. Any sample above the method detection limit shall be calculated at zero for the purpose of determining the annual average. If a system fails to collect the required number of samples, compliance or the average concentration shall be based on the total number of samples collected.

(2) For a system that is [systems which are] monitoring annually, or less frequently, the system shall be deemed to be out of compliance with the maximum contaminant levels for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, selenium, or thallium if the level of a contaminant at any sampling point is greater than the maximum contaminant level. If a confirmation sample is collected by the cabinet, the determination of compliance shall [will] be based on the average of the two (2) samples. If a system fails to collect the required number of samples, compliance or the average concentration shall be based on the total number of samples collected.

(3) Compliance with the maximum contaminant levels for nitrate and nitrite shall be determined based on one (1) sample if the levels of these contaminants are [are] below the maximum contaminant levels. If the levels of nitrate or nitrite exceed the maximum contaminant levels in the initial sample, the system shall take and submit a confirmation sample [is required] in accordance with Section 6(2) of this administrative regulation, and compliance shall be determined based on the average of the initial and confirmation samples.

(4) Arsenic sampling results shall be reported to the nearest 0.001 mg/L.

(5) If a public water system has a distribution system separate from other parts of the distribution system with no interconnections, the cabinet may allow the system to give public notice to only the area served by that portion of the system that [which] is out of compliance.

Section 10. Each public water system shall monitor at the times [time] designated by the cabinet during each compliance period, as specified in writing to the public water system.

Section 11. Inorganic Analysis. Analytical methods for inorganic chemicals. Analyses for antimony, arsenic, asbestos, barium, beryllium, cadmium, chromium, cyanide, fluoride, mercury, nickel, nitrate, nitrite, selenium, sodium, and thallium shall be conducted in accordance with 40 C.F.R. 141.23(k), January 25, 2003 [in-effect on July 1, 1996, hereby adopted without change].

Section 12. Maximum Contaminant Levels. The maximum contaminant levels for inorganic contaminants specified in subsections (2) to (6) and (10) to (16) of this section shall apply to community water systems and nontransient noncommunity water systems. The maximum contaminant level specified in subsections (1) and (9) of this section shall apply only to community water systems. The maximum contaminant levels specified in subsections (7), (8), and (9) of this section shall apply to community water systems, [nontransient noncommunity water systems, [and]] transient noncommunity water systems. The MCLG for each of the inorganic contaminants specified in subsections (1) to (16) are listed in 40 C.F.R. 141.51(b), January 23, 2001.

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<thead>
<tr>
<th>CONTAMINANT</th>
<th>MAXIMUM CONTAMINANT LEVEL (mg/L)</th>
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</thead>
<tbody>
<tr>
<td>(1) Fluoride</td>
<td>4.0</td>
</tr>
<tr>
<td>(2) Asbestos</td>
<td>7 Million Fibers/liter (longer than 10 micrometers)</td>
</tr>
<tr>
<td>(3) Barium</td>
<td>2</td>
</tr>
<tr>
<td>(4) Cadmium</td>
<td>0.006</td>
</tr>
<tr>
<td>(5) Chromium</td>
<td>0.1</td>
</tr>
<tr>
<td>(6) Mercury</td>
<td>0.002</td>
</tr>
<tr>
<td>(7) Nitrate</td>
<td>10 (as Nitrogen)</td>
</tr>
<tr>
<td>(8) Niobium</td>
<td>0.004</td>
</tr>
<tr>
<td>(9) Total Nitrate and Nitrite</td>
<td>10 (as Nitrogen)</td>
</tr>
<tr>
<td>(10) Selenium</td>
<td>0.05</td>
</tr>
<tr>
<td>(11) Antimony</td>
<td>0.006</td>
</tr>
<tr>
<td>(12) Beryllium</td>
<td>0.004</td>
</tr>
<tr>
<td>(13) Cyanide, (gas free Cyandetil)</td>
<td>0.2</td>
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<tr>
<td>(14) Nickel</td>
<td>EPA removed, MCL February 9, 1995 [0-4]</td>
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<tr>
<td>(15) Thallium</td>
<td>0.002</td>
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<tr>
<td>(16) Arsenic</td>
<td>0.05, until January 23, 2006, 0.010, on or after January 23, 2006</td>
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</table>

Section 13. Best Available Technology. The following shall be [are hereby] identified as the best technology, treatment technique, or other means available for achieving compliance with the maximum contaminant levels for inorganic contaminants identified in Section 12 of this administrative regulation, except fluoride:

BAY FOR INORGANIC COMPOUNDS

<table>
<thead>
<tr>
<th>CHEMICAL NAME</th>
<th>BAT</th>
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<td>Arsenic</td>
<td>1.2, 5, 6, 7, 9, 12</td>
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<tr>
<td>Asbestos</td>
<td>2.8</td>
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<tr>
<td>Barium</td>
<td>5.6, 7</td>
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<td>Beryllium</td>
<td>1.2, 5, 6, 7</td>
</tr>
<tr>
<td>Cadmium</td>
<td>2.5, 6, 7</td>
</tr>
<tr>
<td>Chromium</td>
<td>2.5, 6, 7</td>
</tr>
<tr>
<td>Cyanide</td>
<td>5.7, 10</td>
</tr>
<tr>
<td>Mercury</td>
<td>2.4, 6, 7</td>
</tr>
<tr>
<td>Nickel</td>
<td>5.6, 7</td>
</tr>
<tr>
<td>Nitrate</td>
<td>5.7</td>
</tr>
<tr>
<td>Nitrite</td>
<td>5.7</td>
</tr>
<tr>
<td>Selenium</td>
<td>1.2, 6, 7, 9</td>
</tr>
<tr>
<td>Thallium</td>
<td>1.5</td>
</tr>
</tbody>
</table>

*BAT only if influent Hg concentrations are less than or equal to 10 μg/L.
*BAT for Chromium III only.
*BAT for Selenium IV only.
*BAT for Arsenic V, Preoxidation may be required to convert Arsenic III to Arsenic V.
To obtain high removals, iron to arsenic ratio shall be at least 20:1.
Section 14. Affordable Technology. The following table identifies the affordable technology, treatment techniques, or other means available to systems serving ten thousand (10,000) or fewer persons for achieving compliance with the maximum contaminant level for arsenic in Section 12 of this administrative regulation:

<table>
<thead>
<tr>
<th>Small System Compliance Technologies for Arsenic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Small system compliance technology</td>
</tr>
<tr>
<td>Activated Alumina, centralized</td>
</tr>
<tr>
<td>Activated Alumina, point-of-use &amp;</td>
</tr>
<tr>
<td>Coagulation, Filtration</td>
</tr>
<tr>
<td>Coagulation-assisted Microfiltration</td>
</tr>
<tr>
<td>Electrolysis reversal</td>
</tr>
<tr>
<td>Enhanced coagulation, filtration</td>
</tr>
<tr>
<td>Enhanced lime softening,</td>
</tr>
<tr>
<td>pH+10.5</td>
</tr>
<tr>
<td>Ion Exchange</td>
</tr>
<tr>
<td>Lime Softening</td>
</tr>
<tr>
<td>Coagulation, Filtration</td>
</tr>
<tr>
<td>Reverse Osmosis, centralized</td>
</tr>
<tr>
<td>Reverse Osmosis, point-of-use</td>
</tr>
</tbody>
</table>

1. Small system compliance technologies shall be affordable and technically feasible for small systems.

2. Small system compliance technologies for Arsenic V Preoxidation may be required to convert Arsenic III to Arsenic V.

3. Three (3) categories of small systems: those serving more than twenty-five (25) but fewer than 501; those serving more than 501 but fewer than 3,301; and those serving more than 3,300 but fewer than 10,001.

4. If point of use or point of entry devices are used for compliance, the programs to ensure proper long-term operation, maintenance, and monitoring shall be provided by the system to ensure adequate performance.

5. Unlikely to be installed solely for arsenic removal. May require pH adjustment to optimal range if high removals are needed.

6. Technologies reject a large volume of water. May not be appropriate for areas where water quantity may be an issue.

7. To obtain high removals, iron to arsenic ratio shall be at least 1:1.

Section 15. Special Monitoring for Sodium. (1) Those required to sample. Suppliers of water for community public water systems shall collect and analyze one (1) sample per plant at the entry point of the distribution system for the determination of sodium concentration levels.

(2) Sampling frequency.

(a) Community water systems, surface source. A system that uses [Systeme-utilizing] surface water sources in whole or in part shall collect and analyze samples semiannually. Samples shall be collected one (1) time during the wet season and one (1) time during the dry season per calendar year.

(b) Community water systems, groundwater sources. A system that uses [Systeme-utilizing] only groundwater sources shall collect and analyze samples annually.

(c) Samples required. The minimum number of samples required to be taken by the system shall be based upon the number of treatment plants used by the system, except the cabinet may consider multiple wells drawing raw water from a single aquifer to be one (1) treatment plant for the purpose of determining the minimum number of samples. The supplier of water may be required to collect and analyze water samples for sodium more frequently in locations where the sodium content is variable.

(d) Analyses for sodium shall be in accordance with methods approved by the U.S. Environmental Protection Agency in 40 C.F.R. 141.23(k), January 26, 2003 [in effect on July 4, 1996, hereby adopted without change].

(3) Reporting. The supplier of water shall report to the cabinet the results of the analyses for sodium within ten (10) days of the end of the month in which the sample results were received or within ten (10) days following the end of the required monitoring period, as determined by the cabinet, whichever of these is first. If more than annual sampling is required the supplier shall report the average sodium concentration within ten (10) days of the end of the month in which the analytical results of the last sample used for the annual average was received.

(4) Acceptable sodium limits. A level of twenty (20) mg/L of sodium shall be considered an optimum concentration for drinking water. The supplier of water shall notify appropriate local and state public health officials of the sodium levels, by written notice by direct mail, within three (3) months of testing. A copy of each notice required to be provided by this subsection shall be sent to EPA and the cabinet within ten (10) days of its issuance. [The supplier of water shall not be required to notify appropriate local and state public health officials of the sodium levels where the state provides the notice in lieu of the supplier.]

(5) Public notification. The provisions of 401 KAR 8 070 shall [be] not apply to sodium levels unless the water supplier chooses [opts] to notify the public.

Section 16. [46] Variances and Exemptions for Fluoride. In addition to the requirements for requesting a variance or exemption provided in 401 KAR 8 060, the following provisions shall be [are] applicable if a variance or exemption from the maximum contaminant level for fluoride is requested:

1. Best available technology. The following are the best available technology, treatment techniques or other means generally available for achieving compliance with the maximum contaminant level for fluoride:

(a) Activated alumina absorption, centrally applied; and
(b) Reverse osmosis, centrally applied.

2. Public water systems shall apply the best available technology, treatment techniques, or other means generally available to the water system and specified in subsection (1)(a) or (b) of this section, prior to the cabinet’s consideration of a variance request for fluoride, unless:

(a) Pursuant to 401 KAR 8 060, the public water system submits to the cabinet information, based upon studies of the public water system and other relevant information, that demonstrates that the technology, treatment technique or other available means identified in subsection (1) of this section is not available and effective for the public water system; and

(b) The cabinet determines, based upon the information submitted that the best available technology, treatment technique or other means generally available is not available and effective for the system.

(3) Prior to granting a variance, the cabinet shall issue a compliance schedule that [which] requires the public water system to examine the following treatment techniques to determine the probability that any of these methods will significantly reduce the level of fluoride for that system, and, if so, to determine if those methods are technically feasible and economically reasonable, and to determine if the fluoride reductions obtained are commensurate with the costs incurred with the installation and use of the treatment methods for that system:

(a) Modification of lime softening;
(b) Alum coagulation;
(c) Electrolysis;
(d) Ion exchange resins;
(e) Well field management;
(f) Alternate source; and
(g) Regionalization.

(4) If the cabinet determines that a treatment technique identi-
(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the regulation is consistent with the federal regulations.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide necessary updates to the current regulation and allow Kentucky to maintain primacy for the implementation and enforcement on the federal regulations.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Every community and nontransient noncommunity water system is subject to the standards for inorganic chemicals. The provisions relating to nitrates and nitrates apply also to transient noncommunity water systems.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Public water systems are required to meet the treatment standards identified in the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). There may be an initial cost associated with the modification of public water treatment systems.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public Water Systems meeting the requirements of this amendment would be ensuring the quality of the water provided to the public and avoid any resulting noncompliance actions.

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

(a) Initially: None anticipated.

(b) On a continuing basis: None anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No additional funding necessary.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees. No new fees established, either directly or indirectly.

(9) TIERING: Is tiering applied? Yes, due to the federal definitions of various sized public water systems and how the regulation applies to each, it is necessary to address various size systems differently.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. This amendment to the regulation complies with federal requirements provided in 40 C.F.R. 141.11, 141.23, 141.41, 141.62, and U.S.C. 300f, 300g, 300h, 300i.

2. State compliance standards. N/A

3. Minimum or uniform standards contained in the federal mandate. This amendment to the regulation is consistent with the federal regulations.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water...
systems must meet the requirements of this amended administrative regulation.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(30), 224.10-110, 40 C.F.R. 141.11, 141.22(k), 141.41, 141.62, & 42 U.S.C. Chapter 6A Subchapter XII.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
(c) How much will it cost to administer this program for the first year? No cost.
(d) How much will it cost to administer this program for subsequent years? No cost.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): None anticipated.
Expenditures (+/-): None anticipated.
Other Explanation: None

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Environmental Protection
Division of Water
(Amended After Comments)

RELATES TO: KRS 224.10-100, 224.10-110, 40 C.F.R. [141.140-141.144], 142.60
STATUTORY AUTHORITY: KRS 224.10-100(30), 224.10-110, 40 C.F.R. [141.20], 141.30, 141.64, 141.65, 141.130-141.135, 141.140-141.144, [141.140-141.144] 42 U.S.C. Chapter 6A Subchapter XII [300g-300h-306]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(30) and 224.10-110 require the cabinet to enforce administrative regulations adopted by the secretary for the regulation and control of the purification of water for public and semipublic use. The administrative regulation establishes the maximum contaminant levels for total trihalomethanes and haloacetic acid five (5) to limit the levels of known and unknown disinfection by-products.

Section 1. Applicability. (1) This administrative regulation shall be considered a national primary drinking water regulation.
(2) This administrative regulation establishes criteria under which:
(a) A community water system or [and] a nontransient noncommunity water system that adds [adds] a chemical disinfectant as a part of the drinking water treatment process shall:
1. Modify its [their] practices to meet maximum contaminant levels, or MCLs, and maximum residual disinfectant levels, or MRDLs, in Section 3 of this administrative regulation; and
2. Meet the treatment technique requirements for disinfection by-product precursors in Section 9 of this administrative regulation; and
(b) A transient noncommunity water system that uses chlorine dioxide as a disinfectant or oxidant shall modify its practices to meet the MRDL for chlorine dioxide in Section 3 of this administrative regulation.
(3) This administrative regulation establishes MCLs for TTHM and HAAS and treatment technique requirements for disinfection by-product precursors to limit the levels of known and unknown disinfection by-products, which may have adverse health effects.
(4) Control of disinfectant residuals. The cabinet recognizes that the addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs in Section 3 of this administrative regulation, a system may increase the residual disinfectant level in the distribution system of chlorine or chloramines, but not chlorine dioxide, to a level and for the amount of time necessary to protect public health, to address a specific microbiological contamination problem caused by circumstances such as:
(a) A distribution line break;
(b) Storm run-off event;
(c) Source water contamination event; or
(d) Cross-connection event.

Section 2. Compliance Dates. (1) Community water system and nontransient noncommunity water system. Unless otherwise noted, a community water system or [and] a nontransient noncommunity water system that uses as its source a surface water or groundwater under the direct influence of surface water shall comply with this administrative regulation [by the date indicated as follows]:

(a) If the system serves 10,000 or more persons—Beginning January 1, 2002;
(b) If the system serves fewer than 10,000 persons or if the system uses only groundwater not under the direct influence of surface water—Beginning January 1, 2004.
(2) Transient noncommunity water system. [Unless otherwise noted,] A transient noncommunity water system that uses as its source surface water or groundwater under the direct influence of surface water shall comply with this administrative regulation by the date indicated as follows:

(a) If the system serves 10,000 or more persons and uses chlorite dioxide as a disinfectant or oxidant, the system shall comply with the requirement for chlorine dioxide in this administrative regulation [beginning January 1, 2002; and
(b) If the system serves fewer than 10,000 persons and uses chlorite dioxide as a disinfectant or oxidant, the system shall comply with the requirement for chlorine dioxide in this administrative regulation beginning January 1, 2004.
(3) A system that is installing GAC or membrane technology to comply with the MCLs for disinfection by-products may apply to the cabinet for an extension of up to twenty-four (24) months past the dates in subsection (1) and (2) of this section, but not beyond December 31, 2003. In granting the extension, the cabinet shall set a schedule for compliance and may specify any interim measure that the system shall take. Failure to meet the schedule or interim treatment requirements shall constitute a violation of this administrative regulation.
(4) Consecutive systems. Consecutive water systems shall monitor for trihalomethanes and HAAS as follows:
(a) For purposes of determining the applicability and compliance dates, the sum of the populations of the system producing the water and the system purchasing the water shall be used.
(b) Producers.
1. A public water system that produces water and that provides water to another system shall be responsible for monitoring throughout the joint distribution system, which shall consist of the distribution systems of both the producing system and all purchasing systems. Monitoring shall be performed pursuant to this administrative regulation at a point in the joint distribution system that reflects the longest period of retention.
2. If more than one (1) system produces water sold to a distribution system, monitoring shall be divided between or among the producing systems by a plan that reflects the likely flow of each producing system's water. A monitoring plan for total trihalomethanes and HAAS shall be submitted by all producing systems and shall be approved by the cabinet pursuant to Section 6(6) of this administrative regulation.
(c) Purchasers.
1. A system that purchases water shall alter distribution operation and maintenance practices necessary to alleviate any potential exceedance of the MCL for TTHM or HAAS anywhere in its distribution system. The altered practices may include line flushing and replacement, changes to points of disinfection, elimination of points...
of disinfection, tank turnover practices, or other changes to facilitate reductions in levels of contamination, and shall be approved by the cabinet before the altered practices begin.

2. A purchasing system shall cooperate in the development of a monitoring plan required from the producing system under paragraph (b) of this subsection. A purchasing system shall monitor for maximum residual disinfectant levels at the same points in the distribution system and at the same time as total coliforms are sampled as specified in 401 KAR 8 200.

Section 3. Maximum Levels. (1) Maximum contaminant level. The maximum contaminant level or MCL for disinfection by-products shall be:
(a) Total trihalomethanes, or TTHMs: 0.080 mg/L;
(b) Haloacetic acids five, or HAA5: 0.060 mg/L;
(c) Bromate: 0.010 mg/L; and
(d) Chlorite: one and zero-tenths (1.0) mg/L.
(2) Maximum residual disinfectant level.
(a) The maximum residual disinfectant level, or MRDL, shall be:
1. Chlorine: four and zero-tenths (4.0) mg/L as Cl2;
2. Chloramines: four and zero-tenths (4.0) mg/L as Cl2; and
3. Chlorine dioxide: zero and eight-tenths (0.8) mg/L as ClO2.
(b) For chlorine and chloramines, a public water system shall be in compliance with the MRDL if the running annual average of monthly averages of samples taken in the distribution system computed quarterly is less than or equal to the MRDL.
(c) For chlorine dioxide, a public water system shall be in compliance with the MRDL if daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL.

The MRDL shall be enforceable in the manner as are maximum contaminant levels.

Section 4. Best Available Technology. (1) Disinfection by-products. The following shall be the best technology, treatment techniques, or other means available for achieving compliance with the MCLs for disinfection by-products in Section 3 of this administrative regulation:
(a) TTHM: Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant;
(b) HAA5: Enhanced coagulation or enhanced softening or GAC10, with chlorine as the primary and residual disinfectant;
(c) Bromate: Control of ozone treatment process to reduce production of bromate; and
(d) Chlorite: Control of treatment processes to reduce disinfectant demand and control of disinfection treatment processes to reduce disinfectant levels.
(2) Disinfectant residuals. The best technology, treatment techniques, or other means available for achieving compliance with the MRDL in Section 3 of this administrative regulation shall be:
(a) Control of treatment processes to reduce disinfectant demand; and
(b) Control of disinfection treatment processes to reduce disinfectant levels.

Section 5. Analytical Requirements. (1) Except as provided in this section, a system shall sample and analyze according to the procedures in 40 C.F.R. 141.131 (Jan 16, 2001), adopted without change in Section 10 of this administrative regulation.
(2) A party approved by the laboratory that has been certified by the U.S. Environmental Protection Agency or the cabinet according to 401 KAR 8 300.
(3) A party approved by the U.S. Environmental Protection Agency or the cabinet shall measure daily chlorite samples at the entrance to the distribution system.
(4) A public water system may measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide by using a N.N.-diethyl-p-phenylenediamine (DPD) colorimetric test kit.
(5) Residual disinfectant concentrations, alkalinity, and total organic carbon (TOC), specific ultraviolet absorbance (including dissolved organic carbon and UV-254) and pH shall be measured by an operator certified pursuant to 401 KAR 8 030, or a person under the direct supervision of a certified operator, or a certified laboratory pursuant to 401 KAR 8 040.

Section 6. Monitoring Requirements. (1) General requirements. (a) A system shall take all samples during normal operating conditions.
(b) A system may consider multiple wells drawing water from a single aquifer as one (1) treatment plant for determining the minimum number of TTHM and HAA5 samples required, as approved by the cabinet.
(c) Failure to monitor in accordance with the monitoring plan required in subsection (6) of this section shall be a monitoring violation.
(d) Failure to monitor shall be [treated as] a violation for the entire period covered by the annual average, if compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with an MCL or MRDL.
(e) To qualify for reduced monitoring, a system shall use only data collected under the provisions of this administrative regulation or 40 C.F.R. 141.140 to 141.144.

(2) Monitoring requirements for disinfection by-products.
(a) TTHMs and HAA5.
1. Routine monitoring. A system shall monitor at the frequency and locations indicated in the following table:

<table>
<thead>
<tr>
<th>Routine Monitoring Frequency for TTHMs and HAA5</th>
<th>System Type</th>
<th>Minimum monitoring frequency</th>
<th>Sample location in the distribution system</th>
</tr>
</thead>
<tbody>
<tr>
<td>A system that uses as its source surface water or groundwater under the direct influence of surface water and that serves at least 10,000 persons</td>
<td>Four (4) water samples per quarter per treatment plant.</td>
<td>At least twenty-five (25) percent of all samples collected each quarter at locations representing maximum residence time. Remaining samples shall be taken at locations representative of at least average residence time in the distribution system and representing the entire distribution system, taking into account the number of persons served, different sources of water, and different treatment methods.</td>
<td></td>
</tr>
<tr>
<td>A system that uses as its source surface water or groundwater under the direct influence of surface water and that serves from 500 to 9,999 persons</td>
<td>One (1) water sample per quarter per treatment plant.</td>
<td>Locations representing maximum residence time.</td>
<td></td>
</tr>
<tr>
<td>A system that uses as its source surface water or groundwater under the direct influence of surface water and that serves fewer than 500 persons</td>
<td>One (1) sample per year per treatment plant during month of warmest water temperature.</td>
<td>Locations representing maximum residence time. If the sample, or average of annual samples if more than one (1) sample is taken, exceeds the MCL, system shall increase monitoring to one (1) sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until system meets reduced monitoring criteria in subparagraph 4 of this paragraph.</td>
<td></td>
</tr>
</tbody>
</table>
System using only groundwater not under direct influence of surface water, using chemical disinfectant, and serving at least 10,000 persons.

<table>
<thead>
<tr>
<th>One (1) water sample per quarter per treatment plant.</th>
<th>Location representing maximum residence time.</th>
</tr>
</thead>
</table>

System using only groundwater not under direct influence of surface water, using chemical disinfectant, and serving fewer than 10,000 persons.

<table>
<thead>
<tr>
<th>One (1) sample per year per treatment plant during month of warmest water temperature.</th>
<th>Locations representing maximum residence time. If the sample, or average of annual samples, if more than one (1) sample is taken, exceeds the MCL, system shall increase monitoring to one (1) sample per treatment plant per quarter, taken at a point reflecting the maximum residence time in the distribution system, until the system meets criteria in subparagraph 4 of this paragraph for reduced monitoring.</th>
</tr>
</thead>
</table>

If a system elects to sample more frequently than the minimum required, at least twenty-five (25) percent of all samples collected each quarter, including those taken in excess of the required frequency, shall be taken at locations that represent the maximum residence time in the distribution system. The remaining samples shall be taken at locations representative of at least average residence time in the distribution system.

Multiple wells drawing water from a single aquifer may be considered one (1) treatment plant for determining the minimum number of samples required.

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2. A system may reduce monitoring, except as otherwise provided, in accordance with the following table:

<table>
<thead>
<tr>
<th>Reduced Monitoring Frequency for TTHM and HAAS</th>
</tr>
</thead>
<tbody>
<tr>
<td>If the system type is:</td>
</tr>
<tr>
<td>TTHM annual average ≤ 0.040 mg/L and HAAS annual average ≤ 0.030 mg/L</td>
</tr>
<tr>
<td>TTHM annual average ≤ 0.040 mg/L and HAAS annual average ≤ 0.030 mg/L</td>
</tr>
<tr>
<td>TTHM annual average ≤ 0.040 mg/L and HAAS annual average ≤ 0.030 mg/L</td>
</tr>
<tr>
<td>TTHM annual average ≤ 0.040 mg/L and HAAS annual average ≤ 0.030 mg/L</td>
</tr>
</tbody>
</table>

3. A system on a reduced monitoring schedule may remain on that reduced schedule if the average of all samples taken in the year, for systems that shall monitor quarterly, or the result of the sample, for systems that shall monitor no more frequently than annually, is not more than 0.060 mg/L and 0.045 mg/L for TTHMs and HAAS, respectively. A system that does not meet these levels shall resume monitoring at the frequency identified in the sample location column in subparagraph 1 of this paragraph in the quarter immediately following the quarter in which the system exceeds 0.060 mg/L for TTHM and 0.045 mg/L for HAAS. For a system that uses only groundwater not under the direct influence of surface water and that serves fewer than 10,000 persons, if either the TTHM annual average is > 0.080 mg/L or the HAAS annual average is > 0.060 mg/L, the system shall go to increased monitoring identified in the sample location column in subparagraph 1 of this paragraph in the quarter immediately following the quarter in which the system exceeds 0.080 mg/L for TTHMs or 0.060 mg/L for HAAS.

4. A system on increased monitoring may return to routine monitoring if the TTHM annual average is ≤ 0.040 mg/L and HAAS annual average is ≤ 0.030 mg/L.

5. The cabinet may return a system to routine monitoring.

   (b) Chlorite. A community or [and] nontransient noncommunity water system using chlorite dioxide for disinfection or oxidation shall conduct monitoring for chlorite.

1. Routine monitoring.

   a. Daily monitoring. A system shall take daily samples at the entrance to the distribution system. For a daily sample that exceeds the chlorite MCL, the system shall take additional samples in the distribution system the following day at the locations required by subparagraph 2 of this paragraph, in addition to the sample required at the entrance to the distribution system.

2. Additional monitoring. On each day following a routine sample monitoring result that exceeds the chlorite MCL at the entrance to the distribution system, the system shall take three (3) chlorite distribution samples at the following locations:

   a. As close to the first customer as possible.
   b. In a location representative of average residence time; and
   c. As close to the end of the distribution system as possible, to reflect maximum residence time in the distribution system.

3. Reduced monitoring.
a. Chlorite monitoring at the entrance to the distribution system required by subparagraph 1a of this paragraph shall not be reduced.

b. Chlorite monitoring in the distribution system required by subparagraph 1b of this paragraph may be reduced to one (1) three (3) sample set per quarter after one (1) year of monitoring if no unusual chemical sample taken in the distribution system under subparagraph 1b of this paragraph has exceeded the chlorite MCL and the system has not been required to conduct monitoring under subparagraph 2 of this paragraph. The system may remain on the reduced monitoring schedule until either any of the three (3) individual chlorite samples taken quarterly in the distribution system under subparagraph 1b of this paragraph exceed the chlorite MCL or the system is required to conduct monitoring under subparagraph 2 of this paragraph. The system shall then revert to routine monitoring.

c. Bromate.

1. Routine monitoring. A community or [and] nontransient non- community water system using ozone for disinfection or oxidation shall take one (1) sample per month for each treatment plant in the system that uses ozone. A system shall take the sample monthly at the entrance to the distribution system while the ozonation system is operating under normal conditions.

2. Reduced monitoring. A system required to analyze for bromate may reduce monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L, based upon representative monthly bromide measurements for one (1) year. The system may maintain on reduced bromate monitoring until the running annual average source water bromide concentration, computed quarterly, is equal to or greater than 0.05 mg/L, based upon representative monthly measurements. If the running annual average source water bromide concentration is greater than or equal to 0.05 mg/L, the system shall resume routine monitoring required by subparagraph 1 of this paragraph.

3. Monitoring requirements for disinfectant residuals.

(a) Chlorine and chloramines.

1. Routine monitoring. A community or [and] nontransient non- community water system that uses chlorine or chloramines shall measure the residual disinfectant level in the distribution system at the same time as total coliforms are sampled, as specified in 401 KAR 8:200.

(b) Reduced monitoring. Monitoring shall not be reduced.

(b) Bromide.

1. Routine monitoring. A community, nontransient noncommunity water system that uses chlorine or chloramines shall measure the residual disinfectant level in the distribution system at the same time as total coliforms are sampled, as specified in 401 KAR 8:200.

2. Reduced monitoring. Monitoring shall not be reduced.

(b) Bromide.

1. Routine monitoring. A community, nontransient noncommunity water system that uses chlorine or chloramines shall measure the residual disinfectant level in the distribution system at the same time as total coliforms are sampled, as specified in 401 KAR 8:200.

2. Reduced monitoring. Monitoring shall not be reduced.

2. Additional monitoring. Each day following a routine sample monitoring result that exceeds the MRDL, the system shall take three (3) chlorine dioxide distribution system samples. If chlorine dioxide or chloramines are used to maintain a disinfectant residual in the distribution system, or if chlorine is used to maintain a disinfectant residual in the distribution system and there are no disinfectant addition points after the entrance to the distribution system, i.e., there is no booster chlorination, the system shall take three (3) samples as close to the first customer as possible, at an interval of at least six (6) hours. If chlorine is used to maintain a disinfectant residual in the distribution system and there are one (1) or more disinfection addition points after the entrance to the distribution system, i.e., there is booster chlorination, the system shall take one (1) sample at each of the following locations:

a. As close to the first customer as possible;

b. In a location representative of average residence time; and

c. As close to the end of the distribution system as possible, reflecting maximum residence time in the distribution system.

3. Reduced monitoring. Chlorine dioxide monitoring shall not be reduced.


(a) Routine monitoring. A system that uses as its source surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment shall monitor each treatment plant for total organic carbons, or TOC, no later than the point of combined filter effluent turbidity monitoring and representative the treated water. A system required to monitor under this paragraph shall also monitor for TOC in the source water before any treatment at the same time as monitoring for TOC in the treated water. These samples of the source water and treated water shall be considered paired samples. When the source water sample is taken, a system shall monitor for alkalinity in the source water before any treatment. A system shall take one (1) paired sample and one (1) source water alkalinity sample per month per plant at a time representative of normal operating conditions and influent water quality.

(b) Reduced monitoring. A system that uses as its source surface water or groundwater under the direct influence of surface water with an average treated water TOC of less than two and zero-tenths (2.0) mg/L for two (2) consecutive years, or less than one and zero-tenths (1.0) mg/L for one (1) year, may reduce monitoring for both TOC and alkalinity to one (1) paired sample and one (1) source water alkalinity sample per plant per quarter. The system shall revert to routine monitoring in the month following the quarter if the annual average treated water TOC is greater than or equal to two and zero-tenths (2.0) mg/L.

5. Bromide. A system required to analyze for bromate may reduce bromate monitoring from monthly to once per quarter, if the system demonstrates that the average source water bromide concentration is less than 0.05 mg/L, based upon representative monthly measurements for one (1) year. The system shall continue bromate monitoring to remain on reduced bromate monitoring.

(b) Monitoring plan. A system required to monitor under this administrative regulation shall develop and implement a monitoring plan. The system shall maintain the plan and make it available for inspection by the cabinet for a period no longer than thirty (30) days following the applicable compliance dates in Section 2 of this administrative regulation. A system that uses as its source surface water or groundwater under the direct influence of surface water serving more than 3,300 people shall submit a copy of the monitoring plan to the cabinet no later than the date of the first report required by Section 6 of this administrative regulation. The cabinet may also require another system to submit the plan. After review, the cabinet may require changes in a plan element. The monitoring plan shall include at least the following elements:

(a) Specific location and schedule for collecting samples for a parameter included in this administrative regulation;

(b) How the system will calculate compliance with MCLs, MRDLs, and treatment techniques for a daily sample plan; and

(c) If providing water to a consecutive system, the sampling plan for TTHMs and HAAs shall reflect the entire distribution system.

Section 7. Compliance Requirements. (1) General requirements.

(a). If compliance is based on a running annual average of monthly or quarterly samples or averages and the system fails to monitor for TTHM, HAAS, or bromate, this failure to monitor shall be [treated-as] a monitoring violation for the entire period covered by the annual average.

(b). If compliance is based on a running annual average of monthly or quarterly samples or averages and the system's failure to monitor makes it impossible to determine compliance with MRDLs for chlorine and chloramines, this failure to monitor shall be [treated-as] a monitoring violation for the entire period covered by the annual average.

(b) A sample taken and analyzed under the provisions of this administrative regulation shall be included in determining compliance, even if the number of samples taken is greater than the minimum required.

(c) If during the first year of monitoring under Section 6 of this administrative regulation, an individual quarter's average causes or will cause the running annual average of that system to exceed the MCL, the system shall be out of compliance at the end of that quarter.
(2) Disinfection by-products.
(a) THTHMs and HAAs.
1. A system that monitors quarterly, compliance with MCLs in Section 3 of this administrative regulation shall be based on a running annual arithmetic average, computed quarterly, of quarterly average samples collected by the system as prescribed by Section 62(2)(a) of this administrative regulation.

2. For a system monitoring less frequently than quarterly, a system shall demonstrate MCL compliance if the average of samples taken that year under the provisions of Section 62(2)(a) of this administrative regulation does not exceed the MCLs in Section 3 of this administrative regulation. If the average of the samples exceeds the MCL, the system shall increase monitoring once per quarter per treatment plant, and the system shall not be [considered] in violation of the MCL until it has completed one (1) year of quarterly monitoring, unless the result of fewer than four (4) quarters of monitoring will cause the running annual average to exceed the MCL, in which case the system shall be [considered] in violation at the end of that quarter. A system required to increase monitoring frequency to quarterly monitoring shall calculate compliance by including the sample that triggered the increased monitoring, plus the following three (3) quarters of monitoring.

3. If the running annual arithmetic average of quarterly averages covering a consecutive four (4) quarter period exceeds the MCL, the system shall be in violation of the MCL and shall notify the public pursuant to 401 KAR 8:070, in addition to reporting to the cabinet pursuant to Section 6 of this administrative regulation. If a public water system fails to complete four (4) consecutive quarters of monitoring, compliance with the MCL for the last four (4) quarter compliance period shall be based on an average of the available data.

(b) Bromate. Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly samples, or for months in which the system takes more than one (1) sample per month, the arithmetic average of the samples taken during the month, collected by the system as prescribed by Section 62(2)(c) of this administrative regulation. If the average of samples covering a consecutive four (4) quarter period exceeds the MCL, the system shall be in violation of the MCL and shall notify the public pursuant to 401 KAR 8:070, in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation. If a public water system fails to complete twelve (12) consecutive months' monitoring, compliance with the MCL for the last four (4) quarter compliance period shall be based on an average of the available data.

(c) Chlorite. Compliance shall be based on an arithmetic average of each three (3) sample set taken in the distribution system as prescribed by Section 62(2)(b) of this administrative regulation. If the average covering a consecutive four (4) quarter period exceeds the MCL, the system shall be in violation of the MCL and shall notify the public pursuant to 401 KAR 8:070, in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation.

(3) Disinfectant residuals.
(a) Chlorine and chloramines.
1. Compliance shall be based on a running annual arithmetic average, computed quarterly, of monthly averages of all samples collected by the system under Section 63(3)(a) of this administrative regulation. If the average covering a consecutive four (4) quarter period exceeds the MRDL, the system shall be in violation of the MRDL and shall notify the public pursuant to 401 KAR 8:070, in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation.

2. If a system switched between the use of chlornon and chloramines for residual disinfection during the year, compliance shall be determined by including all monitoring results of both chlorine and chloramines in calculating compliance. A report submitted pursuant to Section 8 of this administrative regulation shall clearly indicate which residual disinfectant was analyzed for each sample.

(b) Chlorine dioxide.
1. Acute violations. Compliance shall be based on consecutive daily samples collected by the system under Section 63(3)(b) of this administrative regulation. If a daily sample taken at the entrance to the distribution system exceeds the MRDL, and on the following day one (1) or more of the three (3) samples taken in the distribution system exceeds the MRDL, the system shall be in violation of the MRDL. The system shall take immediate corrective action to lower the level of chlorine dioxide below the MRDL and shall notify the public pursuant to the procedures for acute health risks in 401 KAR 8:070, Section 2 [15(4)(c)]. In addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation, failure to take samples in the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system shall also be [considered] an MRDL violation. The system shall notify the public of the violations in accordance with the provisions for acute violations under 401 KAR 8:070, Section 2 [15(4)(c)], in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation.

2. Nonacute violations. Compliance shall be based on consecutive daily samples collected by the system under Section 63(3)(b) of this administrative regulation. If two (2) consecutive daily samples taken at the entrance to the distribution system exceed the MDL and all distribution system samples taken are below the MRDL, the system shall be in violation of the MRDL and the system shall take corrective action to lower the level of chlorine dioxide below the MRDL at the point of sampling and shall notify the public pursuant to the procedures for nonacute health risks in 401 KAR 8:070, Section 3 [6], in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation. Failure to monitor at the entrance to the distribution system the day following an exceedance of the chlorine dioxide MRDL at the entrance to the distribution system also shall be an MRDL violation, and the system shall notify the public of the violation in accordance with the provisions for nonacute violations in 401 KAR 8:070, Section 3 [6], in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation.

(4) Disinfection by-product precursors. Compliance shall be determined as specified by Section 9(3)(c) of this administrative regulation. A system may begin monitoring to determine if Step 1 TOC removal levels will be able to meet the Step 1 TOC level. Compliance shall be determined as specified by Section 9(3)(c) of this administrative regulation. If a system is determined to be [considered] in violation of the TOC level, the system shall be in violation of the TOC level and shall notify the public pursuant to 401 KAR 8:070, in addition to reporting to the cabinet pursuant to Section 8 of this administrative regulation.
requirements of Section 6(2) of this administrative regulation less frequently than quarterly, but at least annually, shall report:
1. The number of samples taken during the last year;
2. The location, date, and result of each sample taken during the last quarter;
3. The arithmetic average of all samples taken over the last year; and
4. If the MCL was violated (exceeded) or not, based on Section 7(2)(a) of this administrative regulation.
(c) A system monitoring for THM and HAA5 under the requirements of Section 6(2) of this administrative regulation less frequently than annually shall report:
1. The location, date, and result of the last sample taken; and
2. If the MCL was violated (exceeded) or not, based on Section 7(2)(a) of this administrative regulation.
(d) A system monitoring for chlortone under the requirements of Section 6(2) of this administrative regulation shall report:
1. The number of samples taken each month for the last three (3) months;
2. The location, date, and result of each sample taken during the last quarter;
3. For each month in the reporting period, the arithmetic average of all samples taken in the month; and
4. If the MCL was violated (exceeded) or not, based on Section 7(2)(c) of this administrative regulation, in which month it was violated (exceeded), and how many times it was violated each month.
(e) A system monitoring for bromate under the requirements of Section 6(2) of this administrative regulation shall report:
1. The number of samples taken during the last quarter;
2. The location, date, and result of each sample taken during the last quarter;
3. The arithmetic average of the monthly arithmetic averages of all samples taken in the last year; and
4. If the MCL was exceeded or not, based on Section 7(2)(b) of this administrative regulation.
(3) Disinfectants.
(a) A system monitoring for chlorine or chloramines under the requirements of Section 6(3) of this administrative regulation shall report:
1. The number of samples taken each month of the last quarter;
2. The monthly arithmetic average of all samples taken in each month for the last twelve (12) months;
3. The arithmetic average of all monthly averages for the last twelve (12) months; and
4. If the MRDL was exceeded or not, based on Section 7(3)(a) of this administrative regulation.
(b) A system monitoring for chloramine dioxide under the requirements of Section 6(3) of this administrative regulation shall report:
1. The dates, results, and locations of samples taken during the last quarter;
2. If the MRDL was exceeded or not, based on Section 7(3)(b) of this administrative regulation; and
3. If the MRDL was exceeded or not in any two (2) consecutive daily samples and if the resulting violation was acute or nonacute.
(4) Disinfection by-product precursors and enhanced coagulation or enhanced softening
(a) A system monitoring monthly or quarterly for TOC under the requirements of Section 6(4) of this administrative regulation and that shall meet the enhanced coagulation or enhanced softening requirements in Section 9(2)(b) or (c) of this administrative regulation shall report:
1. The number of paired samples taken during the last quarter;
2. The location, date, and result of each paired sample and associated alkalinity taken during the last quarter;
3. For each month in the reporting period that paired samples were taken, the arithmetic average of the percent reduction of TOC for each paired sample and the required TOC percent removal; and
4. Calculations for determining compliance with the TOC percent removal requirements, as provided in Section 9(3)(a) of this administrative regulation; and
5. If the system is in compliance with the enhanced coagulation or enhanced softening percent removal requirements in Section 9(2) of this administrative regulation for the last four (4) quarters.
(b) A system monitoring monthly or quarterly for TOC under the requirements of Section 6(4) of this administrative regulation and meeting one (1) or more of the alternative compliance criteria in Section 9(1)(b) or (c) of this administrative regulation shall report:
1. The alternative compliance criteria that the system is using;
2. The number of paired samples taken during the last quarter;
3. The location, date, and result of each paired sample and associated alkalinity taken during the last quarter;
4. The running annual arithmetic average based on monthly averages, or quarterly samples, of source water TOC for a system meeting a criterion in Section 9(1)(b) or (c) of this administrative regulation or of treated water TOC for a system meeting the criterion in Section 9(1)(b) or (c) of this administrative regulation;
5. The running annual arithmetic average based on monthly average, or quarterly samples, of source water specific ultraviolet absorbance, or SUVA, for a system meeting the criterion in Section 9(1)(b) or (c) of this administrative regulation or of treated water SUVA for a system meeting the criterion in Section 9(1)(b) or (c) of this administrative regulation;
6. The running annual average source water alkalinity for a system meeting the criterion in Section 9(1)(b) or (c) of this administrative regulation and of treated water alkalinity for a system meeting the criterion in Section 9(1)(c) of this administrative regulation;
7. The running annual average for both THM and HAA5 for a system meeting the criterion in Section 9(1)(b) or (c) of this administrative regulation;
8. The running annual average of the amount of magnesium hardness removal, as CaCO3, in mg/L for a system meeting the criterion in Section 9(1)(c) or (d) of this administrative regulation; and
9. If the system is in compliance or not with the particular alternative compliance criteria in Section 9(1)(b) or (c) of this administrative regulation.

(a) A system that uses as its source surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment shall operate with enhanced coagulation or enhanced softening to achieve the TOC percent removal level specified in subsection (2) of this section unless the system meets at least one (1) of the alternative compliance criteria listed in paragraph (b) or (c) of this subsection.
(b) Alternative compliance criteria for enhanced coagulation and enhanced softening system. A system that uses as its source surface water or groundwater under the direct influence of surface water that uses conventional filtration treatment may use the alternative compliance criteria in subparagraphs 1 to 6 of this paragraph to comply with this section, instead of complying with subsection (3) of this section. A system shall still comply with the monitoring requirements in Section 6(4) of this administrative regulation.
1. The system's source water TOC level, measured according to 40 C.F.R. 141.131(d)(3), January 16, 2001, is less than two and zero-tenths (2.0) mg/L, calculated quarterly as a running annual average;
2. The system's treated water TOC level, measured according to 40 C.F.R. 141.131(d)(3), January 16, 2001, is less than two and zero-tenths (2.0) mg/L, calculated quarterly as a running annual average;
3. The system's source water TOC level, measured according to 40 C.F.R. 141.131(d)(3), January 16, 2001, is less than two and zero-tenths (4.0) mg/L, calculated quarterly as a running annual average;
4. The source water alkalinity, measured according to 40 C.F.R. 141.131(d)(1), January 16, 2001, is greater than sixty (60) mg/L as CaCO3, calculated quarterly as a running annual average; and [see]
5. a) The THM and HAA5 running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively; or
b) Before the effective date for compliance in Section 2 of the administrative regulation, the system has made a clear and irrevocable financial commitment not later than the effective date for compliance in Section 2 of the administrative regulation to the use of technologies that will limit the levels of THM and HAA5 to no
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more than 0.040 mg/L and 0.030 mg/L, respectively. The system shall submit evidence of a clear and irrevocable financial commitment, in addition to a schedule containing milestones and periodic progress reports for installation and operation of appropriate technologies, to the cabinet for approval, not later than the effective date of this paragraph. (b) The administration shall approve the technologies to be installed and operating not later than June 30, 2005. Failure to install and operate these technologies by the date in the approved schedule shall constitute a violation of this administrative regulation.

4. The THM and HAAs running annual averages are no greater than 0.040 mg/L and 0.030 mg/L, respectively, and the system uses only chlorine for primary disinfection and maintenance of disinfectant residuals in the distribution system.

5. The system’s source water SUVA, before any treatment and measured monthly according to 40 C.F.R. 141.131(d)(4), January 16, 2001, is less than or equal to two and zero-tenths (2.0) L/mg-m, calculated quarterly as a running annual average; and the system’s finished water SUVA, measured monthly according to 40 C.F.R. 141.131(c)(4), January 16, 2001, is less than or equal to two and zero-tenths (2.0) L/mg-m, calculated quarterly as a running annual average.

(c) Additional alternative compliance criteria for a softening system. A system practicing enhanced softening that is not able to achieve the TOC removals required by subsection (b)(2) of this section may use the alternative compliance criteria in subparagraphs (a) and (b) of subsection 2 of this administrative regulation.

1. Softening that results in lowering the treated water alkalinity to less than sixty (60) mg/L as CaCO3 measured monthly according to 40 C.F.R. 141.131(c)(1), January 16, 2001, and calculated quarterly as a running annual average; and

2. Softening that results in removing at least ten (10) mg/L of monosodium hardness as CaCO3 measured monthly and calculated quarterly as an annual running average.

(2) Enhanced coagulation and enhanced softening performance requirements.

(a) A system shall achieve the percent reduction of TOC specified in subparagraph (a) of this subsection between the source water and the combined filtrate effluent, unless the cabinet approves a system’s request for Step 2 requirements under paragraph (c) of this subsection.

(b) Required Step 1 TOC reductions, indicated in the following table, are based upon specified source water parameters measured in accordance with 40 C.F.R. 141.131(d), January 16, 2001. A system practicing softening shall meet the Step 1 TOC reductions in the left column of the table for source water alkalinity greater than 120 mg/L, for the specified source water TOC:

<table>
<thead>
<tr>
<th>Step 1 Required Removal Percent of TOC by Enhanced Coagulation and Enhanced Softening for a System that Uses its Source Surface Water or Groundwater Under the Direct Influence of Surface Water Using Conventional Treatment</th>
<th>Source water TOC, mg/L</th>
<th>Source water alkalinity, mg/L as CaCO3</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 60</td>
<td>0 - 60</td>
<td>61 - 120</td>
</tr>
<tr>
<td>20 ≤ TOC ≤ 40</td>
<td>35.0%</td>
<td>25.0%</td>
</tr>
<tr>
<td>40 &lt; TOC ≤ 80</td>
<td>45.0%</td>
<td>35.0%</td>
</tr>
<tr>
<td>TOC &gt; 80</td>
<td>50.0%</td>
<td>40.0%</td>
</tr>
</tbody>
</table>

A system meeting a condition in subsection (1)(c) of this section need not operate with enhanced coagulation.

A system meeting an alternative compliance criteria in subsection (3) of this section need not operate with enhanced softening.

A system practicing softening shall meet the TOC removal requirements in this column.

(c) A system that uses as its source surface water or groundwater under the direct influence of surface water and that uses conventional treatment that is not able to achieve the Step 1 TOC removals required by paragraph (b) of this subsection due to water quality parameters or operational constraints shall apply to the cabinet, within three (3) months of failure to achieve the TOC removals required by paragraph (b) of this subsection, for approval of Step 2 removal requirements submitted by the system. If the cabinet approves the Step 2 requirements the cabinet may make those requirements retroactive for the purposes of determining compliance. Until the cabinet approves the Step 2 requirements, the system shall meet the Step 1 TOC removals contained in paragraph (b) of this section.

(d) Step 2 requirements. An application to the cabinet by an enhanced coagulation system for approval of Step 2 requirements under paragraph (c) of this subsection shall include, as a minimum, the results of bench- or pilot-scale testing conducted under subparagraph 1 of this paragraph. The submitted bench- or pilot-scale testing shall be used to determine the alternate enhanced coagulation level.

1. Alternate enhanced coagulation level shall be the coagulation at a coagulant dose and pH as determined by the method described in this subparagraph and subparagraphs 2 through 5 of this paragraph such that an incremental addition of ten (10) mg/L of alum, or equivalent amount of ferric salt, results in a TOC removal of less than or equal to three-tenths (0.3) mg/L. The percent removal of TOC at this point of the "TOC removal versus coagulant dose" curve shall be greater than or equal to TOC removal required for the system. Upon approval by the cabinet, this minimum requirement shall supersede the minimum TOC removal required by the table in paragraph (b) of this subsection. This requirement shall be effective until the cabinet approves a new value based on the results of a new bench- and pilot-scale test. Failure to achieve the alternate minimum TOC removal levels set by the cabinet shall be a violation of this administrative regulation.

2. Bench- or pilot-scale testing of enhanced coagulation shall be conducted by using representative water samples and adding ten (10) mg/L increments of alum, or equivalent amounts of ferric salt, until the pH is reduced to a level less than or equal to the enhanced coagulation Step 2 target pH shown in the following table:

<table>
<thead>
<tr>
<th>Enhanced Coagulation Step 2 Target pH</th>
<th>Alkalinity, mg/L measured as CaCO3</th>
<th>Target pH</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 60</td>
<td>6.3</td>
<td></td>
</tr>
<tr>
<td>61 - 120</td>
<td>7.0</td>
<td></td>
</tr>
<tr>
<td>121 - 240</td>
<td>7.5</td>
<td></td>
</tr>
<tr>
<td>&gt; 240</td>
<td>7.5</td>
<td></td>
</tr>
</tbody>
</table>

3. For waters with alkalinities of less than sixty (60) mg/L for which addition of small amounts of alum or equivalent addition of iron coagulant drives the pH below five and three-tenths (5.3) and five and seven-tenths (5.7) in samples until the TOC removal of three-tenths (0.3) mg/L per ten (10) mg/L alum added, or equivalent addition of iron coagulant, is reached.

4. The system may operate at a coagulant dose or pH necessary, consistent with other administrative regulations in 401 KAR 8.010 to 401 KAR 8.700, to achieve the minimum TOC percent removal approved under paragraph (c) of this subsection.

5. If the TOC removal is consistently less than three-tenths (0.3) mg/L of TOC per ten (10) mg/L of incremental alum dose, at all doses of alum, or equivalent addition of iron coagulant, the water is deemed to contain TOC not amenable to enhanced coagulation. The system may then apply to the cabinet for a waiver of enhanced coagulation requirements.

(3) Compliance calculations.

(a) A system that uses as its source surface water or groundwater under the direct influence of surface water other than that identified in subsection (1)(b) or (c) of this section, shall comply with requirements in subsection (2)(b) or (c) of this section. A system shall calculate compliance levels annually after the system has collected twelve (12) months of data, by determining an annual average using the following method:

1. Determine annual TOC percent removal, which shall be calculated as:

\[ 1 \times (\text{treated water TOC/source water TOC}) \]

2. Determine the required annual TOC percent removal from either the table in subsection (2)(b) of this section or from subsection (2)(c) of this section;

3. Divide the value in subparagraph 1 of this paragraph by the annual average.
value in subparagraph 2 of this paragraph;

4. Add together the results of subparagraph 3 of this paragraph
for the past twelve (12) months and divide by twelve (12); and

5. If the value calculated in subparagraph 4 of this paragraph
is less than 1.00, the system is not in compliance with the TOC per-
cent removal requirements.

(b) A system may use the provisions in subparagraph 1 to 5 of
this paragraph instead of the calculations in paragraph (a)1
through 5 of this subsection to determine compliance with TOC
percent removal requirements:

1. In a month that the system's treated or source water TOC
levels, measured according to 40 C.F.R. 141.131(d)(3), January
18, 2001, is less than two and zero-tenths (2.0) mg/l, the system
may assign a monthly value of one and zero-tenths (1.0), instead
of the value calculated in paragraph (a)(3) of this subsection, when
calculating compliance under the provisions of paragraph (a) of this
subsection;

2. In a month that a system practicing softening removes at
least ten (10) mg/l of magnesium hardness, as CaCO3, the system
may assign a monthly value of one and zero-tenths (1.0), instead
of the value calculated in paragraph (a)(3) of this subsection, when
calculating compliance under the provisions of paragraph (a) of this
subsection;

3. In a month that the system's source water SUVA, before
treatment and measured according to 40 C.F.R. 141.131(d)(4),
January 18, 2001, is less than or equal to two and zero-tenths (2.0)
L/mg-m, the system may assign a monthly value of one and zero-
tenths (1.0) instead of the value calculated in paragraph (a)(3) of this
subsection, when calculating compliance under the provisions of
paragraph (a) of this subsection;

4. In a month that the system's finished water SUVA, meas-
ured according to 40 C.F.R. 141.131(d)(4), January 18, 2001, is
less than or equal to two and zero-tenths (2.0) L/mg-m, the system
may assign a monthly value of one and zero-tenths (1.0) instead of
the value calculated in paragraph (a)(3) of this subsection when
calculating compliance under the provisions of paragraph (a) of this
subsection; and

5. In a month that the system enhanced softening lowers alka-
linity below sixty (60) mg/l as CaCO3, the system may assign a
monthly value of one and zero-tenths (1.0) instead of the value
calculated in paragraph (a)(3) of this subsection when calculating
compliance under the provisions of paragraph (a) of this subsection.

(c) A system that uses as its source surface water or ground-
water under the direct influence of surface water and that uses
conventional treatment may also comply with the requirements of
this section by meeting the criteria in subsection (1)(b) or (c) of this
section.

(d) Treatment technique requirements for disinfection by-
products (DBP) precursors. For a system that uses surface water
or groundwater as its source and that uses conventional treatment,
enhanced coagulation or enhanced softening shall be a treatment
technique to control the level of disinfection by-product precursors
in a drinking water treatment or drinking water distribution system.

[Section 10: Federal Regulation Adopted Without Change, 40
C.F.R. 141.131, July 2000.]

(2) The subject matter of this administrative regulation relating to
the analytical methods and other analytical requirements is gov-
erned by that federal regulation.

TERESA J. HILL, Secretary
APPROVED BY AGENCY: November 8, 2006
FILED WITH LRC: November 14, 2006 at 4 p.m.
CONTACT PERSON: Juston Deardour, Regulations Coordina-
tor
Division of Water, Department for Environmental Protec-
tion, 14 Reily Road, Frankfort, Kentucky 40601, phone (502) 564-3410, fax
(502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David W. Morgan

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation
establishes criteria under which water systems that add a chemical
disinfectant to their water must meet maximum contaminant levels
and maximum residual disinfectant levels, and establishes treat-
ment techniques for specified contaminants.

(b) The necessity of this administrative regulation: This regula-
tion is necessary so that Kentucky can maintain primary from the
U.S. EPA for the implementation and enforcement of the federal
regulation for disinfectant residuals, disinfection byproducts, and
disinfection byproduct precursors in 40 C.F.R. Part 141, Subpart L
(40 C.F.R. 141.130 – 141.135).

(c) How this administrative regulation conforms to the content
of the authorizing statutes: This regulation is consistent with the
federal regulation.

(d) How this administrative regulation currently assists or will
assist in the effective administration of the statutes: This adminis-
trative regulation improves the regulatory procedures used by the
cabinet and supports Kentucky's comprehensive program for public
and semipublic water systems in providing drinking water to citi-
zens of the Commonwealth.

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

(a) How the amendment will change this existing administrative
regulation: The amendment to this regulation makes minor correc-
tions to the table in Section 6, as required by the U.S. EPA.

(b) The necessity of the amendment to this administrative
regulation: This amendment to the regulation is necessary so that
Kentucky can maintain primary from the U.S. EPA for the imple-
mentation and enforcement of the federal regulation for disinfectant
residuals, disinfection byproducts, and disinfection byproduct pre-
cursors specified in 40 C.F.R. Part 141, Subpart L (40 C.F.R.
141.130 – 141.135).

(c) How the amendment conforms to the content of the author-
zizing statutes: This amendment to the regulation is consistent with
the federal regulation.

(d) How the amendment will assist in the effective administra-
tion of the statutes: This amendment to the regulation is necessary
so that Kentucky can maintain primary.

(3) List the type and number of individuals, businesses, organi-
zations, or state and local governments affected by this administra-
tive regulation: This amendment to the regulation applies to public
water systems, community and noncommunity, that add a chemical
disinfectant to their water. Larger systems serving 10,000 people or
more have been subject to this rule since January 1, 2001; smaller
systems became subject to the rule January 1, 2004. Kentucky's
regulation went into effect April 2001.

(4) Provide an analysis of how the entities identified in question
(3) will be impacted by either the implementation of this adminis-
trative regulation, if now, or by the change, if it is an amendment,
including:

(a) List the actions that each of the regulated entities identified
in question (3) will have to take to comply with this administrative
regulation or amendment: Public Water Systems may have to add
or modify their disinfection process or system in order to comply
with the amendment.

(b) In complying with this administrative regulation or amend-
ment, how much will it cost each of the entities identified in ques-
tion (3): There is a cost associated with the modification or addi-
tion of drinking water filtration systems. These costs are on a case-by-

(c) As a result of compliance, what benefits will accrue to the
entities identified in question (3): Public Water Systems meeting
the requirements of this amendment would be ensuring the quality
of the water provided to the public and avoid any resulting non-
compliance actions.

(5) Provide an estimate of how much it will cost the administra-
tive body to implement this administrative regulation:

(a) Initially: None anticipated.

(b) On a continuing basis: None anticipated.

(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: None
required.

(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: No increase in fees.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees established, either directly or indirectly.

(9) TITLEING. Is billing applied? Yes, due to the federal definitions of various sized public water systems and how the regulation applies to each, it is necessary to address various size systems differently.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. This amendment to the regulation complies with federal requirements provided in 40 C.F.R. 141.20, 141.30, 141.64, 141.65, 141.130 to 141.135, 141.140 to 141.144, and 42 U.S.C. 300f, 300g, 300h, 300i.

2. State compliance standards. N/A

3. Minimum or uniform standards contained in the federal mandate. This amendment to the regulation is consistent with the federal regulation.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water systems must meet the requirements of this amended administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100, 224.10-110, 40 C.F.R. 141.20, 141.64, 141.65, 141.130 to 141.135, 142.60, & 42 U.S.C. Chapter 6A Subchapter XII.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amendment will not change revenue for local or state governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not change revenue for local or state governments.

(c) How much will it cost to administer this program for the first year? This amendment will not change costs for local or state governments.

(d) How much will it cost to administer this program for subsequent years? This amendment will not change costs for local or state governments.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): N/A

Expenditures (+/-): N/A

Other Explanation: None

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Department for Environmental Protection
Division of Water

(Amended After Comments)

401 KAR 8:550. Radionuclides.

RELATES TO: KRS 224.10-100(30), 224.10-110 [Chapter 224], 40 C.F.R. 141.25, [40 C.F.R.] 141.26, 141.65


NECESSITY, FUNCTION, AND CONFORMITY: KRS [Chapter] 224.10-110 directs the cabinet to enforce the rules and regulations adopted by the secretary for the regulation and control of the purification of water for public and semipublic use. [The Safe Drinking Water Act, as amended by the Safe Drinking Water Act Amendments of 1986, provides for primary enforcement responsibility by states that have adopted regulations "no less stringent than the national primary drinking water regulations", as well as meeting other criteria stipulated by the Act. The Commonwealth of Kentucky has accepted and is currently exercising such primary enforcement responsibility.] This administrative regulation sets forth the requirements for sampling and testing procedures for radionuclides and sets maximum contaminant levels for safe drinking water.

Section 1. Applicability. This administrative regulation shall apply to all community water systems.

(1) A community water system shall comply with the MCLs for combined radium-226 and radium-228, gross alpha particle activity, gross beta particle and photon radioactivity, and uranium beginning the effective date of this administrative regulation.

(2) Compliance shall be determined in accordance with the requirements of Sections 3 and 4 of this administrative regulation.

(3) Compliance with the reporting requirements of 401 KAR 8:070 and 8:075 shall be effective on the effective date of this administrative regulation.

Section 2. MCL. Best Available Technology MCLG, and Small System Compliance Technology. (1) MCLs. The MCLs for radionuclides shall be: [All producers of water for community water systems shall sample for radionuclides. Community water systems that purchase all of their water from others are not required to sample for radionuclides. The cabinet may provide technical assistance in sampling and sample analysis for radionuclides.]

Section 2. Sampling. Frequency. Sampling for radionuclides shall be on a schedule determined by the cabinet, but in no event shall it be less than once every four (4) years for community water systems. Public water systems shall submit to the cabinet data obtained by analyses performed on the samples within ten (10) days of the end of the compliance period for which the sample was taken.

Section 3. Sampling Locations. Samples shall be taken from a free-flowing tap within the distribution system of the supplier. When a community water system is supplied by two (2) or more sources having different concentrations of radioactivity, samples shall be taken at each source.

Section 4. Maximum Radionuclide Limits. Maximum contaminant levels for radionuclides shall be those levels specified in subsections (1) and (2) of this section.

(1) Radium-226, radium-228, and gross alpha particle activity. The maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity are as follows:

(a) The MCL for combined radium-226 and radium-228 shall be five (5) ± 6 pCi/L. The combined value shall be determined by the addition of the results of the analyses for radium-226 and the analysis for radium-228.

(b) Gross alpha particle activity (including radium-226, but excluding radon and uranium) shall be fifteen (15) ± 18 pCi/L.
The average annual concentration of beta particles and photon radioactivity from manmade radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem/year, or rem/year. EPA considers fifty (50) pCi/L to be the level of concern for beta particles.

1. Except for the radionuclides listed in Table A (the chart below), the concentration of manmade radionuclides causing four (4) rem/year total body or organ dose equivalents shall be calculated on the basis of a two (2) liter-per-day drinking water intake, using the 68-hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration [Concentrations] of Radionuclides in Air or Water for Occupational Exposure, U.S. Department of Commerce, National Bureau of Standards, Handbook 69, June 5, 1959, and Addendum 1, August 1963" and amended in August, 1963, U. S. Department of Commerce.)

2. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) millirem/year. The average annual concentrations of tritium and strontium-90 shall be used to produce a total body or organ dose of four (4) rem/year as shown below:

<table>
<thead>
<tr>
<th>Radionuclide</th>
<th>Critical Organ</th>
<th>Picocurie (pCi) per liter (pCi/L)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tritium</td>
<td>Total body</td>
<td>20,000</td>
</tr>
<tr>
<td>Strontium-90</td>
<td>Bone marrow</td>
<td>8</td>
</tr>
</tbody>
</table>

and

(d) Uranium: thirty (30) micrograms per liter, or μg/L.

The best available technology, the best available technology, or BAT, for achieving compliance with the MCLs in Section 2(1) of this administrative regulation shall be:

(a) Combined radium-226 and radium-228 by ion exchange, reverse osmosis, or state softening;
(b) Uranium by ion exchange, reverse osmosis, or a coagulation/filtration system;
(c) Gross alpha particle activity, excluding radon and uranium by reverse osmosis; and
(d) Beta particle and photon radioactivity by ion exchange, or reverse osmosis.

3. MCLGs are zero for all combined radium-226 and radium-228, gross alpha particle activity, gross beta particle and photon radioactivity in uranium (6).

The table below shall be used for determining small system compliance technologies for radionuclides. Table B also provides the limitations of use for the even technology.

<table>
<thead>
<tr>
<th>Unit Technology</th>
<th>Limitations</th>
<th>Operator Skill level</th>
<th>Raw Water Quality Parameters</th>
<th>Raw Water Quality Range and Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ion exchange, IE</td>
<td>a</td>
<td>Intermediate</td>
<td>All groundwaters.</td>
<td></td>
</tr>
<tr>
<td>2. Point of use, POE, IE</td>
<td>b</td>
<td>Basic</td>
<td>All groundwaters.</td>
<td></td>
</tr>
<tr>
<td>3. Reverse osmosis, RO</td>
<td>c</td>
<td>Advanced</td>
<td>Surface waters usually require prefiltration.</td>
<td></td>
</tr>
<tr>
<td>4. POE, RO</td>
<td>d</td>
<td>Basic</td>
<td>Surface waters usually require prefiltration.</td>
<td></td>
</tr>
<tr>
<td>5. Lime softening</td>
<td>d</td>
<td>Advanced</td>
<td>All waters.</td>
<td></td>
</tr>
<tr>
<td>6. Green sand filtration</td>
<td>g</td>
<td>Basic</td>
<td>All waters.</td>
<td></td>
</tr>
<tr>
<td>7. Coagulation with barium sulfate</td>
<td>f</td>
<td>Intermediate to Advanced</td>
<td>Groundwaters with suitable water quality.</td>
<td></td>
</tr>
<tr>
<td>8. Electrolysis or electrodialysis reversal</td>
<td>e</td>
<td>Basic to Intermediate</td>
<td>All groundwaters.</td>
<td></td>
</tr>
</tbody>
</table>

Hydror: Manganese oxide filtration

10. Activated alumina

Advanced | All groundwaters, competing anion concentrations may affect regeneration frequency.

11. Enhanced coagulation/filtration

Advanced | Can treat a wide range of water qualities.

Footnotes:

1. See 40 C.F.R. 141.70 (January 14, 2002).
2. POE or point of use, technology a treatment device installed at a single tap used for the purpose of reducing contaminants in drinking water at that one (1) tap. POE devices are typically installed at the kitchen tap.
3. Limitations: Footnotes; Technologies for radionuclides;
4. The regeneration solution contains high concentrations of the contaminant ions. Desalination options shall be carefully considered.
5. The POE device is used for compliance, the water system shall provide a program for long-term operation, maintenance, monitoring to ensure proper performance.
6. Reject water disposal options shall be carefully considered before choosing this technology. See other RO limitations described in the Federal Surface Water Treatment Rule (December 31, 1990).
7. The combination of variable source water quality and the complexity of the water chemistry involved may make this technology too complex for small surface water systems.
8. Treatment train in place.
9. The technology is most applicable to a small system that already has filtration in place.
10. The availability of chemical required during regeneration and pH adjustment may be too difficult for a small system without adequate training operator.
11. Assumes modification to a coagulation or filtration process already in place.
12. Compliance technologies by system size category for radionuclides. Table C shall be used for determining the compliance technology for the indicated contaminant for the given system size. The numbers shall correspond to those technologies found listed in paragraph (a) of this subsection.

<table>
<thead>
<tr>
<th>Contaminant</th>
<th>Compliance technologies for system size categories, population served</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>25 - 500</td>
</tr>
<tr>
<td>1. Combined radium-226 and radium-228</td>
<td>1.2.3.4.5</td>
</tr>
<tr>
<td>2. Gross alpha particle activity</td>
<td>5.6.7.8.9</td>
</tr>
<tr>
<td>3. Beta particle activity and photon activity</td>
<td>3.4</td>
</tr>
<tr>
<td>4. Uranium</td>
<td>1.2.3.4.5</td>
</tr>
</tbody>
</table>

Section 3: Detection Limits and Analytical Methods. (1) Detection Limit. To monitor the radioactivity concentration in drinking water, the required sensitivity of the radioanalysis shall be determined by the detection limit. The detection limit shall be that concentration that is able to be counted with a precision of plus or minus 100 percent at the ninety-five (95) percent confidence level, or 1.65 standard deviations of the net counting rate of the sample.
(a) To determine compliance with the MCLs in Section 211(a) and (c) of this administrative regulation, the detection limits shall not exceed the following concentrations:

1. Gross alpha particle activity: three (3) pCi/L;
2. Radium-226: one (1) pCi/L;
3. Radium-228: one (1) pCi/L;
4. Uranium: one (1) mg/L.

(b) To determine compliance with the MCLs for manmade beta and photon emitters in Section 211(b) of this administrative regulation, the detection limit shall not exceed the following concentrations:

1. Tritium: 1.000 pCi/L;
2. Strontium-90: two (2) pCi/L;
3. Iodine-131: one (1) pCi/L;
4. Cesium-134: ten (10) pCi/L;
5. Cesium-137: ten (10) pCi/L;
6. Gross beta: four (4) pCi/L.

(c) Other radionuclides: one-tenth (0.1) of the applicable limit.

(d) To determine compliance with the MCLs in Section 2 of this administrative regulation, the data shall be averaged, and the average shall be rounded to the same number of significant figures as the MCL for that contaminant.

(e) The cabinet may determine compliance or initiate enforcement action based upon analytical results or other information compiled by their sanctioned representatives and agencies.

(f) Analytical methods: The analytical methods specified in 40 C.F.R. 141.25(a) and (b), July 1, 2005, shall be used to determine compliance with Section 2 of this administrative regulation.

Section 4, Monitoring Frequency and Compliance, (1) Gross alpha particle activity, radium-226, radium-228, and uranium.

(a) A community water system shall conduct initial monitoring to determine compliance with Section 2 of this administrative regulation by December 31, 2000, for the purposes of monitoring for those contaminants, the detection limits shall be as specified in Section 3 of this administrative regulation.

1. Existing system or source: An existing community water system that uses groundwater, surface water, or both: shall sample at every entry point to the distribution system that is representative of all sources being used under normal operating conditions, called the "sampling point." The system shall take each sample at the same sampling point, unless conditions make another sampling point more representative of each source, or the cabinet designates a distribution system location, in accordance with subparagraph 2 of this paragraph.

2. New system or source: A new community water system or community water system that uses a new source of water shall begin to conduct initial monitoring for the new source within the first quarter after initiating use of the source. A system shall conduct more frequent monitoring if directed by the cabinet, based on possible contamination or if changes in the distribution system or treatment processes occur that may increase the concentration of radioactivity in finished water.

(b) Initial monitoring: A system shall conduct initial monitoring for gross alpha particle activity, radium-226, radium-228, and uranium as follows:

1. A system without acceptable historical data as specified in subparagraph 2 of this paragraph shall collect four (4) consecutive quarterly samples at each sampling point before December 31, 2007.

2. Grandfathered data: The cabinet may allow historical monitoring data collected at a sampling point to satisfy the initial monitoring requirement at that sampling point in the following situations:

a. A community water system that has only one (1) entry point to the distribution system may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003;

b. A community water system that has multiple entry points and that has acceptable historical monitoring data for each entry point and the distribution system may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003; and

c. A community water system with acceptable historical data for a representative point in the distribution system may use the monitoring data from the last compliance monitoring period that began between June 2000 and December 8, 2003.

3. The cabinet may waive the final two (2) quarters of initial monitoring, if requested, for a sampling point if the results of the samples from the previous two (2) quarters are below the detection limit.

4. If the average of the initial monitoring results for a sampling point is above the MCL, the system shall collect and analyze quarterly samples at that sampling point until the system has results from four (4) consecutive quarters that are at or below the MCL, unless the system enters into another schedule as a part of a formal agreed order with the cabinet.

5. Reduced monitoring: After the initial monitoring paragraph of this subsection has been completed or fulfilled, a water system may request the cabinet to reduce the frequency of monitoring from once every three (3) years to once every six (6) or nine (9) years, under the following conditions:

(a) The average of the initial monitoring results for each contaminant is below the detection limit provided in Section 3 of this administrative regulation, the system shall collect and analyze for the contaminant using at least one (1) sample at that sampling point every nine (9) years.

b. For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is at or above the detection limit but at or below one-half (1/2) the MCL, the system shall collect and analyze for that contaminant using at least one (1) sample at that sampling point every six (6) years.

2. For combined radium-226 and radium-228, if the analytical results shall be combined, if the average of the combined monitoring results for radium-226 and radium-228 is at or above the detection limit but at or below one-half (1/2) the MCL, the system shall collect and analyze for at least one (1) sample at that sampling point every six (6) years:

3. For gross alpha particle activity and uranium, if the average of the initial monitoring results for each contaminant is at or above one-half (1/2) the MCL but at or below the MCL, the system shall collect and analyze at least one (1) sample at that sampling point every three (3) years.

b. For combined radium-226 and radium-228, if the analytical results shall be combined, if the average of the combined initial monitoring results for radium-226 and radium-228 is at or above one-half (1/2) the MCL but at or below the MCL, the system shall collect and analyze at least one (1) sample at that sampling point every three (3) years.

4. For each sample collected during the reduced monitoring period to determine the monitoring frequency for subsequent monitoring periods. For example, if a system's sampling point is on a one (1) year monitoring period, the sample result is above one-half (1/2) the MCL, then the next monitoring period for that sampling point shall be three (3) years; and

5. If a system has a monitoring result that exceeds the MCL while on reduced monitoring, the system shall collect and analyze quarterly samples at that sampling point until the system has results from four (4) consecutive quarters that are below the MCL, unless the system enters into another schedule as a part of a formal agreed order with the cabinet.

(d) Composting: To fulfill quarterly monitoring requirements for gross alpha particle activity, radium-226, radium-228, or uranium, a system may composite up to four (4) consecutive quarterly samples from a single entry point if analysis is done within a year of the first sample. The cabinet shall treat analytical results from the composited samples as one average analytical result to determine compliance with the MCLs and the future monitoring frequency. If the analytical result from the composited sample is greater than one-half (1/2) the MCL, the cabinet shall direct the system to take additional quarterly samples before allowing the system to sample under a reduced monitoring schedule.

(e) 1. A gross alpha particle activity measurement may be
substituted for the required radium-226 measurement if the measured gross alpha particle activity does not exceed five (5) pCi/L.

2. A gross alpha particle activity measurement may be substituted for the required uranium measurement if the measured gross alpha particle activity does not exceed fifteen (15) pCi/L.

3. The gross alpha measurement shall have a confidence interval that is within one standard deviation of the net counting rate of the sample, for radium-226 and uranium.

4. If a system uses a gross alpha particle activity measurement in place of a radium-226 or uranium measurement, the gross alpha particle activity analytical result shall be used to determine the future monitoring frequency for radium-226 and uranium.

5. If the gross alpha particle activity result is less than the detection limit, one-half (1/2) the detection limit shall be used to determine compliance and the future monitoring frequency.

(2) Beta particle and photon radioactivity. To determine compliance with the MCLs in Section 2 of this administrative regulation and 40 C.F.R. 141.66(d), July 1, 2005, for beta particle and photon radioactivity, a system shall monitor at the frequency described below.

(a) A community water system, surface or groundwater designated by the cabinet as vulnerable shall sample for beta particle and photon radioactivity. The system shall collect quarterly samples for beta emitters and annual samples for tritium and strontium-90 at each entry point to the distribution system, called the sampling point, beginning within one (1) quarter after being notified by the cabinet. A system already designated by the cabinet shall continue to sample until the cabinet reviews and either revalidates or removes the designation.

1. If the gross beta particle activity minus the naturally-occurring potassium-40 beta particle activity at a sampling point has a running annual average, computed quarterly, less than or equal to the screening level of fifty (50) pCi/L, the system may reduce the frequency of monitoring at that sampling point to once every three (3) years. A system shall collect all samples required in paragraph (b)(1) of this section during the reduced monitoring period.

2. a. For a system in the vicinity of a nuclear facility, the system may use environmental surveillance data collected by the nuclear facility instead of monitoring at the system's entry point, if the cabinet determines that the data are applicable to the particular water system.

b. If there is a release from a nuclear facility, a system that is using surveillance data shall continue to sample until the cabinet reviews and either revalidates or removes the designation.

1. Quarterly monitoring for gross beta particle activity shall be based on the analysis of monthly samples or the analysis of a composite of three (3) monthly samples.

2. For iodine-131, a composite of five (5) consecutive daily samples shall be analyzed once each quarter. More frequent monitoring shall be conducted when iodine-131 is identified in the finished water. If iodine-131 is identified in the finished water more frequent monitoring shall be required.

3. Annual monitoring for strontium-90 and tritium shall be conducted by means of the analysis of a composite of four (4) consecutive quarterly samples or analysis of four (4) quarterly samples.

4. If the gross alpha particle activity minus the naturally-occurring potassium-40 beta particle activity at a sampling point has a running annual average, computed quarterly, less than or equal to the screening level of fifteen (15) pCi/L, the cabinet may reduce the frequency of monitoring at that sampling point to every three (3) years. The system shall collect the same type of samples required in paragraph (b)(2) of this section during the reduced monitoring period.

5. For a system in the vicinity of a nuclear facility, the system may use environmental surveillance data collected by the nuclear facility instead of monitoring at the system's entry point, if the cabinet determines that the data are applicable to the particular water system.

(c) A system designated by the cabinet to monitor for beta and photon radioactivity shall not apply to the cabinet for a waiver from the monitoring frequencies specified in paragraph (b)(1) or (b)(2) of this section.

(d) A system may analyze for naturally-occurring potassium-40 beta particle activity from the same or equivalent sample used for the gross beta particle activity analysis. A system may subtract the potassium-40 beta particle activity value from the total gross beta particle activity value to determine if the screening level is exceeded. The potassium-40 beta particle activity shall be calculated by multiplying elemental potassium concentrations in mg/L by a factor of 0.62.

(e) If the gross beta particle activity minus the naturally-occurring potassium-40 beta particle activity exceeds the appropriate screening level, an analysis of the sample shall be performed to identify the major radioactive constituents present in the sample. The appropriate dose shall be calculated and summed to determine compliance with the MCL. If 40 C.F.R. 141.66(d)(2), July 1, 2005, Doses shall also be calculated and combined for measured levels of tritium and strontium to determine compliance.

(f) A system shall monitor monthly at the sampling point that exceeds the MCL in 40 C.F.R. 141.66(d), July 1, 2005, beginning the month after the exceedance occurs. A system shall continue monitoring until the system has established, by a rolling average of three (3) monthly samples, that the MCL is being met. A system that establishes that the MCL is being met shall return to quarterly monitoring until it meets the requirements set forth in paragraph (b)(1)(i) or (b)(2)(iv) of this section.

(3) General monitoring and compliance requirements. (a) The cabinet may require more frequent monitoring than specified in paragraphs (a) and (b) of this section or may require confirmation samples. The results of the initial and confirmation sampling shall be determined in determining compliance.

(b) Each public water system shall monitor at the required frequency in accordance with this administrative regulation.

(c) Compliance. Compliance with this section shall be determined based on the analytical result obtained at each sampling point, if the system is not in violation of a MCL, the system shall be in compliance with the MCL.

1. For a system that monitors more than once per year, compliance with the MCL shall be determined by a running annual average at each sampling point. If the average of any sampling point is greater than the MCL, then the system shall be out of compliance with the MCL.

2. For a system monitoring more than once per year, if any sample result will cause the running average to exceed the MCL at any sample point, the system shall be out of compliance with the MCL immediately.

3. A system shall include all samples taken and analyzed under the provisions of this section in determining compliance, even if that number is greater than the minimum required.

4. If a system does not collect all required samples when compliance is based on a running annual average of quarterly samples, compliance shall be based on the running average of the actual number of samples collected, not the required number of samples.

5. If a sample result is less than the detection limit, zero shall be used to calculate the annual average, unless a gross alpha particle activity is being used instead of radium-226 or uranium.

6. If the gross alpha particle activity exceeds the detection limit, one-half (1/2) the detection limit shall be used to calculate the annual average.

(d) The cabinet may delete results of apparent sampling or analytic errors.

(e) If a MCL for radioactivity set forth in Section 2 of this adminis-
istive regulation is exceeded, the operator of a community water system shall give notice to the cabinet pursuant to 401 KAR 8:020 and to the public as required by 8:070.

Section 5. Incorporation by Reference. (1) The following document is incorporated by reference: *"Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," U.S. Department of Commerce, National Bureau of Standards, Handbook 68, June 5, 1959, and Addendum 1, August 1963*. (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Division of Water, Drinking Water Branch, 14 Revelly Road, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m., or through www.water.ky.gov/cdw.

[Section 5--Sampling and Measurement Technique--Sampling and measurement shall be in accordance with the procedures set forth in Federal Register 28442 (July 9, 1976), Sections 141.25 and 141.26, which may be obtained through the cabinet.]

Section 6. Radionuclides Limit Exceeded. If the average annual maximum contaminant level for radionuclides is exceeded, the supplier of a community water system shall give notice to the cabinet and notify the public pursuant to 401 KAR 8:070. Monitoring at quarterly intervals for gross alpha particle activity, radium-226, and radium-228, and at monthly intervals for mass-related radioactivity, depending on which limit is exceeded, shall continue until the annual average concentration no longer exceeds the maximum contaminant level, or until a monitoring schedule, as a condition to a variance, exemption, or enforcement action, becomes effective.

Section 7. The following document is incorporated by reference and is available for viewing and copying between the hours of 8 a.m. and 4:30 p.m. at the Division of Water, 14 Revelly Road, Frankfort Office Park, Frankfort, Kentucky 40601:

("Maximum Permissible Body Burdens and Maximum Permissible Concentrations of Radionuclides in Air or Water for Occupational Exposure") MBS Handbook 68, as amended in August 1963, U.S. Department of Commerce. This document may be obtained through the division.

Section 8. Sovereignty. If any provision of this administrative regulation is set aside by a court of competent jurisdiction, the remainder of this administrative regulation remains in effect.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 15, 2007 at noon
CONTACT PERSON: Justin Dearinger, Regulations Coordinator
Division of Water, Department for Environmental Protection, 14 Revelly Road, Frankfort, Kentucky 40601, phone (502) 564-3410, fax (502) 564-0111.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: David W. Morgan
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation prescribes the maximum contaminant levels and detection levels for radionuclides, which are regulated by the U.S. EPA in 40 C.F.R. 141.66.
(b) The necessity of this administrative regulation: The regulation is necessary so that Kentucky can continue to maintain primary from the U.S. EPA for the implementation and enforcement of the federal regulation for radionuclides in 40 C.F.R. 141.66. The federal regulation was amended on December 7, 2000, and became effective December 8, 2003.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation will be consistent with the federal regulations.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation improves the regulatory procedures used by the cabinet and supports Kentucky's comprehensive program for public and semipublic water systems in providing drinking water to citizens of the Commonwealth.

(b) The necessity of the amendment to this administrative regulation. The amendment to the regulation is necessary so that Kentucky can continue to maintain primary from the U.S. EPA for the implementation and enforcement of the federal regulation for radionuclides.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment to the regulation will be consistent with the federal regulations, which were amended on December 7, 2000 and became effective December 8, 2003.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the regulation conforms with the Governor's Restoring Hope initiatives, particularly by improving the regulatory procedures and updating the regulation to be consistent with the federal regulations, where applicable.

(3) List the type and number of organizations, businesses, etc., that are affected by this administrative regulation:
Every community water system is subject to the requirements for radionuclides; some of these systems may be small businesses.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Public water systems with certified labs, or certified commercial labs may have to modify the methodology used to meet the updated minimum contaminant level (MCL) stated in the amendment regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? There may be an initial cost to modify methodologies, but the cost should be negligible.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Public Water Systems, utilizing certified labs, meeting the requirements of this amendment would be ensuring the quality of the water provided to the public and avoid any resulting noncompliance actions.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: None anticipated.
(b) On a continuing basis: None anticipated.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No extra funding is needed from this amendment.

(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.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees established, either directly or indirectly.

(9) TIERING: Is tiering applied? Yes, due to the federal definition of various sized public water systems and how the regulation applies to each, it is necessary to address various size systems differently.
FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. This amendment to the regulation complies with federal requirements provided in 40 C.F.R. 141.11, 141.23, 141.41, 141.62, and 42 U.S.C. 300f, 300g, 300h, 300i, 300p, 300q, 300r, 300s, and 300w. N/A
2. State compliance standards N/A
3. Minimum or uniform standards contained in the federal mandate. This amended regulation will be consistent with the federal regulation.
4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements than those required by the federal mandate? No
5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. N/A

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts) that will be impacted by this administrative regulation? All public water systems must meet the requirements of this amended administrative regulation.
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? All public water systems.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224 10-100(30), 224.10-110, 40 C.F.R. 141.25, 141.26, 141.66, & 42 U.S.C. Chapter 6A Subchapter XII.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. N/A
5. How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This amendment will not increase or decrease current revenue.
6. How much will it cost to administer this program for the first year? This amendment will not increase or decrease cost.
7. How much will it cost to administer this program for subsequent years? This amendment will not increase or decrease cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None anticipated.
Expenditures (+/-): None anticipated.
Other Explanation: None

EDUCATION CABINET
Kentucky Board of Education
Department of Education
(Amended After Comments)

703 KAR 5:020. The formula for determining school accountability.

RELATES TO: KRS 158 645, 158.6451, 158.6453, 158.6455, 158 6457, 20 U.S.C. 6301 et seq.

STATUTORY AUTHORITY: KRS 156.029, 156.070, 158.6453, 158.6455

NECESSITY, FUNCTION, AND CONFORMITY: KRS 158 6455 requires the Kentucky Board of Education to promulgate administrative regulations to establish a system for identifying and rewarding successful schools and to establish appropriate consequences for schools failing to meet or exceed their assistance line. This administrative regulation establishes a single assessment system with two (2) accountability dimensions: one (1) addressing the requirements of KRS 158.6455 to determine school classifica-
tions, and a second addressing the conditions necessary to conform to federal assessment and accountability requirements of the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.

Section 1. Assessments. (1) The Kentucky Department of Education shall administer the Kentucky Core Content Tests and commercially available norm-referenced tests. The Kentucky Core Content Tests shall be administered as follows:
(a) Reading at grades 3, 4, 5, 6, 7, 8, and 10;
(b) Mathematics at grades 3, 4, 5, 6, 7, 8, and 11;
(c) Science at grades 4, 7, and 11;
(d) Social studies at grades 5, 8, and 11;
(e) Arts and humanities at grades 5, 8, and 11;
(f) Practical living/vocational studies at grades 4, 7, [5-8], and 10.
(g) On-demand writing at grades 5, 8, [4-7], and 12;
(h) Writing portfolio at grades 4, 7, and 12;
(i) Alternate portfolio at 4-8, and the last anticipated year of attendance at the high school level.

(2) The commercially available, norm-referenced tests shall include EXPLORE at grade 8, PLAN at grade 10, and beginning in 2007-2008, the ACT at grade 11 and WorkKeys as an optional test at grades 10, 11, or 12. At the elementary level, districts shall identify a grade level, select a norm referenced test (NRT) approved by the Kentucky Department of Education, and administer the reading and mathematics components. School and district results shall be publicly reported and individual student results communicated to parents for all administered tests listed in this section. The Kentucky Department of Education shall provide districts a per pupil allocation to support the purchase of the elementary school level norm referenced test [be administered in reading/language arts and mathematics at the end of primary, grade 6, and grade 9].

(3) Alternate assessment at grades 3, 4, 5, 6, 7, 8, 10, 11, and 12 shall measure the same content areas as state-required assessments in order to comply with the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq., the Kentucky Department of Education shall augment the norm referenced test to appropriately measure Kentucky's core content in reading and mathematics at grades three (3) and six (6). At grades five (5) and eight (8) an additional augmented norm referenced test shall be administered in reading and at grades four (4) and seven (7) an additional augmented norm referenced test shall be administered in mathematics.

(4) Required participation in the National Assessment of Educational Progress (NEAP). If a school is selected by the U.S. Department of Education or its designated contractors to participate in the state NEAP [National Assessment of Educational Progress] in reading, mathematics, [and] science and writing at grades four (4) and eight (8), the school shall participate fully.

Section 2. Academic and Nonacademic Index Calculations. (1) For purposes of calculating a school's academic indices, the school shall be held accountable based on an aggregated average of the performance of the elementary, middle, or high school students who have been enrolled in the school for a full academic year in the accountability grades. For state required high school assessments administered in the fall, schools shall be held accountable based on students who had (have) been enrolled for a full academic year in the prior school year. The points assigned to students scoring at each student achievement level and sublevel for purposes of computing the academic indices for a particular content area shall include:
(a) Nonperformance - if a total open-response or writing prompt raw score of less than one (1), and multiple-choice total raw score that is less than chance performance and the score converts to less than medium novice, it shall be assigned a score of zero. For the writing [or alternate] portfolio or the alternate assessment component, if a raw score is less than one (1) and the score converts to less than medium novice, it - a blank or incomplete response - shall be assigned a score of zero;
(b) Medium novice (reading, mathematics, science, social studies, [alternate portfolio], writing on-demand prompt, writing portfolio, arts and humanities, practical living and vocational studies, and alternate assessment) shall be assigned a score of thirteen (13);
(c) High novice (reading, mathematics, science, [and] social
studies, writing on-demand, writing portfolio, and alternate assessment shall be assigned a score of twenty-six (26); (d) Low apprentice (reading, mathematics, science, and social studies, writing on-demand, writing portfolio, and alternate assessment shall be assigned a score of forty (40); (e) Medium apprentice (reading, mathematics, science, social studies, [alternate-portfolio], writing on-demand [present], writing portfolio, arts and humanities, practical living and vocational studies, and alternate assessment) shall be assigned a score of sixty (60); (f) High apprentice (reading, mathematics, science, and social studies, writing on-demand, writing portfolio, and alternate assessment) shall be assigned a score of eighty (80); (g) Provisions in all content areas shall be assigned a score of one hundred (100), and [optional] distinguished in all content areas shall be assigned a score of one hundred (100). (2) For all content areas In grades 4, 5, 6, 7, 8, 10, 11, and 12 except arts and humanities, practical living and vocational studies, and writing on-demand, grades 4; 5, 6, 7, 8, 10, 11, and 12, the scores derived from the Kentucky Core Content Test shall be based on a scoring method that assigns fifty (50) [seventy-seven (77)] percent of the weight of the scores from open-response items and fifty (50) [ninety-three (93)] percent of the weight from multiple-choice items. (3) For grade three (3) content areas of reading and mathematics, and for grades five (5), eight (8), and eleven (11) content areas of arts and humanities, the scores derived from the Kentucky Core Content Test shall be based on a scoring method that assigns thirty-three (33) percent of the weight of the scores from the open-response items and sixty-seven (67) percent of the weight from multiple-choice items. The writing score shall be based on a scoring method in which the on-demand writing [present] and the writing portfolio each shall contribute fifty (50) percent to the writing index. Practical living and vocational studies shall be based only on multiple-choice items. (4) [(3) The values for attendance rate and (success) transition to adult life rate shall be the actual percentage reported. The values entered into formula calculations for retention rate at elementary and middle school and dropout rate at middle school shall be 100 minus the actual percentage calculated. (5) Beginning with reporting in 2008-2009, graduation rate at high school shall be used for retention and dropout calculations and shall be calculated as required by the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq. Kentucky values shall be added to the graduation rate as follows: (a) Students receiving Certificates of Attainment shall earn one (1) point; (b) Students graduating by age twenty-one (21) shall earn one (1) point; (c) Students completing a secondary GED shall earn one-half (0.5) point; and (d) Students graduating in three (3) years or less as defined in the student's Individual Learning Plan shall earn an additional one-half (0.5) point for a total of one and one-half (1.5) points. (6) High school nonacademic data shall include transition to adult life data. (7) Beginning with reporting in 2008-2009 the values for transition to adult life shall be a system of base and bonus points. The points shall be based upon those graduating students who have a completed Individual Learning Plan (ILP) and those graduates who: (a) Meet or exceed the ACT benchmarks set by the Council on Postsecondary Education; (b) Have indicated a workforce or military career path on their Individual Learning Plan (ILP) and earn a silver level Kentucky Employability Certificate; or (c) Meet or exceed the transition criteria for the Kentucky Certificate of Attainment, [detailed in the number of graduates]. (8) A bonus point shall be added to the transition to adult life calculation for each graduate who: (a) Passes three (3) Advanced Placement exams with scores of three (3) or greater; (b) Receives an International Baccalaureate Diploma; (c) Receives a Commonwealth Diploma; (d) Receives a National Merit Finalist designation; or (e) Has an Individual Learning Plan (ILP) that indicates a workforce or military career path and who earns: (f) A gold level Kentucky Employability Certificate; (g) A Kentucky Occupational Skills Standards Certificate; or (h) National industry certification. (10) Bonus points shall be added to the base transition to adult life calculation. Bonus and base points shall be divided by twice the number of graduates and capped at 100 points. (11) Nonacademic data for a particular assessment year shall be calculated using the data from the previous school year. Nonacademic data shall be based on all grades within a school building generating appropriate data as follows: (a) Attendance, primary through grade twelve (12); (b) Retention rates, grades four (4) through eight (8) (twelve (12); (c) Dropout rates, grades seven (7) through eight (8) (twelve (12); and (d) Graduation rate that reflects dropout and retention [for grades nine (9) through twelve (12)]. (e) Successful transition to adult life for the graduating students. (4) Scores from alternate assessments [portfolio] shall be included in the academic indices so that the data from an alternate assessment [portfolio] completed by a student eligible to participate with an alternate portfolio contributes the same weight to the academic component of the accountability index as the data for a student who participates in the regular components of the assessment program [at the elementary, middle, or high school-levels]. The same requirement shall be applied to calculations required by "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq. 

Section 3. Components of the Accountability Index and Weights. (1) The accountability index shall consist of academic indices and the nonacademic index for elementary, middle, and high schools. High schools have two (2) components. Component one (1) consists of academic indices and the nonacademic index. Component two (2) shall have an additional component, (b), an index created from the PLAN and ACT (a national norm-reference test - NRT). Component one (1) shall comprise ninety-five (95) percent of the total index. Component two (2) shall comprise five (5) percent of the index. (2) The accountability index shall be rounded to the nearest tenth on the accountability scale. (3) Computing the academic index for each of the content areas of reading, writing, mathematics, science, social studies, arts and humanities, and practical living and vocational studies shall be based on the average of student scores as described in Section 2(1) of the administrative regulation. Component one (1) of the accountability index of each elementary and middle school shall be calculated according to the following weights: (a) Elementary school (grades and of primary - grade five 5) Component Area | Component One (Without NRT) | Component One and Two (With NRT) | Component One and Two (With NRT) |
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<thead>
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<td>22.00%</td>
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(b) Middle school (grades 6 - 8)
### VOLUME 33, NUMBER 9 – MARCH 1, 2007

**Advisory Panel for Assessment and Accountability, the School Curriculum, Assessment and Accountability Council, the Office of Education Accountability, and the Local Superintendent**

The panel shall establish a process to provide schools and districts with an ACT Index created from weights assigned to ranges of student performance for PLAN and ACT.

- **(b)** Scores shall be associated with each performance level as described in Section 2 of this administrative regulation; and
- **(c)** The ACT component two (2) index shall be based on the average of the indices beginning in 2007-2008 for both PLAN and ACT composite scores.

**Section 4. Schools Not Conforming to the Standard Grade Configuration.**

1. For the Kentucky Core Content Test, if a school does not have grades 3, 4, and 5 at the elementary level, grades 6, 7, and 8 (seven-7 and eight-8) at the middle school, or grades 9, 10, 11, and 12 (ten-10, eleven-11, and twelve-12) at the high school, the school shall be combined with the school or schools having the missing grade(s) its students previously attended or would subsequently attend, forming a single school accountability unit, for both state and federal school accountability purposes.

2. A school that does not contain a grade at which the national norm-referenced test is administered shall have its accountability index calculated using only the weights specified as component one (1) of the index in Section 3 of this administrative regulation. Schools that have more than one grade at which the national norm-referenced test is administered shall have their grades combined to form the basis for component two (2) of the calculations described in Section 3 of the administrative regulation.

3. A school or school district may request a waiver of the requirement [requirements] of subsection [subsection] (1) (and (a)) of this section or from the normal configuration of schools (elementary, middle, or high school) from the Kentucky Board of Education specifying other combinations of schools and assessment data if all students in an accountability grade are included, and all schools are accountable for all content areas assessed. A condition for the granting of a waiver shall be that each affected school and school district shall waive in writing its right to make the school configuration for which it sought a waiver the basis of a subsequent appeal of a school's classification. A waiver request shall be received by the Kentucky Department of Education by June 30 of the year prior to the bimonthly for which the waiver is requested.

**Section 5. Schools Having More Than One (1) Accountability Level.**

If a school has more than one (1) accountability level, the school's accountability index shall be the average of the academic and nonacademic data for the school. This average accountability index shall be applied toward making adequate yearly progress decisions.

**Section 6. School Service Area Reconfigurations.**

1. If as a result of a change in service area boundaries or local board of education policies affecting student population served by a school, less than eighty (80) percent of a school's student population at its accountability grades is stable, the school shall be considered a reconfigured school. To determine if eighty (80) percent of the population is stable, the number of students in the stable population shall be divided by the sum of that number, plus the lost population, plus the gained population. If the result is less than eight-tenths (.8), the school shall be considered a reconfigured school.

2. Schools reconfigured after the 1998-1999 school year shall be assigned a baseline calculated from the 1988-1999 and 1999-2000 aggregate district level data for the appropriate level (elementary, middle, or high school). Calculations shall be based on appropriate weights used in reporting prior to 2006-2007.

3. A school district shall notify the Department of Education of any school that is planning for the upcoming school year to be a reconfigured school as provided in this administrative regulation by June 30 prior to the beginning of the school year in which the reconfiguration is to occur.

(a) For the purpose of assigning a school classification of meets goal, progressing, or in need of assistance, a school that is considered a reconfigured school in either year of a bimonthly after 2000 on which accountability decisions are based shall have the

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**Table:**

<table>
<thead>
<tr>
<th>Content Area</th>
<th>Component One One- and Two (With NRT)</th>
<th>Weight</th>
<th>Component One One- and Two (Without NRT)</th>
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</tbody>
</table>
performance judgment that would have applied to the district at that level (elementary, middle, or high school), if separate decisions (elementary, middle, or high school) were to be applied at the district level. In the alternative, a school district may submit to the Department of Education a plan for reconstituting baseline data taking into consideration the change in the service area. The plan shall ensure that local district calculations are accurate and appropriately include all student data in both baseline and growth index calculations. The plan shall be submitted to the Department of Education at the same time the district notifies the Department of Education of the school reconfiguration. If the Department of Education approves the plan, it shall become effective and shall remain in effect unless a specific waiver from this reconfiguration arrangement is requested from and granted by the Kentucky Board of Education as provided in this administrative regulation. This alternative shall not be implemented until the affected schools have a complete biennium of data to be considered in the growth calculations. A condition for acceptance of the plan shall be that each affected school and school district shall waive in writing its right to make the plan the basis of a subsequent appeal of a school's classification.

(b) To determine whether a reconfigured school meets adequate yearly progress for the first three (3) years the school is reconfigured, the determination shall be made based on whether the school meets the annual measurable objectives established in reading and mathematics and has a participation rate for the school and its student subgroups at least ninety-five (95) percent. Beginning with the fourth year of the school's reconfiguration, the school shall meet all requirements for making adequate yearly progress as provided in Section 10(2) of this administrative regulation.

(c) In the alternative to paragraph (b) of this subsection, a school district may submit to the Department of Education a plan for reconstituting data necessary to determine whether a reconfigured school meets all requirements for making adequate yearly progress taking into consideration the changes in service areas. The plan shall assure that local district calculations are accurate and appropriately include all student data in annual calculations. The plan shall be submitted to the Department of Education at the same time the district notifies the Department of Education of the school reconfiguration. If the Department of Education approves the plan, it shall become effective and shall remain in effect unless a specific waiver from this reconfiguration arrangement is requested from and granted by the Kentucky Board of Education as provided in this administrative regulation. This alternative shall be implemented the year of the reconfiguration.

(d) A school that has contained more than one (1) level (elementary, middle, and high school) and reconfigured by removing an entire level at the accountability grade level may request that the portion of the school remaining stable be considered within the accountability system using its established historical data.

(e) A school in transition because of a new building or a new policy affecting population served and being phased in may request that the Department of Education establish data to maintain the continuity of accountability data if the request does not require the tracking of Individual student data. This request shall require the approval of each affected school council, or the principal, if a school does not have a council, and the local board of education upon the recommendation of the superintendent.

Section 7. Accountability Procedures. (1) To establish expected levels of growth for each school, a straight line shall be drawn from a school's baseline minus one (1) standard error of measurement established in the 1998-1999 and 1999-2000 biennium to the state goal of a growth accountability Index of 100 minus one (1) standard error of measurement by 2014.

(2) There shall be five (5) points of school recognition. These shall be determined from the baseline data (school years 1998-1999 and 1999-2000) so that at least ten (10) percent of the schools fall below the first point of recognition and the fifth recognition point shall be set at 100 on the accountability Index scale, with the remaining points being established at equal whole number intervals between the high and the low.

Section 8. School Classifications Recognizing Growth. (1) To determine if a school is classified as meets goal, progressing, or in need of assistance, the school's growth accountability Index for a biennium shall be compared to the corresponding goal point and assistance point.

(2) A school shall be classified as meets goal if the school's growth accountability Index meets or exceeds its goal point and meets the dropout and novice reduction requirements of this section.

(3) To receive rewards under the provisions of this administrative regulation, a school shall have a biennial dropout rate less than or equal to three and five-tenths (3.5) five-and-three-tenths (4.3) percent of its student body and shall not have been granted a waiver from this reconfiguration arrangement. A school shall receive rewards if its dropout rate exceeds five (5) six-and-sixty-five (6.65) percent. If a school is reconfigured for a biennium, the school shall receive the aggregate district dropout rate for the biennium.

(4) To receive rewards under this administrative regulation, a school shall reduce the percent of novices on a schedule so that by the target biennium, the school shall have five (5) percent or less of its students scoring in the novice range of performance. The percent of novices shall be calculated to be reflective of the weights in Section 3 of this administrative regulation. The schedule shall be calculated by subtracting five (5) from the baseline percent novice and dividing this value by seven (7). The maximum allowable percent novice for each biennium shall be calculated as follows:

(a) Year 2002 = baseline percent novice minus the required novice reduction factor;
(b) Year 2004 = baseline percent novice minus the required novice reduction factor multiplied by two (2); and
(c) Year 2006 = baseline percent novice minus the required novice reduction factor multiplied by three (3);
(d) Year 2008 = baseline percent novice minus the required novice reduction factor multiplied by four (4);
(e) Year 2010 = baseline percent novice minus the required novice reduction factor multiplied by five (5);
(f) Year 2012 = baseline percent novice minus the required novice reduction factor multiplied by six (6); and
(g) Year 2014 = baseline percent novice minus the required novice reduction factor multiplied by seven (7).

(5) A school shall be classified as a progressing school if the school's growth accountability Index falls below its goal point and meets or exceeds its assistance point. A progressing school shall obtain an accountability index greater than that which it obtained in the previous biennium to earn a reward and other recognition as a progressing school.

(6) A school shall be classified as in need of assistance if the school's growth accountability Index falls below its assistance point. A school classified as being in need of assistance shall be eligible to apply for Commonwealth School Improvement funds and may be subject to a scholastic audit.

(7) In 2002, the highest scoring five (5) percent of all schools shall be designated as Commonwealth Peace - Setter schools if they have met or exceeded the fourth point of recognition and if they meet the dropout rate and novice reduction requirements of this section. [This calculation shall be based on the total accountability index of the school regardless of whether one (1), multiple, or no grades at which the norm referenced test is administered are included]. If not otherwise receiving rewards in recognition for growth, a Commonwealth Peace - Setter school shall receive one (1) share of rewards. In addition, to be classified as a Peace - Setter school beginning with the biennium ending in 2004, a school shall not have declined in both of the two (2) previous biennia. The rewards that may be due a school for having passed a higher point of recognition shall be given in addition to this amount.

Section 9. Reward Amounts. (1) There shall be two (2) levels of rewards for growth. A school classified as meets goal in accordance with Section 8(2) of this administrative regulation shall earn three (3) shares of rewards. A school classified as progressing in accordance with Section 8(5) of this administrative regulation shall earn one-half (1/2) share of rewards.
(2) A special one (1) time reward amount shall be distributed to schools as they meet or exceed school recognition points. These schools shall receive one (1) share of rewards and other forms of recognition as determined by the Kentucky Board of Education for meeting or exceeding each school recognition point.

(3) If a school passes two (2) or more of the school recognition points, in one (1) biennium, the reward shall be cumulative. A school shall be awarded these amounts only one (1) time for meeting or passing each point. A school earning this reward and subsequently falling below a recognition point shall not earn the reward for passing the point again.

(4) A school shall earn a recognition point reward based on where its baseline falls and shall not receive rewards for meeting or exceeding school recognition points below its baseline index.

(5) The total amount of rewards to be distributed to schools and school districts earning rewards shall not exceed one thousand and three-fourths (1 3/4) percent of the amount of funds paid to certified personnel within Kentucky’s public schools during the last year of the accountability cycle. The total number of shares earned shall be divided into the amount determined pursuant to the subsection to determine the per share reward amount; however, a reward share shall not exceed $2000. A reward share shall be distributed to a school that meets the requirements for rewards as specified in Section 8 of this administrative regulation. The number of shares earned shall be multiplied by the total number of certified staff, as provided in KRS 158.6455 and subsection (6) of this section, to determine the final reward amount, as follows:

(a) Meets goal number of certified full-time equivalent (FTE) staff times three (3) shares;
(b) Progressing: number of certified full-time equivalent (FTE) staff times one-half (1/2) share;
(c) Pass one (1) school recognition point: number of certified full-time equivalent (FTE) staff times one (1) share; and
(d) Pace setter: number of certified full-time equivalent (FTE) staff times one (1) share.

(6) Beginning with rewards issued at the close of the 1999-2000 school year, a school shall earn rewards for use in the school based on the number of certified staff assigned to the school at the close of the biennium. A reward amount shall be determined based on the number of verified certified staff assigned to the school or combinations of schools earning the reward. A reward amount for part-time and itinerant staff shall be calculated based on the proportion of time spent in the school.

Section 10. School Accountability Requirements of the "No Child Left Behind Act of 2001." (1) For the purpose of determining whether a school has met the annual measurable objectives in reading or mathematics, the Kentucky Department of Education, using reading and mathematics data from the 2001-2002 school year, shall establish a single starting point for each content area at each accountability level (elementary, middle, or high school) and state's proficient level of academic achievement on the state assessments.

The starting points for each accountability level shall be the percentage of students at or above the proficient level who are in the school at the 20th percentile in the state, based on enrollment, among all schools ranked by the percentage of students at or above the proficient level.

(2) For purposes of determining adequate yearly progress, a school shall be held accountable based on an aggregated average of the performance of the elementary, middle, or high school students who have been enrolled in the school for a full academic year in the accountability grades and producing school level accountability statistics including:

(a) Percent proficient and above in reading and mathematics;
(b) School classification criteria as described in subsection (5)(b) of this section;
(c) Graduation rates; and,
(d) Participation rates.

(3) If a school does not meet an annual measurable objective based on the current year aggregated average of the performance of the elementary, middle, or high school students, the aggregated average may be computed based on the most recent two (2) or three (3) years of student performance data in reading and mathematics. [The aggregated average shall be computed based on the most recent two (2) or three (3) years of student performance data in reading and mathematics from the Kentucky Core Content Test.] These statistics shall be used to determine if a school has met adequate yearly progress as measured against the annual measurable objective established in Section 10(11) of this administrative regulation.

(4) Meeting adequate yearly progress. Schools shall be determined to have made adequate yearly progress for a school year if:

(a) The school and all subpopulations of sufficient size identified in 20 U.S.C. 6301 et seq., met district annual measurable objectives in both reading and mathematics or met the conditions described as "safe haven" in 703 KAR 5:001;
(b) The school had a school classification of any category of progress or meets goal in the CATS biennial or midpoint classification, whichever occurred more recently, at the elementary and middle school accountability levels; or for a school in the assistance category which demonstrates growth in the accountability index at or above the state average for the specific grade level configuration as defined in 703 KAR 5:001;
(c) The school demonstrated progress or met the annual goal for graduation rate as defined in 703 KAR 5:001; and
(d) The school had a participation rate of at least ninety-five (95) percent of the enrolled students and ninety-five (95) percent of each subpopulation of sufficient size identified in 20 U.S.C. 6301 et seq. Participation rate may be computed for the current year or, as an average of the most recent two (2) or three (3) years (shall be computed as an average of the most recent two (2) or three (3) years, to reach ninety-five (95) percent.

(5) No child left behind (NCLB) Improvement school determination. A school shall be identified as an "NCLB improvement school" if for two (2) consecutive years the school fails to make adequate yearly progress in the same content area as defined in 703 KAR 5:001 - reading or mathematics.

(6) Reward or Recognition. For a school meeting adequate yearly progress for two (2) consecutive years in both reading and mathematics, it shall receive a reward or recognition from the Department of Education as determined on an annual basis.

(7) Before identifying a school as a no child left behind improvement school, and implementing consequences required by 20 U.S.C. 6301 et seq., the local school district shall provide the school with an opportunity to review the school-level data on which the proposed identification is based. Not later than thirty (30) days after the district provides the school with the opportunity to review such school-level data, the district shall make public a final determination on the status of the school with respect to the identification.

(8) Confidence Intervals. A school shall be considered to have met the annual measurable objective in reading or mathematics if:

(a) The percent of students scoring proficient or above in a school meets or exceeds the annual measurable objective in reading or mathematics; or
(b) The annual measurable objective falls within the ninety-nine (99) percent confidence interval placed around the school's percent of students proficient and above. If more than the current year aggregated average of the performance of the elementary, middle, or high school students is used to compute an annual measurable objective, the confidence interval shall also be based upon the same most recent two (2) or three (3) years of student performance data upon which the aggregated average is based.

(9) Students included in determining whether a school meets annual measurable objectives. Beginning with data from the 2003-2004 school year, a student enrolled in a school for a full academic year shall be included in the school calculation of the percent of students performing at the proficient level or above in both reading and mathematics for purposes of federal accountability decisions.

(10) Annual Measurable Objectives in Reading and Mathematics - 2003 through 2014. The annual measurable objectives for
Section 11. No Child Left Behind School Consequences.

(1) Tier 1 consequences for no child left behind improvement schools. If a Title I school is identified as a no child left behind (NCLB) improvement school, the local school district shall provide parental notification with explanations, required in 20 U.S.C. 6301 et seq., including information that all students enrolled in the school have the option to transfer, at the district's expense, to another public school operated and selected by the local school district that has not been identified as a school in improvement. The NCLB improvement school shall also write or revise its school plan.

(2) Tier 2 consequences for NCLB improvement schools. If a Title I school identified as an NCLB improvement school fails to make adequate yearly progress in both reading and mathematics by the end of one (1) full year after being identified as a NCLB improvement school, the local district shall require that school to provide supplemental services as required by 20 U.S.C. 6301 et seq., and continue to provide services mandated in Section 11(1) of this administrative regulation.

(3) Tier 3 consequences for NCLB improvement schools. If a Title I school identified as an NCLB improvement school fails to make adequate yearly progress in both reading and mathematics by the end of two (2) full years after being identified, the local district shall take corrective action as required by 20 U.S.C. 6301 et seq. and consistent with all relevant Kentucky statutes, and continue to provide services required in Section 11(1) and (2) of this administrative regulation.

(4) Tier 4 consequences for NCLB no child left behind improvement schools. If a Title I school identified as an NCLB improvement school fails to make adequate yearly progress in both reading and mathematics by the end of three (3) full years after being identified, the local district shall plan for alternative school governance required by 20 U.S.C. 6301 et seq., and continue to provide services required in Section 11(1), (2), and (3) of this administrative regulation. If adequate yearly progress in both reading and mathematics is not made four (4) years after being identified as a NCLB improvement school, the alternative governance plan shall be implemented.

Section 12. Duration of Consequences. If a school identified as a NCLB improvement school makes adequate yearly progress in both reading and mathematics as defined in 703 KAR 5 001 for two (2) consecutive school years after the identification, the school shall no longer be identified as a NCLB improvement school and the school shall not be subject to federal consequences.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156 070(4).

KEVIN M. NOLAND, Interim Commissioner of Education
KEITH TRAVIS, Chair
APPROVED BY AGENCY: February 7, 2007
FILED WITH LRC: February 8, 2007 at 1 p.m.
CONTACT PERSON: Kevin M. 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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes a single assessment system with 2 accountability dimensions: one addressing the requirements of KRS 158.6455 to determine school classifications, and a second addressing the conditions necessary to conform to federal assessment and accountability requirements of the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.
(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 158.6453, 158.6455 and the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq. (NCLB).
(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specific provisions for the state-wide assessment and accountability programs as required by KRS 158.6453, 158.6455, and the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq., including types of assessments to be administered, grades and content areas to be assessed, weights of each assessment, and details of how schools will be held accountable.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specific requirements for the implementation of the State-wide assessment and accountability programs which will be applied in all schools as required by KRS 158.6453, 158.6455, and the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.
(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 amendments implement changes related to modification of the test design and administration timelines and include implementation of assessment requirements outlined in SB 130 2006 GA.
(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to specify the requirements of schools in becoming compliant with the "No Child Left
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(c) How much will it cost to administer this program for the first year? The proposed amendment to the regulation will require no additional cost.
(d) How much will it cost to administer this program for subsequent years? The proposed amendment to the regulation will require no additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Office of Insurance
Division of Health Insurance Policy and Managed Care
(Amendment After Comments)

806 KAR 17:480. Uniform evaluation and reevaluation of providers.

RELATES TO: KRS 205.550(12), 218B.155(2), [304.2-012], 304.17A-005, [304.17A-270], 304.17A-545(4)(f)
[304.2-110(1), 304.17A-545(5)]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110(1) authorizes the executive director to promulgate reasonable administrative regulations necessary for, or as an aid to, the effectuation of any provision of the Kentucky Insurance Code as defined in KRS 304.1-010. KRS 304.17A-545(5) requires the executive director to promulgate administrative regulations to establish a uniform application form and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a managed care plan's list of participating providers. This administrative regulation establishes the uniform application form and guidelines for evaluation and reevaluation of a health care provider, including a psychologist.

Section 1. Definitions. (1) "Complete Form. KAPER-1" ([112006]) ([1206]). Part A. Part A means a part of the uniform application for provider credentialing and recredentialing used by an insurer, which includes all data elements required for processing.
(2) "Executive director" is defined in KRS [304.1-050(1)]
[304.1-050(1)] mean the Executive Director of the Office of Insurance.
(4) "Evaluation" or "credentialing" means a:
(a) Process for collecting and verifying professional qualifications of a health care provider;
(b) Assessment of whether a health care provider meets specified criteria relating to professional competence and conduct; and
Process to be completed before a health care provider may participate in a provider network of an insurer on an initial or ongoing basis.
(2) "Executive director" is defined in KRS 304.1-050(1).
(3) [49] "Form KAPER-1" ([112006]) ([1206]) means the uniform application for credentialing or recredentialing of a health care provider pursuant to KRS 304.17A-545(5)
(4) [56] "Health care provider" means:
(a) A health care provider pursuant to KRS 304.17A-005(2)(g)(9)(b) or (c);
(b) A physician licensed under KRS Chapter 319.
(5) [66] "Insurer" is defined in KRS 304.17A-005(22) [624].
(6) [72] "Managed care plan" is defined in KRS 304.17A-500(9).
(7) [89] "Office" is defined in KRS 304.1-050(2) [mean the Office of Insurance].
(8) [91] "Participating health care provider" is defined in KRS 304.17A-500(9).
(9) [140] "Provider network" is defined in KRS 304.17A-005(2)(b)(3).
(10) [44] "Reevaluation" or "credentialing" means a process for identifying a change that may have occurred in a health care provider since the last evaluation or credentialing that may effect
the health care provider's ability to perform contract services.

Section 2. Guidelines for Insurer. (1) Except as established in subsection (4) of this section [§4(4)], an insurer which offers a managed care plan and performs credentialing or recredentialing activities [on or after January 1, 2006] shall use Form KAPER-1 [11/06/2006] [1/20/06]. Part A to credential or recredential a health care provider who desires participation in its provider network.

(2) Pursuant to subsection (1) of this section, an insurer shall:
   (a) Have a mechanism for making available and accepting from a health care provider a handwritten or electronically submitted Form KAPER-1 [11/06/2006] [12/66]. Part A for:
      1. Initial credentialing; and
      2. Recredentialing;
   (b) Within thirty (30) days of receipt of a [complete] Form KAPER-1 [11/06/2006] [12/66], Part A, electronically or in writing:
      1. Notify the health care provider of any omitted or [and] questionable information included on the form; and
      2. Offer assistance to the provider, if applicable;
   (c) Within sixty (60) days of receipt of a Form KAPER-1 [11/06/2006] [12/66], Part A, which includes all data elements required for processing, provide notice in writing or in writing to a health care provider of the status of credentialing. This time period may be extended if, due to extenuating circumstances:
      1. Additional time is required by the insurer to consider information submitted on the Form KAPER-1 [11/06/2006] [12/66], Part A; and
      2. The health care provider is informed of the need for more time, including information relating to the extenuating circumstance which caused the delay;
   (d) Provide electronic or written notification as established in paragraph (c) of this subsection every thirty (30) days after the initial notification until a final determination regarding credentialing has been issued to the health care provider; and
   (e) Be prohibited from requiring:
      1. Information on the Form KAPER-1 [11/06/2006] [12/66], Part A which is not relevant to the scope of practice, health care setting, or service of a health care provider; and
      2. Routine recredentialing of a health care provider more frequently than three (3) years from the previous credentialing date.
   (3) An insurer may use Form KAPER-1 [11/06/2006] [12/66], Part A to credential or recredential an individual in its provider network other than a health care provider.


(2) This material may be inspected, copied or obtained, subject to applicable copyright law, at the Office 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 office's [released] Web site at http://dol.cpp.ky.gov.

JULIE MIX MCPEAK, Executive Director
CHRISTOPHER LILLY, Commissioner
TERESA J. HILL, Secretary
APPROVED BY AGENCY: February 5, 2007
FILED WITH LRC: February 8, 2007 at 10 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on December 21, 2006 at 9 a.m. at the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by December 14, 2006. Evac work days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled.

This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative 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. Written comments shall be accepted until January 2, 2007. 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: Melea Rivera, 215 West Main Street, P.O. Box 517, Frankfort, Kentucky 40602-0517, phone (502) 564-6098, fax (502) 564-2728.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact person: Melea Rivera
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes a uniform application and guidelines for the evaluation (credentialing) and reevaluation (recredentialing) of health care providers, including psychologists, who will be on a health plan's list of participating providers.
   (b) The necessity of this administrative regulation: Pursuant to KRS 304.17A-545(5), the executive director is required to promulgate an administrative regulation to establish a uniform application and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a health benefit plan's list of participating providers. This administrative regulation is necessary to comply with this requirement.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.210(1) authorizes the executive director to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined by KRS 304.1-010. KRS 304.17A-545(5) authorizes the executive director to promulgate administrative regulations to establish a uniform application and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a health benefit plan's list of participating providers. This administrative regulation establishes the required guidelines and incorporates by reference a uniform application for evaluation (credentialing) and reevaluation (recredentialing) of health care providers, including psychologists, who will be on a health benefit plan's list of participating providers.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: As required under KRS 304.17A-545(5), this administrative regulation will provide to insurers the guidelines and uniform application for the evaluation (credentialing) and reevaluation (recredentialing) of health care providers, including psychologists, who will be on the health insurer's list of participating providers. The regulator's incorporated by reference material (Form KAPER-1 (11/06/2006)) will also serve the Cabinet for Health and Family Services' Kentucky Medical Assistance Program pursuant to KRS 205.560(12) and Office of the Inspector General pursuant to KRS 216B.135(2).
   (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 will revise definitions and incorporate a revised version of the KAPER-1 form.
      (b) The necessity of the amendment to this administrative regulation: The Cabinet for Health and Family Services requested that the Office of Insurance revise the KAPER-1 form, which is incorporated by reference, to respond to the needs of hospitals which must use the KAPER-1 form to collect information and evaluate and reevaluate health care providers applying for staff privileges in their facilities.
      (c) How the amendment conforms to the content of the authorizing statutes: KRS 304.17A-545(5) authorizes the executive director to promulgate administrative regulations to establish a uniform application and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a health benefit plan's list of participating providers. Since the executive director is authorized to promulgate an administrative regulation to establish the Form KAPER-1 to be used by health insurers and other health care providers regulated under KRS 205.560(12)
and KRS 216B.155(2), it is inherent that the executive director would have the authority to revise and amend this administrative regulation based upon the needs and recommendations of the regulated entities, the Kentucky Medical Assistance Program, and the Office of Inspector General using the Form KAPER-1.

(d) How the amendment will assist in the effective administration of the statute: KRS 304.17A-545(5), requires the office to establish a uniform application for the evaluation (credentialing) and reevaluation (recredentialing) of health care providers for use by insurers and the Kentucky Medical Assistance Program pursuant to KRS 205.560(12) and Office of the Inspector General pursuant to KRS 216B.155(2).

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation will affect approximately 50 licensed insurers offering managed care health benefit plans in this state.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Insurers offering managed care plans will be required to use the revised KAPER-1 or the Provider Application form of the Council for Affordable Quality Healthcare.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? Part A of the KAPER-1 form, which is the portion of the form that insurers offering managed care plans have been required to use since March 2006, contains two minor changes therefore, no additional costs are anticipated.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Insurers will be in compliance with KRS 304.17A-545(5) and this administrative regulation.

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

(a) Initially: The cost of implementing this administrative regulation on an initial basis is believed to be minimal, if any, for the Office of Insurance.

(b) On a continuing basis: The cost of implementing this administrative regulation on a continuing basis is believed to be minimal, if any.

(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 budget of the Office 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: This administrative regulation will not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering is not applied because this administrative regulation applies equally to all insurers that issue, deliver, or renew health benefit plans in the state of Kentucky.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirement of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Kentucky Office of Insurance is promulgating this administrative regulation to amend the Form KAPER-1 which was developed to provide a Uniform Evaluation and Reevaluation of Providers form to be used by insurers, the Cabinet for Health and Family Services' Medical Assistance Program, and entities regulated by the Office of Inspector General. The Cabinet for Health and Family Services and representatives from hospitals has identified some items in the Form KAPER-1 that need clarification. Therefore, these changes will impact the Office Insurance, the Medical Assistance Program, and the Office of Inspector General.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.17A-545(5) requires the executive director to promulgate administrative regulations to establish a uniform application form and guidelines for the evaluation and reevaluation of health care providers, including psychologists, who will be on a managed care plan's list of participating providers. This administrative regulation establishes the uniform application form and guidelines for evaluation and reevaluation of a health care provider, including a psychologist.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue for the first year for state or local governments.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue for subsequent years for state or local governments.

(c) How much will it cost to administer this program for the first year? The Office of Insurance should not incur significant costs to administer this administrative regulation for the first year. The Form KAPER-1, which is incorporated by reference, is accessible to entities and providers by visiting the Office of Insurance Internet web site.

(d) How much will it cost to administer this program for subsequent years? The Office of Insurance should not incur costs to administer this administrative regulation for subsequent years. Each month, the Office responds to approximately 5 questions or complaints related to the Form KAPER-1, which is incorporated by reference in this administrative regulation.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Not applicable.
Expenditures (+/-): Not applicable.
Other Explanation:
PROPOSED AMENDMENTS RECEIVED THROUGH NOON, FEBRUARY 15, 2007

GENERAL GOVERNMENT
EXECUTIVE BRANCH ETHICS COMMISSION
(Amendment)

9 KAR 1:040. Registration and expenditure statements; financial transactions and termination forms; handbook; and enforcement.

RELATES TO: KRS 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.241(4), (5), (6), 11A.990
STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(5)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.241(4) requires the Executive Branch Ethics Commission to prescribe the initial registration statement and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. KRS 11A.241(6) requires the commission to publish a handbook that explains the provisions of KRS 11A.201 to 11A.246. KRS 11A.990 states that a lobbyist who fails to file a registration statement shall be subject to a civil penalty. This administrative regulation establishes the registration, financial transactions, and expenditure statements, termination notice, handbook, and enforcement procedure.

Section 1. Initial Registration Statement. (1) The initial registration statement required by KRS 11A.211 shall be filed on the "Initial Registration Statement" form.

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:
1. Has been engaged; or
2. Is responsible.
(b) Subject matters shall include:
1. An award of grant for social services;
2. A lease for office space or equipment;
3. A contract to provide food, clothing, or other consumable products; and
4. Any other subject matter.
(3)(a) The signature on the "Initial Registration Statement" which is filed with the commission shall be an original signature in ink other than black.
(b) The forms incorporated by reference in this administrative regulation may be reproduced by an executive agency lobbyist or his employer.

Section 2. (1) The "Updated Registration Statement" form required by KRS 11A.211(2) shall be filed on the applicable "Updated Registration Statement" forms.

(2) The notice of termination required by KRS 11A.211(4) shall be filed on the "Termination Notification As Executive Agency Lobbyist" form.

Section 3. Enforcement Procedure. (1) If an executive agency lobbyist, an employer of an executive agency lobbyist, or a real party in interest has not filed an "Updated Registration Statement" on or before the date the statement is due, the commission shall notify the party, by certified mail, return receipt requested, that if the statement is not filed within fifteen (15) days of the date of the receipt of notice the commission shall levy a fine, as provided by KRS 11A.990(5).

(2) If, by the 16th day after proof of service of the certified letter is received by the commission, the commission has not received the statement that was due by July 31, the commission shall prepare and issue to the executive agency lobbyist, employer or real party in interest an order demanding payment of the appropriate fine as required by KRS 11A.990(5). The executive agency lobbyist, employer or real party in interest shall pay the fine no later than ten (10) days from the date of the order. The commission may exonerate or reduce the fine if the commission receives evidence during the ten (10) day fine payment period indicating the filer has already filed the updated registration statement, or that the deficiency is in error.

(3) The commission also may exonerate or reduce a fine for late filing of the updated registration statement if the commission feels that exonation, based on the circumstances, is warranted.

(4) If the commission is not in receipt of the fine from the executive agency lobbyist, employer or real party in interest by the tenth day after issuance of the order demanding payment of the fine, the general counsel may recommend that the commission initiate an investigation of the executive agency lobbyist, employer or real party in interest to determine if the failure to file was intentional causing the criminal penalties set forth in KRS 11A 990(7) to apply.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Executive Agency Lobbyist/Employer or Real Party in Interest Initial Registration Statement (Rev. 02/27/14/00)"
(b) "Updated Registration Statement - Executive Agency Lobbyist (Rev. 02/27/14/00)"
(c) "Updated Registration Statement - Employer of Executive Agency Lobbyist (Rev. 02/27/14/00)"
(d) "Updated Registration Statement - Executive Agency Lobbyist/Employer Combined (02/27)"
(e) "Updated Registration Statement - Real Party in Interest (Rev. 02/27/14/00)"
(f) "Termination Notification as Executive Agency Lobbyist (Rev. 02/27/14/00)"
(g) "Executive Agency Lobbying Handbook (Rev. 02/27/14/00)"
(h) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist (9/03)"
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, The Vest-Lindsey House, 401 Wapping Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN A. WEBB, Chairman
APPROVED BY AGENCY: February 12, 2007
FILED WITH LRC: February 12, 2007 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007, at 9 a.m. at The Vest-Lindsey House, 401 Wapping Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by March 15, 2007. If you do not wish to be heard at the public hearing, you may submit written comments 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. Written comments shall be accepted until April 2, 2007. 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: John R. Steffen, General Counsel, Executive Branch Ethics Commission, The Vest-Lindsey House, 401 Wapping Street, Frankfort, Kentucky 40601, phone (502) 564-7954, fax (502) 564-2686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John R. Steffen, General Counsel
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation currently sets forth procedures for filing various statements required of executive agency lobbyists, employers and real parties in interest.
(b) The necessity of this administrative regulation: This admin-
Administrative regulation currently sets forth the forms and procedures to be used in filing executive agency lobbying statements.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 11A.211 requires registration statements to be filed, KRS 11A.990 mandates penalties for failure to file such statements, KRS 11A.241 requires the agency to prescribe certain forms and to publish a handbook. This administrative regulation sets forth the method of filing and addresses the necessary enforcement procedures for late filing or failure to file such statements, and incorporates the forms and handbook by reference.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes. This administrative regulation currently assists both the agency and regulated parties by setting forth the method of filing executive agency lobbying statements as well as consistent enforcement procedures for those regulated parties which either fail to file or file late the required statements, and incorporates the necessary forms and a handbook by reference.

(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 to the administrative regulation updates the material that is incorporated by reference, adds a new registration form by reference, and changes the agency's address.

(b) The necessity of the amendment to this administrative regulation: This amendment to the administrative regulation is necessary because the registration forms and the handbook that are incorporated by reference are being updated, in part to reflect a change made to KRS 11A.211 during the 2006 GA. Likewise, because the agency changed physical locations, the new address needs to be noted in the forms, the handbook, and the regulation itself.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 11A.211 requires registration statements to be filed, KRS 11A.990 mandates penalties for failure to file such statements, and this amendment to the administrative regulation updates the forms and handbook that KRS 11A.241 requires the agency to prescribe and publish.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist both the agency and regulated parties by providing updated forms, handbook, and address.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 638 executive agency lobbyists representing approximately 400 employers and 29 real parties in interest will be subject to this amendment to the administrative regulation. No local governments would be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) What the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The entities identified in question (3) will not have to take any additional actions to comply with this amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The entities identified in question (3) will not have to incur any additional costs to comply with this amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities identified in question (3) will not receive any additional benefits as a result of this amendment.

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

(a) Initially: No cost.

(b) On a continuing basis: No cost.

(6) What is the source of 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: There will be no increase in funding brought about by this amendment to the administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: KRS 11A.211(5), as amended by the General Assembly in 2006, requires each employer of an executive agency lobbyist to pay a registration fee of $125 upon the filing of an updated registration statement. The registration forms and the handbook, which are incorporated by reference, have been updated, in part, to reflect this statutory change. No fees are being established or increased by this regulation, however.

(9) TIERING: Is tiering applied? No. Tiering was not appropriated in this amendment to the administrative regulation because it applies equally to all those individuals or entities so regulated.

**FISCAL NOTE ON STATE OR LOCAL GOVERNMENT**

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Executive Branch, Ethics Commission

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 11A.110(3), 11A.211; 11A.216; 11A.221; 11A.241(4), (5), (6); 11A.990

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue.

(c) How much will it cost to administer this program for the first year? No cost.

(d) How much will it cost to administer this program for subsequent years? No cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

**REVENUES (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**EDUCATION PROFESSIONAL STANDARDS BOARD**

**(Amendment)**

16 KAR 6:010. Written examination prerequisites for teacher certification.

RELATES TO: KRS 161.020, 161.026(1), 161.030(3), (4)

STATUTORY AUTHORITY: KRS 161.026(1)(a), 161.030(3), (4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.026(1)(a) authorizes the Education Professional Standards Board to establish standards and requirements for obtaining and maintaining a teaching certificate. KRS 161.030(3) and (4) requires the Education Professional Standards Board to select the appropriate assessments required prior to teacher certification. This administrative regulation establishes the written examination prerequisites for teacher certification.

Section 1. A teacher applicant for certification shall successfully complete the appropriate written test identified in this administrative regulation prior to Kentucky teacher certification.
Section 2. The Education Professional Standards Board shall require the test or [specialty] tests and passing scores identified in this section for each new teacher applicant; [and each teacher seeking an additional certificate—[who completes application for certification on or after September 1, 2003].

(1) An [applicants for interdisciplinary early childhood education, birth-to-primary, certification shall take an Education Professional Standards Board-Interdisciplinary Early Childhood Speciality Test with a passing score of 145.

(2) Until August 31, 2006, an applicant for elementary certification shall take [Elementary Education: Curriculum, Instruction, and Assessment (044) with a passing score of 145 or Elementary Education: Content Knowledge (044) with a passing score of 145. Beginning September 1, 2006, the applicant shall take Elementary Education: Content Knowledge (0014) with a passing score of 145.

(3) An applicant for middle school certification shall take the [one (1) or two (2)] middle school content test or [specialty] tests based on the applicant’s content area or areas—[especially with passing scores as identified in this subsection:

(a) Middle School Mathematics (0068) - 145;
(b) Middle School Science (0439) - 139;
(c) Middle School English Language Arts (0049) - 145 [160]; or
(d) Middle School Social Studies (0089) - 145 [162].

(4) An applicant for certification for teacher of exceptional children in Communication Disorders, Learning and Behavior Disorders, Hearing Impaired, Hearing Impaired with Sign Proficiency, Visually Impaired, Moderate and Severe Disabilities with each content test or [specialty] test based on the applicant’s content area or areas—[especially with the corresponding passing scores as identified in this subsection: (a) Communication disorders:

1. [Until August 31, 2006, Special Education: Application of Core Principles Across Categories of Disabilities (0352) - 145 or Education of Exceptional Students: Core Content Knowledge (0353) - 145] Beginning September 1, 2006; Education of Exceptional Students: Core Content Knowledge (0353) - 157; and
2. Speech Language Pathology (0330) - 600;

(b) Learning and behavior disorders:

1. [Until August 31, 2006, Special Education: Application of Core Principles Across Categories of Disabilities (0352) - 145 or Education of Exceptional Students: Core Content Knowledge (0353) - 145] Beginning September 1, 2006; Education of Exceptional Students: Core Content Knowledge (0353) - 157; and
2. Until August 31, 2007, Special Education: Teaching Students with Mental Retardation (0321) - 145 Beginning September 1, 2007 and until August 31, 2008, Special Education: Teaching Students with Mental Retardation (0321) - 145 or Education of Exceptional Students: Severe to Profound Disabilities (0544) - 155 Beginning September 1, 2008, Education of Exceptional Students: Severe to Profound Disabilities (0544) - 155;]

(c) Hearing impaired:

1. [Until August 31, 2006, Special Education: Application of Core Principles Across Categories of Disabilities (0352) - 145 or Education of Exceptional Students: Core Content Knowledge (0353) - 145] Beginning September 1, 2006; Education of Exceptional Students: Core Content Knowledge (0353) - 157; and
2. Education of Deaf and Hard of Hearing Students (0271) - 145;

(d) Hearing impaired with sign proficiency:

1. [Until August 31, 2006, Special Education: Application of Core Principles Across Categories of Disabilities (0352) - 145 or Education of Exceptional Students: Core Content Knowledge (0353) - 145] Beginning September 1, 2006; Education of Exceptional Students: Core Content Knowledge (0353) - 157; and
2. Music: Concepts and Processes (0111) - 145; or

(5) An applicant for certification at the secondary level shall take the content test or [specialty] tests corresponding to the applicant’s content area or areas—[especially with the passing scores identified in this subsection: (a) Biology:

1. From January 1, 2005 through August 31, 2006:
   (a) Biology: Content Knowledge Part 1 (0331) - 156; or
   (b) Biology: Content Essays (0333) - 141; or
   (c) Biology: Content Knowledge (0335) - 146; or
2. Beginning September 1, 2006,] Biology: Content Knowledge (0335) - 146;

(b) Chemistry:

1. From January 1, 2005 through August 31, 2006:
   (a) General Science: Content Knowledge Part 2 (0432) - 145; and
   (b) Chemistry: Content Knowledge (0245) - 145; or
2. Beginning September 1, 2006,] Chemistry: Content Knowledge (0245) - 145;

(c) English:

1. English Language and Literature: Content Knowledge (0041) - 160; and
2. English Language, Literature and Composition Essays (0432) - 155;

(d) Social Studies:

1. Social Studies: Content Knowledge (0081) - 151; and
2. Social Studies: Interpretation of Materials (0035) - 159 [160];

(e) Mathematics:

1. Mathematics: Content Knowledge (0061) - 125; and
2. Mathematics: Proofs, Models, and Problems (0063) - 141;

(f) Physics:

1. From January 1, 2005, through August 31, 2006:
   (a) General Science: Content Knowledge, Part 2 (0432) - 145;
   (b) Physics: Content Knowledge (0261) - 114; or
   (c) Physics: Content Knowledge (0362) - 135; or
2. Beginning September 1, 2006,] Physics: Content Knowledge (0265) - 133;

(g) Earth Science:

1. From January 1, 2005 through August 31, 2006,] General Science: Content Knowledge, Part 2 (0432) - 145; and
2. Earth Science: Content Knowledge (0571) - 145.

(6) An applicant for certification in all grades in the following content area or [specialty] areas shall take the content [specialty] test or tests with the passing scores as identified in this subsection:

(a) Art:

1. At Content Knowledge (0133) - 155 [161]; and
2. At Making (0131) - 155;

(b) French: French: Content Knowledge (0170) - 159;

(c) German: German: Content Knowledge (0181) - 157;

(d) Health: Health Education (0550) - 80;

(e) Latin: Latin (0060) - 700;

(f) Integrated music:

1. Music: Content Knowledge (0113) - 154; and

(g) Vocal music:
(b) Principles of Learning and Teaching: Grades 5-9 (0523) - 161; or
(c) Principles of Learning and Teaching: Grades 7-12 (0524) - 161.
(6) An applicant for career and technical education certification in grades five (5) through twelve (12) shall take either:
(a) Principles of Learning and Teaching: Grades 5-9 (0523) - 161; or
(b) Principles of Learning and Teaching: Grades 7-12 (0524) - 161.
(7) An applicant for a restricted base certificate shall take one (1) of the following pedagogy tests corresponding to the grade range of the specific restricted base certificate:
(a) Principles of Learning and Teaching: Grades K-6 (0522) - 161;
(b) Principles of Learning and Teaching: Grades 5-9 (0523) - 161; or
(c) Principles of Learning and Teaching: Grades 7-12 (0524) - 161.

Section 4. Assessment Recency. (1) A passing score on a test established at the time of administration [in this administrative regulation and completed on or after January 1, 2002] shall be valid for the purpose of applying for certification five (5) years from the test administration date.
(2) A teacher who fails to complete application for certification to the Education Professional Standards Board within the applicable recency period of the test and with the passing score established at the time of administration [in the administrative regulation] shall retake the appropriate test or tests and achieve the appropriate passing score or scores required for certification at the time of application.
(3) The test administration date shall be established by the Educational Testing Service or other authorized test administrator.

Section 5. (1) An applicant for initial certification shall take the assessments on a date established by:
(a) The Educational Testing Service;
(b) The Education Professional Standards Board for special administration; or
(c) The agency established by the Education Professional Standards Board as the authorized test administrator.
(2) An applicant shall authorize test results to be forwarded by the Educational Testing Service, or other authorized test administrator, to the Kentucky Education Professional Standards Board and to the appropriate teacher preparation institution where the applicant received the relevant training.
(3)(a) Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration.
(b) An applicant shall seek information regarding the dates and location of the tests and make application for the appropriate examination prior to the deadline established and sufficiently in advance of anticipated employment to permit test results to be received by the Education Professional Standards Board and processed in the normal certification cycle.

Section 6. An applicant shall pay the appropriate examination fee established by the Educational Testing Service or other authorized test administrator for each relevant test required to be taken.

Section 7. An applicant who fails to achieve at least the minimum score on any of the appropriate examinations may retake the test or tests during one (1) of the scheduled test administrations.

Section 8. The Education Professional Standards Board shall collect data and conduct analyses of the scores and institutional reports provided by the Educational Testing Service or other authorized test administrator to determine the impact of these tests and permit a review of this administrative regulation on an annual or biennial basis.

TOM STULL, Chairperson
APPROVED BY AGENCY: January 22, 2007
VOLUME 33, NUMBER 9 – MARCH 1, 2007

FILED WITH LHC: February 2, 2007 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 26, 2007 at 9 a.m. at the offices of the Education Professional Standards Board, 100 Airport Road, 3rd Floor, Conference Room, Frankfort, Kentucky 40601. Any person who wishes to be heard at this hearing shall notify this agency in writing by March 19, 2007 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: Alicia A. Sneed, Director of Legal Services, Education Professional Standards Board, 100 Airport Road, Third Floor, Frankfort, Kentucky 40601, phone (502) 564-4506, fax (502) 564-7080.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Alicia A. Sneed, Director of Legal Services

1. Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation specifies assessment requirements for Kentucky teacher certification.

   (b) The necessity of this administrative regulation: KRS 161:028(1)(a) requires the EPSB to establish requirements for obtaining and maintaining a teaching certificate. KRS 161:030(3)(a) states that the certification of all new teachers and teachers seeking additional certification shall complete the appropriate assessment requirements.

   (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 161.028(1)(a) requires the EPSB to establish requirements for obtaining and maintaining a teaching certificate. KRS 161:030(3)(a) states that the certification of all new teachers and teachers seeking additional certification shall complete the appropriate assessment requirements.

   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes assessment requirements, corresponding cut scores, and effective dates.

   (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 amendment removes beginning and end effective dates of test and/or test cut score changes that are no longer needed, amends cut scores for existing assessments, corrects the name of one currently required test, and adds the adoption of a new test.

       (b) The necessity of the amendment to this administrative regulation: This amendment establishes the assessments required for teacher certification and sets the corresponding minimal acceptable achievement scores for those assessments.

       (c) How the amendment conforms to the content of the authorizing statutes: This amendment establishes assessment requirements and minimal acceptable achievement scores for those assessments as required by KRS 161:028(1)(a).

       (d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies the assessments required for teacher certification and their corresponding minimal acceptable achievement scores for certification.

   (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 candidates for teacher certification, higher education faculty of the 29 colleges/universities who submit certification recommendations on behalf of candidates, and the 175 Kentucky public school districts.

   (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

       (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment, if new, or by the change if it is an amendment: These tests must ensure that they have taken the appropriate test for certification. Higher education faculty at the 29 colleges/universities must notify teacher candidates and review their curriculum to implement changes if necessary. The 175 Kentucky public school districts will not have to take any action.

       (b) In complying with this administrative regulation or amendment, how much will it cost, in terms of the entities identified in question (3) The only additional cost associated with this administrative regulation amendment will be to the teacher candidate required to take (0544). This test is $15 more than the currently required test (0321).

       (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All parties will benefit because the new test is more closely aligned to needs of the classroom teachers. Candidates will be better prepared for the classroom. Colleges and Universities will have a better aligned test by which to assess their graduates. The school districts will have better prepared candidates for potential positions.

   (5) Provide an estimate of how much it will cost the administrative body 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: Testing fees are provided by the examinees.

   (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: These tests are not administered by the Education Professional Standards Board, therefore no fee or funding increase will be necessary.

   (8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: The newly accepted test (0544) is $15 more than the currently required test (0321). This is a cost to the examinee and is paid to the testing agent.

   (9) TIERING: Is tiering applied? No. Tiering is not applicable to requirements in this administrative regulation because all candidates for certification are required to take their specified assessment.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cites, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cites, counties, fire departments, or school districts) will be impacted by this administrative regulation? Public colleges and universities and public school districts.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 161:028 (1)(a) requires the EPSB to establish requirements for obtaining and maintaining a teaching certificate. KRS 161:030 (3)(a) states that the certification of all new teachers and teachers seeking additional certification shall complete the appropriate assessment requirements.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cites, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. There should be no effect.

   (a) How much revenue will this administrative regulation generate for the state or local government (including cites, counties, fire departments, or school districts) for the first year? No revenue will be generated.

   (b) How much revenue will this administrative regulation generate for the state or local government (including cites, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.
revenue will be generated.

(c) How much will it cost to administer this program for the first year? Currently, the Education Professional Standards spends approximately $25,000 per year to manage assessments.

(d) How much will it cost to administer this program for subsequent years? The administration costs for this program are estimated to remain constant at approximately $25,000 per year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Amendment)

401 KAR 51:220. CAIR NOx ozone season trading program.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, 40 C.F.R. 51.121, 51.122, 72.2, 75.1, 75.2, 75.4, 75.11-75.13, 75.17, 75.19, 75.20, 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, 42 U.S.C. 7410

STATUTORY AUTHORITY: KRS 224.10-100(5), 42 U.S.C. 7410

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) requires the Environmental and Public Protection Cabinet to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation establishes requirements for the control of nitrogen oxides (NOx) emissions from large boilers and turbines used in power plants and other industrial applications, pursuant to the federal mandate published under the Clean Air Interstate Rule (CAIR), 40 C.F.R. 96.301 to 96.388. This administrative regulation is not more stringent than the provisions allowed under the federal mandate.

Section 1. Applicability. This administrative regulation shall apply to:
(1) CAIR NOx Ozone Season units in Kentucky that are subject to 40 C.F.R. 96.304; or
(2) Any new or existing industrial boiler or turbine as defined in 401 KAR 51:01(1) as a fuel-fired boiler or turbine as defined in 401 KAR 51:01(1) that was previously allocated NOx allowances pursuant to 401 KAR 51:160; or
(3) Any new or existing electric generating unit as defined in 401 KAR 51:01(1) as a fuel-fired boiler, combustion turbine, or a combined cycle system that serves a generator with a nameplate capacity greater than twenty-five (25) MWe, producing electricity, some of which is for sale (A unit that qualifies as a cogeneration unit pursuant to 40 C.F.R. 96.304(b)(1)(ii)) and that was previously allocated NOx allowances pursuant to 401 KAR 51:160.

Section 2. Compliance Requirements, CAIR NOx Ozone Season units shall comply with the following requirements:
(1) 40 C.F.R. 96.301 to 96.308 (Subpart AAA), "CAIR NOx Ozone Season Trading Program General Provisions";
(2) 40 C.F.R. 96.310 to 96.315 (Subpart BBBB), "CAIR Designated Representative for CAIR NOx Ozone Sources";
(3) 40 C.F.R. 96.320 to 96.324 (Subpart CCCC), "Permits";
(4) 40 C.F.R. 96.350 to 96.357 (Subpart FFFF), "CAIR NOx Ozone Season Allowance Tracking System";
(5) 40 C.F.R. 96.360 to 96.362 (Subpart GGGG), "CAIR NOx Ozone Season Allowance Transfers";
(6) 40 C.F.R. 96.370 to 96.375 (Subpart HHHH), "Monitoring and Reporting"; and
(7) 40 C.F.R. 96.380 to 96.388 (Subpart IIII), "CAIR NOx Ozone Season Opt-in Units".

Section 3. Methodology for the Allocation of CAIR NOx Ozone Season Allowances. The number of CAIR NOx Ozone Season allowances to be allocated to each CAIR NOx Ozone Season unit by the cabinet and to be sold by the Commonwealth of Kentucky shall be determined pursuant to this section.

(1) The total number of CAIR NOx Ozone Season allowances shall be as follows:
(a) For the 2009 through 2014 control periods, 36,109 tons, which includes 36,045 tons as specified in 40 C.F.R. 96.340, and sixty-four (64) allowances previously allocated under 401 KAR 51:160 for units specified in Section 1(2) of this administrative regulation; and
(b) For the 2015 control periods and thereafter, 30,651 tons, which includes 30,587 tons as specified in 40 C.F.R. 96.340, and sixty-four (64) allowances previously allocated under 401 KAR 51:160 for units specified in Section 1(2) of this administrative regulation.

(2) The total number of CAIR NOx Ozone Season allowances assigned to Kentucky shall be divided into separate pools as follows:
(a) Ninety-eight (98 percent) of the total number of allowances shall be allocated for each control period to units that commence operation or commence commercial operation before:
2. January 1, 2009, for the 2015 control period; and
3. Thereafter, before January 1 of the year that is six (6) years before the next control period; and
(b) Two (2) percent of the total number of allowances for each control period shall be sold by the Commonwealth of Kentucky in accordance with Section 4 of this administrative regulation.

(3) For each CAIR NOx Ozone Season unit, the baseline heat input or adjusted control period heat input in mmBtu shall be determined and shall be used to determine CAIR NOx Ozone Season allowances for the pool specified in subsection (2) of this section as follows:
(a) For CAIR NOx Ozone Season units commencing operation or commencing commercial operation before January 1, 2001, and:
1. Operating each calendar year during a period of five (5) or more consecutive years, the baseline heat input shall be the average of the three (3) highest amounts of the unit's adjusted control period heat input for 2001 through 2005; or
2. For units not having operated each calendar year for a period of five (5) or more consecutive years, the baseline heat input shall be established during the next allocation period when the unit has five (5) consecutive years of operation, using the average of the three (3) highest amounts of the unit's adjusted control period heat input for the most recent five (5) consecutive years of operation;
(b) For CAIR NOx Ozone Season units commencing operation or commencing commercial operation on or after January 1, 2001, and:
1. Operating each calendar year during a period of five (5) or more consecutive years, the baseline heat input shall be the average of the three (3) highest amounts of the unit's adjusted control period heat input over the most recent consecutive five (5) years of operation; or
2. For CAIR NOx Ozone Season units that have not operated each calendar year during a period of five (5) or more consecutive years, the average of the three (3) highest amounts of the unit's adjusted control period heat input for the previous five (5) years of operation, where the:
   1. Unit shall not establish a baseline heat input;
   2. Adjusted control period heat input for a control period of not operating shall equal zero;
   3. Cabinet shall allocate CAIR NOx Ozone Season allowances for the unit.

(4) The adjusted control period heat input for each ozone season shall be calculated as follows for CAIR NOx Ozone Season units specified in subsection (2)(a) of this section:
(a) If the unit is coal-fired during the year, the unit's control period heat input for that year shall be multiplied by 100 percent; and
(b) If the unit is oil-fired during the year, the unit's control period heat input for that year shall be multiplied by sixty (60) percent; and
(c) If the unit is not subject to paragraphs (a) or (b) of this subsection, the unit's control period heat input for that year shall be multiplied by forty (40) percent.[1-5]
(5) The adjusted control period heat input for CAIR NOx Ozone Season units specified in subsection (2)(b) of this section shall equal the unit's control period heat input multiplied by 100 percent.

(6) For an ozone season, the unit's control period heat input and the unit's status as coal-fired or oil-fired shall be determined:

(a) In accordance with 40 C.F.R. Part 75, if the unit is subject to 40 C.F.R. Part 75;
(b) By the best available data reported to the cabinet for the unit if the unit is not otherwise subject to 40 C.F.R. Part 75; or
(c) By the best available data obtained by the cabinet.

(7) For CAIR NOx Ozone Season units included in the pool specified in subsection (2)(a) of this section, the cabinet shall allocate CAIR NOx Ozone Season allowances to each CAIR NOx Ozone Season unit in an amount equal to the result obtained by:

(a) Multiplying the total amount of CAIR NOx Ozone Season allowances specified in subsection (2)(a) of this section by the baseline heat input for each unit or the heat input established under subsection (3)(c) of this section;
(b) Dividing by the total amount of baseline heat input and the heat input established under subsection (3)(c) of this section for all applicable CAIR NOx Ozone Season units; and
(c) Rounding to the nearest whole CAIR NOx Ozone Season allowance, as appropriate.

(8) The cabinet shall submit to the U.S. EPA the CAIR NOx Ozone Season allowances to be allocated and sold from the pools specified in subsection (2) of this section in a format prescribed by the U.S. EPA.

(b) October 31, 2009, for control period 2015; and
(c) October 31 of each year thereafter, for the control period in the sixth year after the year of the applicable deadline for submission.

Section 4. Sale of CAIR NOx Allowances by the Commonwealth of Kentucky.

(1) The Commonwealth of Kentucky shall establish an account pursuant to 40 C.F.R. 96.351(b) for the purpose of selling the CAIR NOx Ozone Season allowances in the pool specified in Section 3(2)(b) of this administrative regulation.

(2) The proceeds from the sale of the CAIR NOx Ozone Season allowances shall be deposited in the general fund of the Commonwealth of Kentucky.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
APPROVED BY AGENCY: February 15, 2007
FILED WITH THE SECRETARY: January 15, 2007 at 10 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this amendment will be held on March 28, 2007, at 10 a.m. in the Conference Room of the Division for Air Quality at 803 Schenkel Lane, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing, of their intent to attend. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least five (5) workdays prior to the hearing. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed amendment. A transcript of the public hearing will be made. If you request a transcript, you will be required to pay for the transcript. If you do not wish to be heard at the hearing, you may submit written comments on the proposed amendment. Written comments will be accepted until close of business on April 2, 2007. Send written notification of intent to be heard at the hearing or written comments on the proposed amendment to the contact person.

CONTACT PERSON: Gerry Ennis, Environmental Technologist III, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601, phone (502) 573-3382, fax (502) 573-3787, email gerry.ennis@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Gerry Ennis

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates the requirements of the federally mandated Clean Air Interstate Rule (CAIR) and establishes the requirements for the control of nitrogen oxides (NOX) emissions from any electric generating unit or industrial boiler that is subject to the provisions of that program. (40 C.F.R. 96.301 to 96.388). This administrative regulation provides the framework to establish the allowance allocation and trading programs associated with the sale of a federal cap and trade portion of the federal program. This regulation will assist in mitigating interstate transport of NOX emissions associated with ozone and fine particulate (PM2.5). This regulation also continues a program that began with the NOx SIP Call, where Kentucky sells 2% of the NOX allowances allocated to the state.

(b) The necessity of this administrative regulation: The U.S. EPA is requiring 28 states and the District of Columbia to revise their State Implementation Plans (SIPs) to include control measures to reduce emissions of nitrogen oxides. NOx is a precursor to ozone and fine particulate (PM2.5). Reducing the emissions of NOx will assist 8-hour ozone and PM2.5 nonattainment areas in achieving the national ambient air quality standard.

(c) How this administrative regulation conforms to the content of the CAIR: 224, 10-12, which is required to promulgate administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation is proposed to reduce NOx emissions from electric generating units or industrial boilers. If Kentucky does not adopt measures to implement the federal CAIR program, U.S. EPA will and has already taken the first steps to impose a Federal Implementation Plan (FIP) in Kentucky.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will reduce NOx emissions resulting in the protection of human health and the environment. If Kentucky does not adopt measures to implement the federal CAIR program, U.S. EPA will implement the federal program 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: This amendment revises the applicability requirements in order to include any source that may become subject to this existing administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to include any sources that may be included in allowance allocations.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment conforms to the federally mandated CAIR Program.

(d) How the amendment will assist in the effective administration of statutes. By not limiting applicability to only those sources that were subject to the NOx SIP Call.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. This regulation became effective on February 2, 2007. This amendment clarifies and expands the applicability criteria to include sources that may become subject to its requirements. Owners and operators and designated representatives of electric generating utilities or Industrial boilers will be subject to this administrative regulation. Kentucky citizens will benefit from the emission reductions associated with this regulation with fewer pollution related illnesses in areas impacted by high ozone and particulate matter levels.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or the change if it is an amendment:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation: Because this administrative regulation is final, any currently affected unit will have to possess allocations sufficient to cover their seasonal NOx emissions. Any electric generating unit
that may become subject to this amendment will also have to trade or purchase allocations from the CAIR NOx Seasonal Trading Program to ensure NOx allowances are held by the utility equal to the seasonal NOx emissions.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? There should be no additional costs associated with this program between 2009 (the startup of the CAIR Program) through 2014, when Kentucky’s seasonal NOx allowances remain the same. Beginning in 2015, these seasonal allowances will drop by approximately 15%, at which time there may be additional controls necessary or allowances through other means.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? The U.S. EPA has estimated that in adopting the CAIR program nationwide, there will be a savings in health care costs of $5-$100 billion dollars by 2015. Therefore, the public will benefit from this administrative regulation by the reduction in health care costs associated with existing levels of ozone and fine particulate. In promulgating this amendment, the state is ensuring that electric generating units operating within the Commonwealth will continue to have flexibility in meeting the requirements to hold allowances to cover NOx emissions from the source. Kentucky will be distributing more allowances to the affected sources in the state than what is set forth in the federal model rule.

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

(a) Initially: The division will not incur any additional costs for the implementation of this regulation.

(b) On a continuing basis: There will not be any additional continuing costs for the implementation of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? The division’s current operating budget will be used for the implementation and enforcement of this regulation.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if now, or by the change if it is an amendment. No increase in fees or funding is necessary 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, nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Yes. This administrative regulation applies to electric generating units producing more than 25 MW of sale.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. The federal mandate is found in the Code of Federal Regulations, 40 C.F.R. 95 301 to 96.338.

2. State compliance standards. The state compliance standards are found in KRS 224.10-100.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate requires states to revise their State Implementation Plans to reduce emissions of nitrogen oxides. The federal regulation contains model rules for multi-state cap and trade programs for NOx emissions. The model rules provide states the ability to meet the required reductions in a flexible and cost-effective manner. Each affected electric generating unit or industrial boiler will have to purchase allocations from the CAIR NOx Ozone Season Trading Program for excess emissions of NOX. Each electric generating unit or industrial boiler will have flexibility in controlling NOx emissions from the source.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The administrative regulation follows the federal regulation model rule and will impose no more stringent requirements than those required by the federal mandate.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Stricter standards and requirements are not imposed.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? No.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? No known units, parts or divisions of state or local government will be impacted by this regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 224.10-100(3), 40 C.F.R. 51.121, 51.122, 72.2, 75.1, 75.2, 75.4, 75.11 to 75.13, 75.17, 75.19, 75.20, 75.24, 75.70, 75.72, 75.74, 75.75, Part 96, and 42 U.S.C. 7410.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation generates no revenues.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This regulation generates no revenues.

(c) How much will it cost to administer this program for the first year? The Division’s operating budget continues as the source of funding for the implementation of this program.

(d) How much will it cost to administer this program for subsequent years? The proposed amendment will have no effect on costs for administering the program in subsequent years.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
Sex Offender Risk Assessment Advisory Board
(Amendment)

501 KAR 6:190. Approval process for mental health professionals performing comprehensive sex offender presence evaluations and treatment of sex offenders.

RELATED TO: KRS 17.550-17.581
STATUTORY AUTHORITY: KRS 17.554(1), 17.564
NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(1) requires the Sex Offender Risk Assessment Advisory Board to approve providers to conduct court-ordered comprehensive sex offender presence evaluations and treatment of sex offenders. This administrative regulation establishes approval requirements for providers.

Section 1. Definitions. (1) "Approved provider" is defined by KRS 17.550(3).
(2) "Board" is defined by KRS 17.550(1).
(3) "Comprehensive sex offender presence evaluation" means a comprehensive mental health evaluation by an approved provider that includes a focus on the clinical data necessary to address the factors listed in KRS 17.554(2).
(4) "Corrective action plan" means a plan submitted by the approved provider and accepted by the board or a plan imposed by the board that requires an approved provider to take specific steps to be in compliance with this administrative regulation.
Section 2. Qualifications of Approved Providers. To qualify as an approved provider, an applicant shall, in addition to meeting the requirements of KRS 17.550(5):
(1) Have completed forty (40) hours of specialty training provided or approved by the board under Section 8 of this administrative regulation including the following:
(a) Characteristics and offense patterns of sex offenders;
(b) Treatment modalities used with sex offenders;
(c) Legal and ethical issues in the risk assessment of sex offenders;
(d) Victim's issues, not to exceed two (2) hours of credit against the total requirement;
(e) Issues related to the assessment of juvenile and female sex offenders; and
(f) Use of the appropriate actuarial or evaluation instruments;
(2) Be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status, and
(3) Have a minimum of 250 hours documented experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:
(a) Sixty (60) hours documented experience conducting sex offender evaluations or completion of a practicum as described in Section 6 of this administrative regulation; and
(b) 180 hours documented clinical contact conducting sex offender treatment or completion of a practicum as described in Section 6 of this administrative regulation.

Section 3. Duties (1) If an approved provider performs a comprehensive sex offender presentence evaluation for a sex offender, he shall provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.
(2) If an approved provider has provided treatment for a sex offender, he shall not perform a comprehensive sex offender presentence evaluation for personal financial gain for the sex offender for six (6) months following the treatment.
(3) An approved provider shall:
(a) Submit the first four (4) evaluations prepared after becoming an approved provider for review by the board;
(b) Comply with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status; and
(c) Complete eight (8) hours of continuing education approved or provided by the board by December 31 in each calendar year following the year in which the individual becomes an approved provider.

1. The board may grant an extension of six (6) months in which to complete hours of continuing education upon request for good cause shown. To request an extension, an approved provider shall:
(a) Submit a plan detailing how the uncompleted hours will be obtained within the next six (6) months, if a plan to make up uncompleted hours has not been requested or approved by the board for the approved provider for either of the two (2) preceding calendar years;
(b) Submit a plan detailing how the next year's eight (8) hours will be obtained within the next calendar year; and
(c) State the reasons for the request for extension.
2. The request shall:
(a) Be made in writing;
(b) Include the number of hours that need to be completed for the calendar year;
(c) Include proof of any hours that were completed; and
(d) Be postmarked on or before December 31 of the calendar year for which the hours were required.

(4) An approved provider shall:
(a) Identify himself as an approved provider as credential by the Sex Offender Risk Assessment Advisory Board when performing an evaluation that is not of an individual convicted of a felony sex crime under the provisions of KRS 17.550 through 17.991;
(b) Refer to an individual being evaluated or treated as a sex offender if the individual does not meet the definition of a sex offender as established in KRS 17.550.

Section 4. Approval Procedures. (1) The board shall approve an applicant as an approved provider if he meets the applicable qualifications specified in Section 2 of this administrative regulation and is not otherwise disqualified by the provisions of Section 5 of this administrative regulation.
(2) An individual may apply to the board for approval status as an approved provider by submitting:
(a) A written request for approval, which shall include the following:
1. Full name;
2. Business address;
3. Home address;
4. Daytime telephone number;
5. Fax number, if available; and
6. Social Security number;
(b) Documentary evidence of his qualifications; and
(c) Evidence that he has remedied the cause for the denial or revocation, if approval was previously denied or revoked under Section 5 of this administrative regulation.
(3) The board shall determine that an application is incomplete if:
(a) The documentation of qualifications is insufficient to meet the required qualifications in Section 2 of this administrative regulation;
(b) The board is unable to verify the authenticity of the documentation of qualifications;
(c) Any of the information required in subsection (2) of this section is not submitted.
(4) If the board determines that an application is incomplete, the board shall specify to the applicant additional documentation or information that is required or identify the information that cannot be verified.
(5) The board shall notify the applicant of its intent to approve or deny the application for approval in writing no later than ninety (90) days after receiving a complete application for approval.
(6) Unless approval has been revoked in accordance with Section 5 of this administrative regulation, the board shall renew the approval status of an approved provider upon request if:
(a) He submits documentation of completion of at least eight (8) hours per year of continuing education provided or approved by the board under Section 8 of this administrative regulation; and
(b) The approved provider continues to meet the requirements of this administrative regulation and KRS Chapter 17 for approved provider status.
(7) The board shall maintain a list of approved providers to be submitted to the Administrative Office of the Courts annually.

Section 5. Denial or Revocation of Approval. (1) The board shall deny, suspend or revoke approval if an applicant or an approved provider has:
(a) Been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person;
(b) Had a domestic violence protective order issued against him within the previous five (5) years;
(c) Failed to meet the qualifications for approval set forth in Section 2 of this administrative regulation;
(d) Failed to be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status;
(e) An alcohol or drug abuse problem as defined in KRS 222.005(3);
(f) Falsified any information or documentation, or has concealed a material fact, in his request for approval;
(g) Failed to implement a corrective action plan imposed by the board in accordance with Section 7 of this administrative regulation;
(h) Three (3) or more evaluations which the board finds are below standard upon review;
(i) Failed to comply with the comprehensive sex offender presentence evaluation procedure established in 501 KAR 6:200;
(j) Shown an inability to conduct an evaluation with reasonable skill.
(k) Accepted a gift or favor from a sex offender being assessed, from the family of the sex offender being assessed, or from their agent;
(l) Provided a gift or favor to a sex offender being assessed, to the family of the sex offender being assessed, or to their agent;
(m) Failed to comply with an order of the board; or
(n) Failed to comply with instructions of the board during an investigation.

(2) The board may deny, suspend or revoke approval if an applicant or an approved provider has:
(a) Been convicted of or pled guilty to any misdemeanor or criminal offense that is not against a person;
(b) Had a sanction applied against their health professional licensure or certification at any time in the past two (2) years;
(c) Failed to comply with the duties set forth in Section 3 of this administrative regulation;
(d) Less than three (3) evaluations that the board finds are below standard upon review;
(e) Failed to comply with the treatment requirements established in 501 KAR 6:220;
(f) Failed to comply with the evaluation procedure established in 501 KAR 6:220;

(g) Failed to comply with the requirements set forth by the board for the practicum or to successfully complete the practicum, if so required by Section 2 of this administrative regulation;
(h) Identifies himself or herself as an approved provider as credentialled by the Sex Offender Risk Assessment Advisory Board when performing an evaluation that is not of an individual convicted of a felony sex crime under the provisions of KRS 17.550 through 17.991; or

(i) Refers to an individual being evaluated or treated as a sex offender if the individual does not meet the definition of sex offender established in KRS 17.550.

(3) If the board intends to deny, suspend or revoke approval, it shall:
(a) Serve a notice of intent to deny, suspend, or revoke approval to the applicant or approved provider; and
(b) Notify the applicant or approved provider of his hearing rights, in accordance with KRS 17.560.

(4) An approved provider who has had his approval revoked shall be ineligible to apply to be an approved provider until the second anniversary of the date his approval was revoked unless his revocation was for failure to obtain the required eight (8) hours of continuing education and the required hours have been obtained.

Section 6. Practicum Requirements. (1) A practicum required by Section 2 of this administrative regulation shall be conducted by an approved provider who shall:
(a) Have a minimum of 2000 hours of experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:
   1. 500 hours conducting sex offender evaluations; and
   2. 1,500 hours of clinical contact in sex offender treatment;
(b) Be an approved provider in good standing with the board;
(c) Submit a request to conduct a practicum for each participant and be approved by the board to conduct the practicum;
(d) Directly observe the practicum participants clinical practice in person or through video or audio tape;
(e) Examine and approve all comprehensive sex offender presentation evaluations performed by the practicum participant; and
(f) Give written notice to the board if he determines that the practicum participant’s performance does not comply with the provisions of this administrative regulation, 501 KAR 6:220, or 501 KAR 6:220.

(2) To complete a practicum required by this administrative regulation, the participant shall:
(a) Have a minimum of four (4) hours of face-to-face contact with the approved provider conducting the practicum each month, which shall include case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice;
(b) Obtain a minimum of sixty (60) hours experience conducting sex offender evaluations;
(c) Obtain a minimum of 190 hours of clinical experience with face-to-face contact conducting sex offender treatment;
(d) Participate in the practicum for a minimum of six (6) months; and
(e) Meet the requirements of the practicum within a maximum of eighteen (18) months.

(3) If an applicant has a portion of the minimum hours required to qualify as an approved provider in Section 2(3) of this administrative regulation, he shall participate in the practicum as described in subsections (1) and (2) of this section and may obtain only the hours needed to meet the minimum qualifications in Section 2(3) of this administrative regulation.

Section 7. Monitoring. (1) The board may:
(a) Investigate a formal complaint, verified by affidavit, concerning an approved provider, if the complaint alleges a failure to comply with the provisions of this administrative regulation; and
(b) Refer a complaint against an approved provider, which relates to unethical practice or practice which may be outside the approved provider’s scope of practice, to the appropriate Kentucky licensure or certification board.

(2) The board may investigate and evaluate an approved provider’s adherence to the provisions of this administrative regulation, 501 KAR 6:200, or 502 KAR 6:220, on its own initiative.

(3) Board staff may monitor the following activities:
(a) Interviewing a sex offender or victim, if consent is given by the sex offender or victim and established for the interview;
(b) Reviewing evaluation or treatment records maintained by an approved provider on a sex offender;
(c) Direct observation of the evaluation or treatment of a sex offender; or
(d) Interviewing judicial, correctional, law enforcement officials or other individuals that interact with an approved provider in relation to comprehensive sex offender presentence evaluations or treatment of sex offenders.

(4) If an approved provider fails to comply with provisions of this administrative regulation, the board shall notify him in writing of its determination and may:
(a) Require the approved provider to submit a corrective action plan for approval by the board;
(b) Impose a corrective action plan; or
(c) Revoke approval in accordance with Section 5 of this administrative regulation.

(5) If the board requires an approved provider to comply with a corrective action plan, it shall review plan compliance within ninety (90) days.

Section 8. Approval of Specialty Training and Continuing Education. (1) Specialty training.
(a) Specialty training, as required in Section 2 of this administrative regulation, shall be approved or provided by the board based on its nature or relevance;
(b) An applicant seeking approval of a specialty training course shall submit to the board the following:
   1. A certificate of attendance which shall include the number of hours of training received; or
   2a. If a certificate of attendance is not available, an affidavit that includes the number of hours of education received; and
   b. An agenda from the training seminar that describes topics and length of time spent on each topic.
(c) The board may require the applicant to provide course materials from the training seminar or additional information, if it is unable to adequately determine the nature or relevance of the training provided at the seminar from the materials submitted under subsection (1)(b) of this section.

(2) Continuing education.
(a) Continuing education, as required in Section 3 of this administrative regulation, shall be approved or provided by the board based on its nature or relevance;
(b) An approved provider seeking approval of continuing education hours shall submit to the board the following:
   1. A certificate of attendance that shall include the number of hours of education received; or
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2.a. If a certificate of attendance is not available, an affidavit that includes the number of hours of education received; and
b. An agenda from the seminar, which describes topics and length of time spent on each topic.
(c) The board may require the applicant to provide course materials from the seminar or additional information. If it is unable to adequately determine the nature or relevance of training provided at the seminar from the materials submitted under subsection (2)(b) of this section.

This is to certify that the Sex Offender Risk Assessment Advisory Board approved this administrative regulation prior to its filing by the Department of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a) as reflected by the signature above.

JAMES J. VAN NORT, Board Chairperson
JOHN D. REES, Commissioner
APPROVED BY AGENCY: January 30, 2007
FILED WITH LRC: February 1, 2007 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD:
A public hearing on this administrative regulation shall be held on March 22, 2007 at 9 a.m. at the Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) workdays prior to the hearing of their intent to attend. Written 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. Written comments shall be accepted until April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person:
CONTRACT PERSON: Amy V. Barker, Justice and Public Safety Cabinet, Office of Legal Services, P.O. Box 2400, Frankfort, Kentucky 40602-2400, phone (502) 564-4001, fax (502) 564-5229.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Amy V. Barker, Assistant General Counsel

1. Provide a brief summary of:
(a) What this administrative regulation does: The regulation provides the requirements for becoming an approved provider for training and evaluating sex offenders through the Sex Offender Risk Assessment Advisory Board.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 17.550, et. seq.

(c) How this administrative regulation conforms to the content of the authorizing statutes: The regulation states the approval processes that the board is required to determine.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: By providing direction to mental health professionals who desire to be approved providers who are authorized to provide court-ordered assessment and treatment for sex offenders.

(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 duties for approved providers and adds the failure to comply with the new duties to the discipline options available to the board.

2. The necessity of the amendment to this administrative regulation: To provide more efficient administration of the regulations regarding approved providers and to conform to the purpose of the statutes.

(c) How the amendment conforms to the content of the authorizing statutes: The statutes give the board regulatory authority concerning the approval process and the providers approved by that process.

(d) How the amendment will assist in the effective administration of the statutes: To provide more efficient administration of the regulations regarding approved providers and to conform to the purpose of the statutes.

3. List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects 62, the sex offenders that approved providers treat or evaluate, and may potentially affect circuit courts and probation and parole officers, if the names of approved providers change.

4. Provide an analysis of how the entities identified in question 3 will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) The actions that each of the regulated entities identified in question 3 will have to take to comply with this administrative regulation or amendment: If the names of approved providers change, then circuit courts will be provided a new list of approved providers and probation and parole officers may obtain the new list of approved providers for their supervision of sex offender.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question 3: None.

(c) As a result of compliance, what benefits will accrue to the entities identified in question 3: The changes will assist judges in knowing which assessments by an approved provider are performed by the person's employer as an approved provider and under the requirements set forth by the board and which assessments are performed by the provider under criteria the provider determines in his capacity as a mental health professional and not as an approved provider.

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 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: No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This regulation may impact circuit courts, probation and parole officers, if the names of approved providers change, and approved providers who are employed by a state or local agency.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 17.550 et seq.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
(c) How much will it cost to administer this program for the first year? None
(d) How much will it cost to administer this program for subsequent years? None

Note: If specific dollar estimates cannot be determined, provide
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a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-): Other Explanation:

TRANSPORTATION CABINET
Department of Highways
Division of Maintenance
(Amendment)

603 KAR 4:045. Cultural and recreational supplemental guide signs and boundary signs.

RELATES TO: KRS 177.037, 189.337, 23 C.F.R. Subpart F
STATUTORY AUTHORITY: KRS 177.037, 189.337(2), 23
U.S.C. 162
NECESSITY, FUNCTION, AND CONFORMITY: KRS 189.337(2) and 177.037 authorize the Transportation Cabinet to promulgate standards and specifications for uniform system of traffic control devices. This administrative regulation sets forth standards to be used in the erection and maintenance of cultural and recreational supplemental guide signs and boundary signs.

Section 1. Definitions. (1) "Boundary" means the official beginning or end of any political subdivision, national scenic byway that is recognized by a state or national publication including but not limited to maps and gateway guides.
(2) "Boundary sign" means a sign placed on or off right-of-way that marks the boundaries of a city, town, community, unincorporated urban place, or national scenic byway. A boundary sign for a city or an unincorporated urban place [please] may include events or accomplishments important to that area and may also honor the birthplace of a person important to that area.
(3) "Clear zone" means the area between the edge of the driving-lane of a public road and an imaginary line running parallel to the road a certain distance from the edge of the traveled way as specified by the AASHTO Roadside Design Guide.
(4) "Cover" means a protective shield over a cultural and recreational supplemental guide sign which prohibits viewing of the sign.
(5) "Cultural and recreational supplemental guide sign [panel]" means an official sign placed within the highway right-of-way with one (1) attraction message [please for one (1) or more individual signs to be attached to it].
(6) "Cultural or recreational" means a public or private activity which provides a tourist attraction, cultural or recreational activity to the traveling public.
(7) "Cultural or recreational activity" means a cultural, historical, recreational, agricultural, educational or entertainment activity.
(8) "Department" is defined by KRS 189.010(1).
(9) "Eligibility distance" means the distance from the location of the entrance driveway of the activity to the point where the information panel [directional-sign] is located to the entrance driveway to the activity.
(10) "Illegal sign" means an advertising device which has been determined by the Transportation Cabinet to be illegal according to the provisions of 603 KAR 3.080.
(11) "Intersection" is defined by KRS 189.010(4).
(12) "Interstate or parkway" means a highway that has fully-controlled access and is part of the National Interstate and Defense System of Highways or is now, or once was, a toll road.
(13) "MUTCD" means the Federal Highway Administration's "Manual on Uniform Traffic Control Devices" incorporated by reference in 603 KAR 5.050.
(14) "Public road" means all state-maintained roads other than interstate and parkways.
(15) "Ramp" means the on- or off-access road from an interstate highway or parkway to or from the first public road.
(16) "Information panel" means one (1) to a maximum of four (4) cultural and recreational guide signs.
(17) [H][E] "Temporary agritourism site" means a seasonal, agricultural-related tourism activity held on a working farm.

(18)[(17)] "Trailblazing" means to provide directional guidance to a particular cultural or recreational site from other highways in the vicinity.

Section 2. General Provisions. The Department of Highways shall control the erection and maintenance of cultural and recreational supplemental guide signs in accordance with the MUTCD and this administrative regulation.

Section 3. Applications and Contracts for Cultural and Recreational Supplemental Guide Signs. (1) An application for cultural and recreational supplemental guide signs shall be made to the Department of Highways by the city or community preparing the sign or signs program.
(2) An application for temporary agritourism sites shall be approved by the Kentucky Department of Agriculture pursuant to 302 KAR 35.010.

Section 4. Information Panels for Cultural and Recreational Supplemental Guide Signs. (1) General requirements for information panels.
(a) The information panels shall be located to:
1. Take advantage of natural terrain;
2. Have the least impact on the scenic environment; and
3. Avoid visual conflict with other signs within the highway right-of-way.
(b) Information panels for cultural and recreational supplemental guide signs shall not be erected:
1. On interstates or parkways;
2. On the on ramp or off ramp of an interstate or parkway;
3. Where there is insufficient space to locate both other traffic control devices and the information panels; or
4. So that the traffic is directed onto an interstate or parkway.
(c) Unprotected information panel supports located within the clear zone shall be of a breakaway design.
(d) An information panel may be located laterally outside the normal longitudinal alignment of other traffic control signs, but shall be erected within the highway right-of-way.
(e) The location of any other traffic control device shall at times take precedence over the location of an information panel.

(2) Intersection approach information panels.
(a) Information panels may be erected on the approach to an intersection on a public road.
(b) Except as provided in paragraph (g) of this subsection, each intersection approach information panel shall be located at least 200 feet from the intersection.
(c) Except as provided in paragraph (g) of this subsection, an intersection approach information panel shall be spaced at least 200 feet from any other traffic control device including another intersection approach information panel.
(d) A separate information panel shall be installed for each of the directions of traffic on an approach to an intersection at which cultural and recreational supplemental guide signs will be placed for the identification of cultural and recreational activities. The directions of traffic are the following:
1. A left turn;
2. A right turn; and
3. No turn, if the activity or attraction [business] is located ahead and is allowed by the provisions set forth in Section 6 of this administrative regulation.
(e) In the direction of traffic, the order of placement for separate information panels shall be for facilities to the left, to the right and straight ahead.
(f) If the AHEAD legend [sign] is used pursuant to the provisions of Section 6 of this administrative regulation, an attempt shall be made to locate it to the far right corner of the intersection, but it shall not obstruct the driver's critical viewing of other traffic control devices.
(g) The spacing requirements set forth in paragraphs (b) and (c) of this subsection may be waived by the State Highway Engineer's Office if, based on sound engineering judgment, it is determined that the intersection can safely accommodate the reduced spacing.
Section 5. Cultural and Recreational Supplemental Guide Sign Design and Composition. (1) Each cultural and recreational supplemental guide sign shall:
(a) Be rectangular in shape;
(b) Have a white legend and border on a brown background;
(c) Have reflective legends, arrows, backgrounds and borders; and
(d) Contain the name of the attraction [businesses] in not more than two (2) lines of legend which shall not include promotional advertising.
(2) Each cultural and recreational supplemental guide sign on an intersection approach information panel shall have:
(a) A separate directional arrow as set forth in Section 2D-8 of the MUTCD;
(b) The distance to the activity or attraction [businesses] may be shown beneath the arrow;
(c) Arrows pointing to the right at the extreme right of the cultural and recreational supplemental guide sign; and
(d) Arrows pointing to the left or up at the extreme left of the cultural and recreational supplemental guide sign.
(3) Advance Information panels
(a) Advance information panels may be installed only in situations where sight distance, intersection vehicle maneuvers, or other vehicle operation characteristics require advance notification of the attraction to reduce vehicle conflicts and improve highway safety;
(b) The limit of the advance information panels to be shown panel shall be located at least one-half (1/2) mile (eight-tenths [0.8] kilometers) from the intersection;
(c) (i) The arrangement of the cultural and recreational supplemental guide signs on the advance information panels shall be the same as the arrangement on the intersection information panels except the directional arrows and distance shall be omitted.
(ii) (b) The appropriate legend "NEXT RIGHT", "NEXT LEFT", or "AHEAD" in letters of the same size as legends shall be placed on the advance information panels above the cultural and recreational supplemental guide sign.
(e) The legend "RIGHT X MILE", "LEFT X KILOMETERS", or similarly worded legend may be used if there are intervening minor roads.
(4) There shall not be more than four (4) cultural and recreational supplemental guide signs installed on a single information panel.
(5) Cultural and recreational supplemental guide signs shall be arranged vertically on the information panels. Information panels shall be located so that the right turn signs are closer to the intersection. If no more than four (4) cultural and recreational supplemental guide signs need to be installed on an approach-to-an-intersection approach information panel, the cultural and recreational supplemental guide signs may be combined on the same information panel with the cultural and recreational supplemental guide sign for left turns placed above the cultural and recreational supplemental guide signs for right turns.
(7) (a) A cultural and recreational supplemental guide sign shall not exceed seventy-two (72) inches wide and eighteen (18) inches tall.
(b) The cultural and recreational supplemental guide sign shall be on the same information panel shall be the same width.
(c) The directional arrow with the distance to the activity or attraction [businesses] underneath shall not exceed twelve (12) inches wide and sixteen (16) inches tall.
(d) Cultural and recreational interstate area symbols may be used. These symbols shall be consistent with the MUTCD.
(e) There shall be a one (1) inch white border surrounding the sign and separating the directional arrow and legend.
(f) (i) There shall be a one (1) inch spacing between the border and legend and two (2) inch spacing between lines of legend.
(ii) The maximum length of the legend shall be five (5) feet and four (4) inches per line.

Section 6. Ahead Signing. (1) The legend "AHEAD" may be used in lieu of the up directional arrow set forth in Section 5(2)(c) of this administrative regulation.
(2) Signing for cultural and recreational activities in the AHEAD direction shall be considered only under the following circumstances:
(a) There is signing for a similar facility in either the right or left direction;
(b) Through traffic is not the normal traffic pattern; or
(c) The visibility of the establishment is obscured until a motorist is within 800 feet of the entrance.

Section 7. Cultural and Recreational Activity Eligibility. A cultural and recreational activity shall meet the following requirements to qualify for cultural and recreational signage. A cultural and recreational supplemental guide sign shall not be erected until the activity or site has been approved in accordance with this administrative regulation.
(1) The activity shall be open to the general public during regular and reasonable hours, and not by appointment or reservation only.
(2) Approval shall not be granted if the cultural and recreational activity is using an illegal sign at any location in the Commonwealth of Kentucky.
(3) Each activity shall comply with all applicable local, state, and federal statutes and administrative regulations including those prohibiting discrimination based on race, religion, color, sex, age, disability, or national origin. Each activity identified on a cultural and recreational supplemental guide sign shall provide assurance of its conformance with all applicable federal, state or local laws and administrative regulations. If a cultural and recreational activity is in noncompliance of any of these laws or administrative regulations, it may be considered ineligible for participation in this program and its signs may be removed.
(4) The activity shall be conducted in an appropriate building or area. The activity shall not be conducted in a building principally used as a residence unless there is a convenient, separate and well-marked entrance to the cultural and recreational activity is a bed and breakfast lodging. The building or area shall be maintained in a manner consistent with standards generally accepted for nonprofit activities of attraction [businesses] or agency.
(5) Any activity which operates on a seasonal basis or is closed in excess of thirty (30) days shall make provisions to remove or cover the activity's sign during the off season. The Transportation Cabinet shall be notified at least thirty (30) days before the opening or closing occurs and proper arrangements made to remove or cover the sign or signs.
(6) A cultural and recreational supplemental guide sign shall not be displayed which would misinform the traveling public or is unsightly, badly faded, or in a state of dilapidation. In these instances, the attraction [businesses] shall make arrangements for a new cultural and recreational sign.
(7) The Transportation Cabinet shall not be responsible for business lost due to cultural and recreational guide signs or information panels becoming temporarily out of service.
(8) The display of the activity on the cultural and recreational supplemental guide sign [on the cultural and recreational structure] shall not be considered an endorsement or recommendation by the state of Kentucky on behalf of the cultural and recreational activity.
(9) To qualify for a cultural and recreational supplemental guide sign, an attraction [a business] or activity shall:
(a) Be open a minimum of eight (8) hours a day, five (5) days a week, one (1) of which is a weekend, any time the sign is displayed or receives a waiver from the Transportation-Tourism Interagency Committee using the criteria for the Cultural Heritage Site Certification Program. Temporary agritourism sites shall be open a minimum of six (6) hours a day, five (5) days a week, one (1) of which
is a weekend;
(b) Have adequate parking on site or nearby for the facility;
(c) Meets the criteria set forth in the Cultural Heritage Certified Sites Program if it is a permanent activity and a cultural heritage certified site.
(d) Be listed on or eligible for listing on the National Register of Historic Places if the cultural and recreational activity is an historic site; and
(e) Have an eligibility distance of twenty (20) miles or less. If there is a corresponding limited supplemental guide sign, the eligible distance shall be fifty (50) miles or less.

Section 8. Changes. Any changes to the original approved set of signs as it relates to the location or approved activities shall be permitted by the Transportation Cabinet according to criteria set forth in Section 7 of this administrative regulation.

Section 9. Measurements. Measurements taken to determine the qualification for a cultural and recreational supplemental guide sign shall be measured from the center line of all highways. This measure shall be from the entrance driveway of the activity to the point where the directional signs are located.

Section 10. Agriculture. (1) Advertising devices for temporary agrotourism sites approved by the Kentucky Department of Agriculture pursuant to 302 KAR 39.010 may be placed off-premise and off the right-of-way on temporary non-exclusive.
(2) There shall be only one (1) sign erected on a road in each direction of travel.
(3) The signs may be placed two (2) weeks prior to the start of an event and shall be removed within forty-eight (48) hours after the event is concluded.

Section 11. Permits. The city or local community wishing to install cultural and recreational supplemental guide signs shall apply for an encroachment permit pursuant to 603 KAR 5:150 for each information panel proposed to be erected, changed or removed from the state-owned right-of-way.

Section 12. General Provisions for Boundary Signs. (1) Pursuant to KRS 177.037(3), in making its recommendations regarding the location of a boundary sign, the Transportation Cabinet shall recommend that:
(a) Boundary signs may be placed on the right-of-way if the entire sign is located beyond the clear zone; and
(b) Boundary signs shall be located off the right-of-way if insufficient right-of-way exists to provide a safe and convenient travelway for motorists and with permission of the property owner. The Transportation Cabinet shall use the AASHTO publication, "The Roadside Design Guide" to make this determination.

(2) Boundary signs shall not be more than 200 square feet and may include a welcome message in addition to any other message as permitted by KRS 177.037. The appropriate Transportation Cabinet, Department of Highways District Office shall advise the person requesting the sign as to the number and size that will properly fit within the right-of-way as necessary for the subject area.
(3) The Transportation Cabinet shall install these signs upon written request from the official governing body of the city, town, community, unincorporated urban, or national scenic byway if the recommendations of the Transportation Cabinet, pursuant to subsection (1) of this section, are followed. The Transportation Cabinet shall invoice the appropriate governing body.
(4) If more than one (1) city, town, community, unincorporated urban, or national scenic byway requests the same general area for a sign or group of signs, the community shall have preference. These signs shall be limited to one (1) per direction of travel per roadway for entering and one per direction of travel per roadway for leaving the area.
(5) Boundary signs for a city or an unincorporated urban place may include sports accomplishments and other events important to the area and may also honor the birthplace of a person important to the area.
(6) Upon completion of installation of a boundary sign, all existing signs that have been placed by the Transportation Cabinet to commemorate a similar message or events shall be removed, at the expense of the city, town, community, unincorporated urban place, or national scenic byway. If a city, town, community, unincorporated urban place, or national scenic byway has placed signs on or off the right-of-way that are similar in nature, they shall be removed or incorporated into the new signs.

Section 13. Incorporation by Reference. (1) The following material is incorporated by reference:
(b) "TCEQ-IE" [Texas] "Encroachment Permit", 10 TAC 136.01 (Edition), Transportation Cabinet;
(d) "Cultural Heritage Certified Sites Program Guide"; and

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Department of Highways, Division of Traffic Operations, 200 Mero Street, Third Floor [601-High Street], Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

MARC D. WILLIAMS, Commissioner
BILL NIGHEBERT, Secretary
APPROVED BY AGENCY: February 12, 2007
FILED WITH LRC: February 13, 2007 at 1 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 28, 2007, at 10 a.m. local time at the Transportation Cabinet, Transportation Cabinet Office Building, Hearing Room C121, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing five working days prior to the hearing, of their intent to attend. If you have a disability for which the Transportation Cabinet needs to provide accommodations, please notify us of your requirement five working days prior to the hearing. This request does not have to be in writing. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: Dana Fugazzi, Staff Attorney III, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Station: WS-21-02, Frankfort, Kentucky 40622, phone (502) 564-7650, fax (502) 564-5236.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: Dana Fugazzi, Staff Attorney III
(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation sets forth the criteria to be followed in the erection and maintenance of cultural and recreational supplemental guide signs and boundary signs designed to inform motorists where cultural and recreational sites are located.
(b) The necessity of this administrative regulation: KRS 189.337 authorizes the Transportation Cabinet to promulgate standards and specifications for a uniform system of traffic control devices.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation sets forth standards to be used in the erection and maintenance of cultural and recreational supplemental guide signs.
(d) How this administrative regulation currently assists or will
assist in the effective administration of the statutes: This regulation establishes eligibility requirements for attractions to qualify for this signage 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 amendment makes technical revisions and amends the provisions regarding agritourism sites to allow some sites to qualify for this signage program that would not qualify under the existing regulation.

   (b) The necessity of the amendment to this administrative regulation: It is necessary to amend this regulation to allow additional agritourism sites to qualify for this signage program.

   (c) How the amendment conforms to the content of the authorizing statutes: This amendment sets forth the standards to be used in the erection and maintenance of cultural and recreational supplemental guide signs.

   (d) How the amendment will assist in the effective administration of the statutes: This will provide policy and procedures for application and approval of cultural and recreational signage for agritourism sites.

   (3) List the type and number of individuals, businesses, organizations, state or local governments affected by this administrative regulation: This regulation will affect all cultural and recreational sites in the interest of the traveling public.

   (4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

   (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: This regulation establishes eligibility requirements for attractions to qualify for this signage program.

   (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are no imposed expenses.

   (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Entities that qualify for the signage program will be allowed to post cultural and recreational supplemental guide signs.

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

   (a) Initially: No known cost.

   (b) On a continuing basis: There are on-going costs related to administration of the program within the Cabinet and enforcement of the regulations. These amendments should not increase the current cost for these programs.

   (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Road 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: The Cabinet has not increased fees and does not anticipate a need for increased fees.

   (8) State whether or not this administrative regulation established fees or directly or indirectly increased any fees: No

   (9) TIERING: Is tiering applied? No, tiering is not applied because all cultural and recreational sites affected by this regulation are treated the same.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? No

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 177.037, 189.337(2), and 23 U.S.C. 162.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect.

   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

   (c) How much will it cost to administer this program for the first year?

   (d) How much will it cost to administer this program for subsequent years?

   Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

   Revenues (+/-):

   Expenditures (+/-):

   Other Explanation:

EDUCATION CABINET
Kentucky Board of Education
Department of Education

( Amendment )

701 KAR 5:110. Use of local monies to reduce unmet technology need.


STATUTORY AUTHORITY: KRS 156.070, 156.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.160(1)(b) requires the Kentucky Board of Education to promulgate administrative regulations governing the acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology. KRS 156.670(1) requires the development of the master plan for education technology to outline Commonwealth activities related to the purchase, development, and use of technology. The master plan requires a district to submit a [district-technology] plan and report which describes its educational initiatives that have technology components and their unmet technology need. KRS 157.655 stipulates that a local public school district may participate in the education technology funding program based on the unmet technology need described in the local district plan and approved by the state board. Based on review of the unmet technology need [in-district-technology-plans], it has been determined that full implementation of KETS cannot be funded based solely on offers of assistance from the Education Technology Trust Fund. Therefore, this administrative regulation is promulgated to ensure that all school district technology procurements, in categories for which KETS standards for unmet need have been established, will reduce the unmet technology need regardless of source of funds.

Section 1. Definitions. (1) "Department" means the Kentucky Department of Education.

(2) "District education [technology] plan" means the plan developed by the local school district [and the Department of Education and approved by the Kentucky Board of Education].

(3) "Kentucky Education Technology System" or "KETS" means the statewide system set forth in the technology master plan issued by the Kentucky Board of Education [with the recommendation of the Council for Education Technology] and approved by the Legislative Research Commission.

(4) "Master plan" means the long-range plan for the implementation of the Kentucky Education Technology System [as developed by the Council for Education Technology] and approved by the Kentucky Board of Education and the Legislative Research Commission.

(5) Unmet technology need" means the total cost of technology, meeting or exceeding the criteria established in the master
plan, needed to achieve the capabilities outlined in the approved technology plan of the local school district.

Section 2. Determination of Unmet Need. A local school district shall determine its unmet technology need as part of the technology planning process. Unmet technology need shall be audited by the department and subject to the approval of the Kentucky Board of Education as part of the state review and assistance calculation process, as provided by the master plan.

Section 3. Reducing Unmet Need. (1) In categories of unmet technology need, as provided in the KETS Master Plan for Education Technology, a district shall limit procurement to those which will reduce unmet technology need until the district's unmet technology need no longer exists.

(2) To assist a district in selecting technology which will reduce the unmet technology need, the Department of Education shall develop suggested procurement guidelines for equipment, software, and services.

Section 4. Alternative Technology. For technology components for which KETS standards have not been established, a local school district may propose alternative technologies (waivers) in the local education technology plan, particularly if the technology is proposed to achieve Innovation. The department shall respond to the waiver within three (3) week time period. If denied, the local school district may appeal to the commissioner.


(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Office of Education Technology, 16 Fountain Place [First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky], Monday through Friday, 8 a.m. through 4:30 p.m.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

KEVIN M. NOLAND, Intern Commissioner
KEITH TRAVIS, Chairperson
APPROVED BY AGENCY: February 13, 2007
FILED WITH LRC: February 13, 2007 at 2 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 22, 2007 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 prior to that date, the hearing may be canceled.

Section 4. Alternative Technology. For technology components for which KETS standards have not been established, a local school district may propose alternative technologies (waivers) in the local education technology plan, particularly if the technology is proposed to achieve Innovation. The department shall respond to the waiver within three (3) week time period. If denied, the local school district may appeal to the commissioner.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

KEVIN M. NOLAND, Intern Commissioner
KEITH TRAVIS, Chairperson
APPROVED BY AGENCY: February 13, 2007
FILED WITH LRC: February 13, 2007 at 2 p.m.
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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 prior to 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. Written comments shall be accepted until April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin M. Noland, Intern Commissioner, Kentucky Department of Education, 500 Mero Street, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, phone (502) 564-4474, fax (502) 564-9321.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kevin M. Noland

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation specifies when KETS standards for unmet need have been established and full implementation of KETS cannot be funded solely on offers of assistance, then any school district technology procurements will reduce the unmet need regardless of the funding source. This regulation also incorporates by reference the KETS Master Plan for Education Technology.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 156.160, 156.670, 157.655.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides for specifics for the acquisition and use of educational equipment for the schools as required by KRS 56.160; incorporates the master plan as described in KRS 156.670; and stipulates that a local public school district may participate in the education technology funding program based on the unmet technology need described in KRS 157.655.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides for the use of local monies to reduce unmet technology need and incorporates the Master Plan by reference.

(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 the new Education Technology Master Plan dated December 2006 by reference and removes the reference to the Technology Plan, dated May 2000. Repeals the reference to the school district technology plan and clarifies that education planning should describe educational initiatives that have technology components and their unmet technology need.

(b) The necessity of the amendment to this administrative regulation: The KETS Master Plan for Education Technology has been updated and the regulation needs to be amended to reflect the updated version. With the maturity of many technologies, KDE and the school districts are recognizing that education initiatives have technology components and education planning should not only encompass academic initiatives but how they will be technologically enabled.

(c) How the amendment conforms to the content of the authorizing statute: This amendment incorporates the updated KETS Master Plan for Education Technology, dated December 2006, as KRS 156.670 requires the plan to be updated.

(d) How the amendment will assist in the effective administration of the statutes: The updated KETS Master Plan for Education Technology establishes the roadmap for technology use and procurement for the school districts for next 6 years.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: 174 school districts and the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No changes to the activities currently performed to conform to this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The updated KETS Master Plan for Education Technology establishes the roadmap for technology use and procurement for the school districts for next 6 years.

(5) Provide an estimate of how much it will cost the administrative body 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:

(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 to im-
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Section 2. Occupational Noise Exposure. (1) The language relating to audiometric test requirements for occupational noise exposure in subsection (2) of this section shall apply in lieu of 29 C.F.R. 1910.95(h)(1).

(2) 29 C.F.R. 1910.95(h)(1) is amended to read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz shall be included in the audiometric tests for employers using audiometers with that capacity and all audiometric tests must include 8,000 Hz [after January 15, 1988].

(3) The language relating to audiometric test requirements for occupational noise exposure in subsection (4) of this section shall apply in lieu of 29 C.F.R. 1910.95(h)(4).

(4) 29 C.F.R. 1910.95(h)(4) is amended to read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(5) The language relating to audiometric test requirements for occupational noise exposure in subsection (6) of this section shall apply in lieu of 29 C.F.R. 1910.95(h)(5)(ii).

(6) 29 C.F.R. 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz [6,000 Hz and January 15, 1988 for audiometers without 8,000 Hz capability] may be omitted from this check. Deviations of fifteen (15) decibels or greater shall require an exhaustive calibration.

(7) The language relating to audiometric test requirements for occupational noise exposure in subsection (8) of this section shall apply in lieu of 29 C.F.R. 1910.95(h)(5)(iii).

(8) 29 C.F.R. 1910.95(h)(5)(iii) is amended to read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz [6,000 Hz and January 15, 1988 for audiometers without 8,000 Hz capability] may be omitted from this calibration.

(9) The language relating to access to information and training materials requirements for occupational noise exposure in subsection (10) of this section shall apply in lieu of 29 C.F.R. 1910.95(1)

(10) 29 C.F.R. 1910.95(1) is amended to read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(11) The language relating to exemptions to the regulation for occupational noise exposure requirements in subsection (12) of this section shall apply in lieu of 29 C.F.R. 1910.95(c).

(12) 29 C.F.R. 1910.95(c) is amended to read: Paragraphs (c) through (s) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(13) The language relating to acoustical calibration of audiometers for occupational noise exposure in subsection (14) of this section shall apply in lieu of 29 C.F.R. 1910.95 Appendix E.


This Appendix is Mandatory. Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the acou-

Section 1. Definitions. (1) "Act" means KRS Chapter 338.

(2) "Assistant Secretary of Labor" means the Commissioner [Secretary] of the Department of Labor, Commonwealth of Kentucky.

(3) "Standard" is defined in KRS 338.015(3) [means a standard which requires the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule")]
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racy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audometers, S3.6-1969.

(a) Sound pressure output check.

1. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

2. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

3. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz [6,000 Hz until January 46, 1996 for audiometers without 6,000 Hz capability] for each earphone.

4. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading".

(b) Linearity check.

1. With the earphone in place, set the frequency to 1.000 Hz and the HTL dial on the audiometer to seventy (70) dB.

2. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

3. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

4. This measurement may be made electrically with a voltmeter connected to the earphone terminals.

(c) Tolerances. When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration shall be advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

**TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONES-TD-39 EARPHONES**

<table>
<thead>
<tr>
<th>Frequency, Hz</th>
<th>Reference threshold level for TD-39 earphones, dB</th>
<th>Sound level meter level meter reading dB</th>
</tr>
</thead>
<tbody>
<tr>
<td>500</td>
<td>11.5</td>
<td>81.5</td>
</tr>
<tr>
<td>1000</td>
<td>7.07</td>
<td>7.0</td>
</tr>
<tr>
<td>2000</td>
<td>9.07</td>
<td>9.0</td>
</tr>
<tr>
<td>3,000</td>
<td>10.0</td>
<td>80.0</td>
</tr>
<tr>
<td>4,000</td>
<td>9.57</td>
<td>9.5</td>
</tr>
<tr>
<td>6,000</td>
<td>15.5</td>
<td>85.5</td>
</tr>
<tr>
<td>8,000</td>
<td>13.0</td>
<td>83.0</td>
</tr>
</tbody>
</table>

**TABLE E-2 - REFERENCE THRESHOLD LEVELS FOR TELEPHONES-TD-49 EARPHONES**

<table>
<thead>
<tr>
<th>Frequency, Hz</th>
<th>Reference threshold level for TD-49 earphones, dB</th>
<th>Sound level meter level meter reading dB</th>
</tr>
</thead>
<tbody>
<tr>
<td>500</td>
<td>13.5</td>
<td>83.5</td>
</tr>
<tr>
<td>1000</td>
<td>7.5</td>
<td>77.5</td>
</tr>
<tr>
<td>2000</td>
<td>11.0</td>
<td>81.0</td>
</tr>
<tr>
<td>3000</td>
<td>9.5</td>
<td>79.5</td>
</tr>
<tr>
<td>4,000</td>
<td>10.5</td>
<td>80.5</td>
</tr>
<tr>
<td>6,000</td>
<td>13.5</td>
<td>83.5</td>
</tr>
<tr>
<td>8,000</td>
<td>13.0</td>
<td>83.0</td>
</tr>
</tbody>
</table>

Section 3. (1) General Industry shall comply with the requirements of 29 C.F.R. 1910.94 through 1910.98, revised as of July 1, 2006, as amended by Sections 1 and 2 of this administrative regulation insofar as they are incorporated by reference. (1) The following material is incorporated by reference:

(a) The material in paragraphs 1 through 7 of this subsection, published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, revised as of July 1, 1998, is incorporated by reference.

4. 20 C.F.R. 1910.94 through 1910.95(1)(iv)(a);

5. 20 C.F.R. 1910.95(1)(v)(a); through 20 C.F.R. 1910.95(1)(v)(f);

6. 20 C.F.R. 1910.95(2)(ii)(c) through 20 C.F.R. 1910.95(2)(ii)(g);

7. 20 C.F.R. 1910.95 Appendix E through 20 C.F.R. 1910.100-


(2) The language relating to audiometric testing in Section 2(2) of this administrative regulation shall apply in lieu of 29 C.F.R. 1910.95(1)(i).

(3) The language relating to audiometric testing in Section 2(4) of this administrative regulation shall apply in lieu of 29 C.F.R. 1910.95(1)(i).

(4) The language relating to audiometric testing in Section 2(6) of this administrative regulation shall apply in lieu of 29 C.F.R. 1910.95(1)(i).

(5) The language relating to audiometric testing in Section 2(8) of this administrative regulation shall apply in lieu of 29 C.F.R. 1910.95(1)(i).

(6) The language relating to access to information and training materials required for occupational noise exposure in subsection (10) of this section shall apply in lieu of 29 C.F.R. 1910.95(1)(i).

(7) 29 C.F.R. 1910.95(c) is amended to read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(8) The language relating to acoustical calibration of audiometers for occupational noise exposure in subsection (14) of this section shall apply in lieu of 29 C.F.R. 1910.95 Appendix E;

(9) This material may be inspected, obtained, and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40651. Office hours are 8 a.m. – 4:30 p.m. (ET), Monday through Friday.

LLOYD R. CRESS, Deputy Secretary
FOR TERESA HILL, Secretary
PHILIP J. ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 14, 2007 at 2 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007, at 11 a.m. at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1825.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1910.94 through 1910.98. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1910.95, Occupational Noise Exposure, which removes an
expired effective date, as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky’s Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1910 and to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.051.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard’s regulatory provisions, and reduce administrative costs to employers.

(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 administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1910.94 through 1910.98. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1910.95, Occupational Noise Exposure, which removes an expired effective date, as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky’s Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1910 and to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.051.

(d) How the amendment will assist in the effective administration of the statute: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard’s regulatory provisions, and reduce administrative costs to employers.

(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 private and public sector employers in the Commonwealth covered by KRS Chapter 338 and engaged in general industry activities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will incur no additional regulatory responsibilities under this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As published in the April 3, 2006, Federal Register, OSHA has determined that this change to 29 C.F.R. 1910.95 will not result in additional costs to employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This change to 29 C.F.R. 1910.95 may produce cost savings resulting from reduced administrative burdens, eliminating confusion, and clarifying employer obligations.

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

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

(b) On a continuing basis: There will be no additional costs on a continuing basis 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: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This ordinary administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate:
Pub.L. 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky’s Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1910 and to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

3. Minimum of uniform standards contained in the federal mandate. Kentucky’s Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1910 and to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different responsibilities or requirements than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.
FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government which is covered by KRS Chapter 338 and engaged in general industry operations.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS 338.051, KRS 338.061, 29 C.F.R. 1915.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
   (c) How much will it cost to administer this program for the first year? As published in the April 3, 2006, Federal Register, OSHA determined that this change to 29 C.F.R. 1910.95 will not result in additional costs to employers.
   (d) How much will it cost to administer this program for subsequent years? As published in the April 3, 2006, Federal Register, OSHA determined that this change to 29 C.F.R. 1910.95 will not result in additional costs to employers.

   Revenues (+/-): There will be no increase or decrease in local government revenue as a result of this administrative regulation.

   Expenditures (+/-): As published in the April 3, 2006, Federal Register, OSHA determined that this change to 29 C.F.R. 1910.95 will not result in additional costs to employers.

   Other explanation: N/A

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
   Department of Labor
   Office of Occupational Safety and Health
   (Amendment)

803 KAR 2:308. Personal protective equipment.

RELATES TO: KRS Chapter 338, 29 C.F.R. Part 1910
STATUTORY AUTHORITY: KRS 338.051(3), 338.061(29 C.F.R. Part 1910)

NECESSITY, FUNCTION, AND CONFORMITY: [EO-2004-231, effective July 5, 2004, created the Environmental and Public Protection Cabinet, abolished the Labor Cabinet, and created the Department of Labor within the Environmental and Public Protection Cabinet] KRS 338.051(3) authorizes the Kentucky Occupational Safety and Health Standards Board to adopt occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. [KRS 338.051(2) provides that the board may incorporate by reference established federal standards and national consensus standards.] The following administrative regulation establishes the personal protective equipment (PPE) standards to be enforced by the Office [Division] of Occupational Safety and Health [Compliance] in the area of general industry.

Section 1. Definitions. (1) "Employee" is defined in KRS 338.015(2).
   (2) "Employer" is defined in KRS 338.015(1).
   (3) "Established federal standard" is defined in KRS 338.015(10).
   (4) "National consensus standard" is defined in KRS 338.015(9).
   (5) "Standard" is defined in KRS 338.015(3).
   (6) "U.S. Department of Labor" means Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601, or the U.S. Department of Labor.

Section 2. (1) Until midnight of February 23, 2007, general industry shall comply with the following provisions of this subsection, except as modified by the definitions in Section 1 of this administrative regulation [follow the federal regulations incorporated by reference in Section 3 of this administrative regulation as modified by the definitions in Section 1 of this administrative regulation].

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(2) Beginning February 24, 2007, general industry shall comply with the personal protective equipment requirements established in 29 C.F.R. 1910.132 - 1910.138, revised as of August 24, 2006, except as modified by the definitions in Section 1 of this administrative regulation. [The material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Labor, Division of Education and Training, 1047 U.S. 427 South, Frankfort, Kentucky 40601; Monday through Friday, 8 a.m. to 4:30 p.m.]

(3) This material may also be obtained from the Office of the Federal Register, National Archives and Records Service, General Services Administration.

LLOYD R. CRESS, Deputy Secretary
   For TERESA J. HILL, Secretary
   PHILIP J. ANDERSON, Chairman

APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 15, 2007 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007 at 11 a.m. (ET) at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1882.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David Stumbo

(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, the regulation must be amended to include revisions made to 29 C.F.R. 1910.134, Respiratory Protection. The revisions to 29 C.F.R. 1910.134 add definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) for respiratory protection selection and use.
The revisions also supersede the respirator selection provisions of existing substance-specific standards with these new APFs to the following standards, all adopted in Kentucky under 803 KAR 2:320: 29 C.F.R. 1910.1001; Asbestos; 1910.1017; Vinyl Chloride; 1910.1018; Inorganic Arsenic;1910.1027; Cadmium; 1910.1028; Benzene; 1910.1029; Coke Oven Emmissions; 1910.1033; Cotton Dust; 1910.1045 Acryonitrile; 1910.1047; Ethylene Oxide; 1910.1048; Formaldehyde; and 1910.1052; Methylene Chloride. OSHA issued a major revision of to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA preserved the sections of the final standard relating to APFs and MUCs pending the Agency's development of the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies, workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to hazardous contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators against airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological contaminants. Respirators provide protection from hazards that may be immediately life threatening as well as hazards that may be sustained over routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be possible as well as the MUCs. The final rule also provides for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The agency's regulations is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2:308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently affects or will assist in the effective administration of the statutes: This administrative regulation was developed to enhance worker protection throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation the process by which employers and employees select and use respiratory protection against airborne contaminants will be made more simple and uniform because of the APFs and MUCs provided by these revisions to 29 C.F.R. 1910.134. Respiratory Protection. In addition, harmonizing the APFs of OSHA's substance specific standards with the APFs in 1910.134 will reduce confusion among the regulated community and aid in the uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF 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: This administrative regulation requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA), Federal OSHA standard must be amended to include revisions made to 29 C.F.R. 1910.134, Respiratory Protection. The revisions to 29 C.F.R. 1910.134 add definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) for respiratory protection selection and use. The revisions also supersede the respirator selection provisions of existing substance specific standards with these new APFs to the following standards, all adopted in Kentucky under 803 KAR 2:320: 29 C.F.R. 1910.1001; Asbestos; 1910.1017; Vinyl Chloride; 1910.1018; Inorganic Arsenic;1910.1027; Cadmium; 1910.1028; Benzene; 1910.1029; Coke Oven Emmissions; 1910.1033; Cotton Dust; 1910.1045 Acryonitrile; 1910.1047; Ethylene Oxide; 1910.1048; Formaldehyde; and 1910.1052; Methylene Chloride. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators against airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological contaminants. Respirators provide protection from hazards that may be immediately life threatening as well as hazards that may be sustained over routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be possible as well as the MUCs. The final rule also provides for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The agency's regulations is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as

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effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2:308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation conforms to the content of the authorizing statute of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation the process by which employers and employees select and use respiratory protection against airborne contaminants will be made more simple and uniform because of the APFs and MUCAs provided by these revisions to 29 C.F.R. 1910.134, Respiratory Protection. In addition, harmonizing the APFs of OSHA’s substance specific standards with the APFs in 1910.134 will reduce confusion among the regulated community and aid in the uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

List the number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This administrative regulation affects all private and public sector employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1910.134, Respiratory Protection.

(a) How many of the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulations or amendment: Employers will be required to select and use respiratory protection equipment determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will enhance worker health and safety throughout Kentucky. At the time of the 1998 revisions to OSHA’s Respiratory Protection standard, the Agency estimated that nationally, the standard would avert between 843 and 9,282 work-related injuries and illnesses annually, with a best estimate (expected value) of 4,046 averted illnesses and injuries annually. In addition, OSHA estimated that nationally, the standard would prevent between 351 and 1,826 deaths annually from cancer and many other chronic diseases, including cardiovascular disease, with a best estimate (expected value) of 932 averted deaths from these causes. The APFs in this regulation will help ensure that these benefits are achieved, as well as provide an additional degree of protection. This regulation also will reduce employee exposures to several hazardous chemicals regulated by other OSHA standards, thereby reducing exposures to such chemicals. These chemicals are as follows: 29 C.F.R. 1910.101, Asbestos; 1910.1017, Vinyl Chloride; 1910.1018, Inorganic Arsenic, 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride.

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The Agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The Agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is taring applied? Tiening is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate: Pub.L. 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 153. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2:308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate: Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.134, Respiratory Protection, as published in the August 24, 2006, Federal Register, and adopted under 803 KAR 2:308, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter require-
VOLUME 33, NUMBER 9 — MARCH 1, 2007

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

RELATES TO: KRS Chapter 338, 29 C.F.R. Part 1910
STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 C.F.R. Part 1910

NECESSITY, FUNCTION, AND CONFORMITY: [EO-2004-731, effective July 9, 2004, created the Environmental and Public Protection Cabinet, abolished the Labor Cabinet, and created the Department of Labor within the Environmental and Public Protection Cabinet.] KRS 338.051(3) requires [authorizes] the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. [KRS 338.061(2) authorizes the board to incorporate by reference established federal standards and national consensus standards.] This administrative regulation establishes commercial diving operations standards to be enforced by the Office [Division] of Occupational Safety and Health [Compliance] in the area of general industry.

Section 1. Definitions. (1) *Assistant Secretary of Labor* means the Commissioner of Labor, Commonwealth of Kentucky.
(2) *Employee* is defined in KRS 338.015(2).
(3) *employer* is defined in KRS 338.015(1).
(4) *Standard* is defined in KRS 338.013(3).

Section 2. General Industry shall comply with the requirements of 29 C.F.R. 1910.401 through 1910.440, and Appendices, revised as of July 1, 2006, as amended [follow the federal regulations incorporated by reference in Section 4 of this administrative regulation as modified by the definitions in Section 1 and requirements of Section 3 of this administrative regulation.

Section 3. Reporting Requirement. An employer required by this administrative regulation to report information to the United States Department of Labor, or any subsidiary thereof, shall instead report such information to the Department of Labor, U.S. Highway 127 South, Suite 4, Frankfort, Kentucky 40601.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) 29 C.F.R. 1910.401-1910.411 and Appendices, revised as of July 1, 2004, and
(2) The material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Labor, Division of Education and Training, 1047 U.S. Highway 127 South, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
(3) The material may also be obtained from the Office of the Federal Register, National Archives and Records Service, General Services Administration.

LLOYD R. CRESS
For TERESA HILL, Secretary
PHILIP J. ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 14, 2007 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007, at 11 a.m. at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no
notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1910.401 through 1910.441 and Appendices. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1910.440, Recordkeeping Requirements, which updates a reference from 29 C.F.R. 1910.20 to the new 29 C.F.R. 1910.1020. Also, this amendment adopts OSHA's revocation of 29 C.F.R. 1910.441, effective dates, because the date has passed. Both of these revisions are adopted as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's Occupational Safety and Health Program is mandated by 29 C.F.R. Parts 1922 and 1953 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard's regulatory provisions, and reduce administrative costs to employers.

(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 administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1910.401 through 1910.441 and Appendices. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1910.440, Recordkeeping Requirements, which updates a reference from 29 C.F.R. 1910.20 to the new 29 C.F.R. 1910.1020. Also, this amendment adopts OSHA's revocation of 29 C.F.R. 1910.441, Effective Dates, because the date has passed. Both of these revisions are adopted as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.
VOLUME 33, NUMBER 9 – MARCH 1, 2007

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

Section 1. Definitions. (1) "Absolute filter" means a filter capable of retaining 99.97 percent of a monodisperse aerosol of three-tenths (0.3) microns in diameter.

STATUTORY AUTHORITY: KRS 338.051(3), 338.061
NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. [KRS 338.061(2) authorizes the board to adopt established federal standards and national consensus standards.]

29 C.F.R. 1910.1000 to 1910.1450 establish federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Office of Occupational Safety and Health [Compliance] in the area of general industry.


3. Minimum or uniform standards contained in the federal mandate. Kentucky's Occupational Safety and Health Program is mandated by 29 C.F.R. Parts 1910 and 1914 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government which is covered by KRS Chapter 338 and engaged in general industry operations.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. 1910.135.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1910.440 and revocation of 29 C.F.R. 1910.441 will not result in additional costs to employers.

(d) How much will it cost to administer this program for subsequent years? As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1910.440 and revocation of 29 C.F.R. 1910.441 will not result in additional costs to employers.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1910.440 and revocation of 29 C.F.R. 1910.441 will not result in additional costs to employers.

Other explanation: N/A

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(18) "Nonregulated area" means any area under the control of the employer where entry and exit is neither restricted nor controlled.

(19) "Open-vessel system" means an operation involving 4,4'-Methylene bis (2-chloroaniline) in an open vessel, which is not in an isolated system, a laboratory type hood, nor in any other system affording equivalent protection against the entry of 4,4'-Methylene bis (2-chloroaniline) into regulated areas, nonregulated areas, or the external environment.

(20) "Protective clothing" means clothing designed to protect an employee against contact with or exposure to 4,4'-Methylene bis (2-chloroaniline).

(21) "Regulated area" means an area where entry and exit is restricted and controlled.

(22) "Standard" is defined in KRS 338 015(3).

Section 2. 4,4'-Methylene bis (2-Chloroaniline). (1) Scope and application.

(a) This section shall apply to any area in which 4,4'-Methylene bis (2-chloroaniline), Chemical Abstracts Service Registry Number 101144, is manufactured, processed, repackaged, released, handled, or stored. This section shall not apply to transport in sealed containers, except for the labeling requirements under subsection (4)(b), (c), and (d) of this section.

(b) This section shall not apply to solid or liquid mixtures containing less than 1.0 (one) percent by weight of 4,4'-Methylene bis (2-chloroaniline).

(2) Requirements for areas containing 4,4'-Methylene bis (2-chloroaniline). A regulated area shall be established by an employer where 4,4'-Methylene bis (2-chloroaniline) is manufactured, processed, used, repackaged, released, handled, and stored. Those areas shall be controlled in accordance with the requirements for the following category or categories describing the operations involved:

(a) Isolated systems. Employees working with 4,4'-Methylene bis (2-chloroaniline) within an isolated system such as a "glove box" shall wash their hands and arms upon completion of the assigned task and before engaging in other activities not associated with the isolated system.

(b) Closed system operation. Within regulated areas if 4,4'-Methylene bis (2-chloroaniline) is stored in a sealed container, or contained in a closed system including piping systems, with any sample ports or openings closed while 4,4'-Methylene bis (2-chloroaniline) is contained within:

1. Access shall be restricted to authorized employees only, and
2. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated areas, close to the point of exit and before engaging in other activities.

(c) Open vessel system operations. Open vessel system operations shall be prohibited.

(d) Transfer from a closed system, charging or discharging point operations, or otherwise opening a closed system. In operations involving a "laboratory type hood," or in locations where 4,4'-Methylene bis (2-chloroaniline) is contained in an otherwise "closed system," but is transferred, charged, or discharged into other normally closed containers, the provisions of this paragraph shall apply:

1. Access shall be restricted to authorized employees only.
2. Each operation shall be provided with continuous local exhaust ventilation so that air movement shall always be from ordinary work areas to the operation. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated. Clean make-up air shall be introduced in sufficient volume to maintain the correct operation of the local exhaust system.
3. Employees shall be provided with, and required to wear, clean, full body protective clothing (smocks, coveralls, or long-sleeved shirt and pants), shoe covers, and gloves prior to entering the regulated area.
4. Employees engaged in 4,4'-Methylene bis (2-chloroaniline) handling operations shall be provided with and required to wear and use a half-face, filter-type respirator for dusts, mists, and fumes, in accordance with 29 C.F.R. 1910.134. A respirator afforded a higher level of protection may be substituted.

5. Prior to each exit from a regulated area, employees shall be required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section.

6. Employees shall be required to wash hands, forearms, face, and neck upon each exit from the regulated area, close to the point of exit, and before engaging in other activities.

7. Employees shall be required to shower after the last exit of the day.

8. Drinking fountains shall be prohibited in the regulated area.

(a) Maintenance and decontamination activities. In cleanup of leaks or spills, maintenance or repair operations on contaminated systems or equipment, or any operations involving work in an area where direct contact with 4,4'-Methylene bis (2-chloroaniline) could result, each authorized employee entering that area shall:

1. Be provided with and required to wear clean, impervious garments, including gloves, boots, and continuous-air supplied hood in accordance with 29 C.F.R. 1910.134;
2. Be decontaminated before removing the protective garments and hood;
3. Be required to shower upon removing the protective garments and hood.

(b) Laboratory activities. The requirements of this paragraph shall apply to research and quality control activities involving the use of 4,4'-Methylene bis (2-chloroaniline).

1. Mechanical pipetting aids shall be used for all pipetting procedures.
2. Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.
3. Surfaces on which 4,4'-Methylene bis (2-chloroaniline) is handled shall be protected from contamination.
4. Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that no carcinogetic products are released.
5. All other forms of 4,4'-Methylene bis (2-chloroaniline) shall be inactivated prior to disposal.
6. Employees engaged in animal support activities shall be:

a. Provided with, and required to wear, a complete protective clothing change, clean each day, including coveralls or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment; and
b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section;

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities; and

d. Required to shower after the last exit of the day.
7. Employees, except for those engaged in animal support activities, each day shall be:

a. Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;

b. Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under subsection (4)(b), (c), and (d) of this section; and

c. Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit and before engaging in other activities.
8. Air pressure in laboratory areas and animal rooms where 4,4'-Methylene bis (2-chloroaniline) is handled and bioassay stud-
ies are performed shall be negative in relation to the pressure in the surrounding area. Exhaust air shall not be discharged to regulated areas, nonregulated areas, or the external environment unless it is decontaminated.

9. There shall be a connection between regulated areas and any other areas through the ventilation system.

10. A current inventory of 4,4'-Methylene bis (2-chloroaniline) shall be maintained.

11. Ventilated apparatus such as laboratory type hoods, shall be tested at least semi-annually or immediately after ventilation modification of maintenance operations, by personnel fully qualified to certify correct containment and operation.

(g) Premixed solutions. If 4,4'-Methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area shall not be required, except:

1. Only authorized employees shall be permitted to handle the materials;

2. Each day employees shall be provided with and required to wear a clean change of protective clothing (smocks, coveralls, or long-sleeved shirts and pants), gloves, and other protective garments and equipment necessary to prevent contact with the solution in the process used;

3. Employees shall be required to remove and leave protective clothing and equipment if leaving the work area at the end of the work day or if solution is spilled on the clothing or equipment. Used clothing and equipment shall be placed in impervious containers for decontamination or disposal. The contents of the impervious containers shall be identified, as required under subsection (4)(b), (c), and (d) of this section;

4. Employees shall be required to wash hands and face after removing protective clothing and equipment and before engaging in other activities;

5. Employees assigned to work covered by this paragraph shall be deemed to be working in regulated areas for the purposes of subsection (4)(a), (b), and (c) of this section;

6. Work areas where solution may be spilled shall be:
   a. Covered daily or after any spill with a clean covering; and
   b. Cleaned thoroughly daily and after any spill.

(c) General regulated area requirements.

(a) Employee identification. A daily roster of employees entering regulated areas shall be established and maintained. The rosters or a summary of the rosters shall be retained for a period of twenty (20) years. The rosters or summaries shall be provided upon request to authorized representatives of the assistant secretary and the director. If the employer ceases business without a successor, rosters shall be forwarded by registered mail to the director.

(b) Emergencies. In an emergency, immediate measures, including the requirements of this paragraph, shall be implemented.

1. The potentially affected area shall be evacuated as soon as the emergency is determined.

2. Hazardous conditions created by the emergency shall be eliminated, and the potentially affected area shall be decontaminated prior to the resumption of normal operations.

3. Special medical surveillance by a physician shall be instituted within twenty-four (24) hours for employees present in the potentially affected area at the time of the emergency. A report of the medical surveillance and any treatment shall be included in the incident report, in accordance with subsection (6)(b) of this section.

4. If an employee has a known contact with 4,4'-Methylene bis (2-chloroaniline), the employee shall be required to shower as soon as possible, unless contraindicated by physical injuries.

5. An incident report on the emergency shall be reported as provided in subsection (5)(b) of this section.

(c) Hygiene facilities and practices.

1. Storage or consumption of food, storage or use of containers of beverages, storage or consumption of beverages, storage or application of cosmetics, smoking, storage, or smoking of tobacco products, and other products for chewing, or the chewing of those products, shall be prohibited in regulated areas.

2. If employees are required by this section to wash, washing facilities shall be provided in accordance with 29 C.F.R. 1910.141.

3. If employees are required by this section to shower, facilities shall be provided in accordance with 29 C.F.R. 1910.141(d)(3).

4. If employees wear protective clothing and equipment, clean change rooms shall be provided, in accordance with 29 C.F.R. 1910.141(e), for the number of employees required to change clothes.

5. If toilets are located in regulated areas, the toilets shall be in a separate room.

(d) Contamination control.

1. Regulated areas, except for outdoor systems, shall be maintained under pressure negative with respect to nonregulated areas. Local exhaust ventilation may be used to satisfy this requirement. Clean make-up air in equal volume shall replace air removed.

2. Any equipment, material, or other item taken or removed from a regulated area shall be done so in a manner that does not cause contamination in nonregulated areas or the external environment.

3. Decontamination procedures shall be established and implemented to remove 4,4'-Methylene bis (2-chloroaniline) from the surface of materials, equipment and the decontamination facility.

4. Dry sweeping and dry mopping shall be prohibited.

5. Signs, information and training.

(a) Signs. In the entrance to regulated areas shall be posted with signs bearing the legend:

CANCER-SUSPECT AGENT

(b) Container contents identification.

1. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)(5), (f)(7b), and (g)3 of this section which are accessible only to, and handled only by authorized employees, or by other employees trained in accordance with paragraph (e) of this subsection, may have contents identification limited to a generic or proprietary name, or other proprietary identification, or the carcinogen and percent.

2. Containers of 4,4'-Methylene bis (2-chloroaniline) and containers required under subsection (2)(d)(5), (f)(7b), and (g)3 of this section which are accessible to, or handled by employees other than authorized employees or employees trained in accordance with paragraph (e) of this subsection shall have contents identification which includes the full chemical name and Chemical Abstracts Service Registry number as listed in subsection (1)(a) of this section.

3. Containers shall have the warning words "CANCER-SUSPECT AGENT" displayed immediately under or adjacent to the contents identification.

4. Containers which have 4,4'-Methylene bis (2-chloroaniline) contents with corrosive or irritating properties shall have label statements warning of the hazards, and noting, if appropriate, particularly sensitive or affected portions of the body.

(c) Lettering.

1. Lettering on signs and instructions required by paragraph (a) of this subsection shall be a minimum letter height of two (2) inches.

2. Labels on containers required by paragraph (b) of this subsection shall:

a. Not be less than one-half (1/2) the size of the largest lettering on the package, up to a maximum required size of one (1) inch in height; and

b. Not use less than eight (8) point type.

(d) Prohibited statements. A statement shall not appear on or near any required sign, label, or instruction which contradicts or
detracts from the effect of any required warning, information, or instruction.

(e) Training and indoctrination.
   1. Each employee, prior to being authorized to enter a regulated area, shall receive a training and indoctrination program including:
      a. The nature of the carcinogenic hazards of 4,4'-Methylene bis (2-chloroaniline), including local and systemic toxicity;
      b. The specific nature of the operation involving 4,4'-Methylene bis (2-chloroaniline) which could result in exposure;
      c. The purpose for and application of the medical surveillance program, including, as appropriate, methods of self-examination;
      d. The purpose for and application of decontamination practices and procedures;
      e. The purpose for and significance of emergency practices and procedures;
      f. The employee's specific role in emergency procedures;
      g. Specific information to aid the employee in recognition and evaluation of conditions and situations which may result in the release of 4,4'-Methylene bis (2-chloroaniline); and
      h. The purpose for and application of specific first-aid procedures and practices.
   2. Each employee shall receive a review of this section at the employee's first training and indoctrination program and annually thereafter.
   3. Specific emergency procedures shall be prescribed and posted, and employees shall be familiarized with their terms, and rehearsed in their application.
   4. All materials relating to the program shall be provided if requested by authorized representatives of the assistant secretary and the director.

(5) Reports.
   (a) Operations. Not later than March 1 of each year, the information required by this paragraph shall be reported in writing by the employer to the nearest OSHA Area Director. Any change in the reported information shall be similarly reported in writing within fifteen (15) calendar days of the change. The report shall contain the following information:
      1. A brief description and in-plant location of the areas regulated and the address of each regulated area;
      2. The names and other identifying information as to the presence of 4,4'-Methylene bis (2-chloroaniline) in each regulated area;
      3. The number of employees in each regulated area, during normal operations including maintenance activities; and
      4. The manner in which 4,4'-Methylene bis (2-chloroaniline) is present in each regulated area, such as whether it is manufactured, processed, used, repackaged, released, stored, or otherwise handled.
   (b) Incidents. Incidents which result in the release of 4,4'-Methylene bis (2-chloroaniline) into any area where employees may be exposed shall be reported in accordance with this paragraph.
      1. A report of the incident and the facts obtainable at that time, including a report on any medical treatment of affected employment, shall be made within twenty-four (24) hours to the nearest OSHA Area Director.
      2. A written report shall be filed with the nearest OSHA Area Director within fifteen (15) calendar days of the initial report and shall include:
         a. A specification of the amount of material released, the amount of time involved, and an explanation of the procedure used in determining this figure;
         b. A description of the area involved, and the extent of known and possible employee and area contamination;
         c. A report of any medical treatment of affected employees and any medical surveillance program implemented; and
         d. An analysis of the steps to be taken, with specific completion dates, to avoid similar releases.
   (6) Medical surveillance. At no cost to the employee, a program of medical surveillance shall be established and implemented for employees considered for assignment to enter regulated areas, and for authorized employees.
      (a) Examinations.
         1. Before an employee is assigned to enter a regulated area, a preassignment physical examination by a physician shall be provided. The examination shall include the personal history of the employee, family and occupational background, including genetic and environmental factors.
         2. Authorized employees shall be provided with periodic physical examinations at least annually, following the preassignment examination.
         3. In all physical examinations, the examining physician shall consider whether there exist conditions of increased risk, including reduced immunological competence, current treatment with steroids of cytotoxic agents, pregnancy, and cigarette smoking.
      (b) Records.
         1. Employers of employees examined pursuant to this subsection shall maintain complete and accurate records of all medical examinations. Records shall be maintained for the duration of the employee's employment. If the employee's employment is terminated, including by retirement or death, or if the employer ceases business without a successor, records, or notarized true copies thereof, shall be forwarded by registered mail to the director.
         2. Records required by this paragraph shall be provided if requested by authorized representatives of the assistant secretary or the director. If requested by an employee or former employee, the records shall be provided to a physician designated by the employee or to a new employer.
         3. Any physician who conducts a medical examination required by this subsection shall furnish to the employer a statement of the employee's suitability for employment in the specific exposure.

Section 3. Laboratory Activities. The requirements of this section shall apply to research and quality control activities involving the use of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016.

(1) Mechanical pipetting aids shall be used for all pipetting procedures.

(2) Experiments, procedures, and equipment which could produce aerosols shall be confined to laboratory-type hoods or glove boxes.

(3) Surfaces on which chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 are handled shall be protected from contamination.

(4) Contaminated wastes and animal carcasses shall be collected in impervious containers which are closed and decontaminated prior to removal from the work area. The wastes and carcasses shall be incinerated so that no carcinogenic products are released.

(5) All other forms of chemicals covered by 29 C.F.R. 1910.1003 to 1910.1016 shall be inactivated prior to disposal.

(6) Laboratory vacuum systems shall be protected with high-efficiency scrubbers or with disposal absolute filters.

(7) Employees engaged in animal support activities shall be:
      (a) Provided with and required to wear, a complete protective clothing change, clean each day, including overalls, or pants and shirt, foot covers, head covers, gloves, and appropriate respiratory protective equipment or devices;
      (b) Prior to each exit from a regulated area, required to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decontamination or disposal. The contents of the impervious containers shall be identified as required under Section 2(4)(b), (c), and (d) of this administrative regulation;
      (c) Required to wash hands, forearms, face, and neck upon each exit from the regulated area close to the point of exit, and before engaging in other activities; and
      (d) Required to shower after the last exit of the day.

(8) Employees, except for those engaged only in animal support activities, each day shall be:
      (a) Provided with and required to wear a clean change of appropriate laboratory clothing, such as a solid front gown, surgical scrub suit, or fully buttoned laboratory coat;
      (b) Required, prior to each exit from a regulated area, to remove and leave protective clothing and equipment at the point of exit and at the last exit of the day, to place used clothing and equipment in impervious containers at the point of exit for decon-
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. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564- 3070, fax (502) 564-1862.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: David Stumbo

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation, in Section 6, requires employers covered by KRS Ch. 33 to comply with the requirements of 29 C.F.R. 1910.100 through 1910.1450. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, Section 6 must be amended to include revisions made to the following OSHA standards: 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, 1,3-Butadiene; 1910.1044, Emery; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride. These revisions have been made in conjunction with OSHA’s revision to 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Therefore, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies, workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of a respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect themselves from airborne contaminants. Kentucky’s workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be comparable as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective.
tive as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as the federal program. As a result of the administrative regulation, the requirements under 29 C.F.R. 1910.100, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program.

As a result of the administrative regulation, the requirements under 29 C.F.R. 1910.100, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride, will be harmonized with those found under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF 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: This administrative regulation, in Section 6, requires employers covered by KRS Chapter 338 to comply with the requirements of 29 C.F.R. 1910.100 through 1910.1450. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, Section 6 must be amended to include revisions made to the following OSHA standards: 29 C.F.R. 1910.100, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride.

These revisions have been made in conjunction with OSHA's revision to 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Therefore, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies, workplace protection factor studies, comments submitted to the record and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect themselves from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(b) The necessity of the amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 338.051(3), the administrative regulation, published in the August 24, 2006, Federal Register, was adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS Chapter 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements published under 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

(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 private and public sector employers in the Commonwealth engaged in general industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by one or more of the following regulations: 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methylene Chloride.
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:
Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will eliminate workplace workplace and safety hazards, resulting in reduced employee exposures to hazardous chemicals covered by occupational health standards as follows: 29 C.F.R. 1910.101, Asbestos; 1910.1017, Vinyl Chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyly Chloride. At the time of the 1998 revisions to OSHA’s Respiratory Protection standard, 1910.134, OSHA estimated that nationally, the standard would avert 843 and 9,282 work-related injuries and illnesses annually, with a best estimate (expected value) of 4,045 averted injuries and illnesses annually. In addition, OSHA estimated that nationally, the standard would prevent between 351 and 1,626 deaths annually from cancer and many other chronic diseases, including cardiovascular disease, with a best estimate (expected value) of 932 averted deaths from these causes. The APFs in this regulation will help ensure that these benefits are achieved.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directs or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate, Pub. L. 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 52 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyly Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 52 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to meet this requirement. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyly Chloride, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter or additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government engaged in general industry operations covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by one or more of the following regulations: 29 C.F.R. 1910.1001, Asbestos; 1910.1017, Vinyl Chloride; 1910.1018, Inorganic Arsenic; 1910.1027, Cadmium; 1910.1028, Benzene; 1910.1029, Coke Oven Emissions; 1910.1043, Cotton Dust; 1910.1045 Acrylonitrile; 1910.1047, Ethylene Oxide; 1910.1048, Formaldehyde; and 1910.1052, Methyly Chloride.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(d) How much will it cost to administer this program for subsequent years? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Other explanation: N/A

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

803 KAR 2:043. Occupational health and environmental controls.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926.50-1926.66

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.50 to 1926.66 establish the federal requirements relating to occupational health and environmental controls. This administrative regulation establishes the occupational health and environmental control standards to be enforced by the Office of Occupational Safety and Health [Compliance] in the area of construction.

Section 1. Definitions. (1) "Assistant secretary" means Com-
contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respirator hazards. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administration is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1933 to be at least as effective as OSHA. Consequently, the state must amend the regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1933. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in The August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF 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: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the requirements of 29 C.F.R. 1926.50 through 1926.66. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in The August 24, 2006, Federal Register, this regulation must be amended to include changes to 1926.60, Methyleneedianiline, and 1926.62, Lead. These revisions have been made in conjunction with OSHA's revisions of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued a major revision to 1910.134, on January 6, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respirator hazards. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administration is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1933 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1933. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in The August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statute: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.
Lead.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will be required to select and use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the using employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of non-powered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will enhance worker health and safety throughout Kentucky by reducing employee exposures to the hazardous chemicals covered by 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, respectively. At the time of the 1998 revisions to OSHA’s Respiratory Protection standard, 1910.134, OSHA estimated that nationally, the standard would avert between 843 and 9,282 work-related injuries and illnesses annually, with a best estimate (expected value) of 4,046 average illnesses and injuries annually. In addition, OSHA estimated that nationally, the standard would prevent between 351 and 1,626 deaths annually from cancer and many other chronic diseases, including cardiovascular disease, with a best estimate (expected value) of 832 averted deaths from these causes. The APFs in this regulation will help ensure that these benefits are achieved.

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1935 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky’s occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government which is engaged in construction industry operations covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.60, Methyleneedianiline, and 1926.62, Lead.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. 1952.11.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require

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1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(d) How much will it cost to administer this program for subsequent years? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenditures (+/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Other explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

803 KAR 2:418. Underground construction, caissons, cof- ferdams, and compressed air.

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926
STATUTORY AUTHORITY: KRS 338.051(3), 338.061, 29 C.F.R. 1926

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [authenize] the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter 338. [KRS 338.061(2) provides that the board may incorporate by reference—established federal standards and national-consensus standards.] The following administrative regulation establishes the underground construction, caissons, cofferdams, and compressed air [authenize-these] standards to be enforced by the Office [Diversified] of Occupational Safety and Health [Compliance] in the area of construction.

Section 1. The construction industry shall comply with the requirements of 29 C.F.R. 1926.800 through 1926.804. and 29 C.F.R. 1926 Subpart S Appendix A, revised as of July 1, 2006. [Incorporation by Reference. (1) The following material is incorporated by reference.


(2) This material may be inspected and copied at the offices of

LLOYD R. CRESS, Deputy Secretary
For TERESA HILL, Secretary
PHILIP ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 14, 2007 at 2 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007, at 11 a.m. at the Kentucky Department of Labor, 1047 U.S. Highway 127 South, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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 David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of.

(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1926.800 through 1926.804, and 1926 Subpart S App A. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1926.800, Underground Construction, which updates a reference from 29 C.F.R. 1910.20 to 29 C.F.R. 1926.33, as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1922 and 1935 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged states to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard's regulatory provisions, and reduce administrative costs to employers.

(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 administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1926.800 through 1926.804, and 1926 Subpart S App A. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) to 29 C.F.R. 1926.800, Underground Construction, which updates a reference from 29 C.F.R. 1910.20 to 29 C.F.R. 1926.33, as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1910 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.053.

(d) How the amendment will assist in the effective administration of the authorizing statutes: This amendment is the result of an ongoing review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard's regulatory provisions, and reduce administrative costs to employers.

(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 private and public sector employers in the Commonwealth covered by KRS Chapter 338 and engaged in general industry activities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. Employers will incur no additional regulatory responsibilities under this administrative regulation.

(b) How to comply with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1926.800 will not result in additional costs to employers.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This change to 29 C.F.R. 1910.800 may produce cost savings resulting from reduced administrative burdens, eliminating confusion, and clarifying employer obligations.

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

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

(b) On a continuing basis: There will be no additional costs on a continuing basis 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: Current state and federal funding.

(7) Provide an assessment of whether an increase in fees or functions will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This ordinary administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate.

Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1910 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1910 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by the administrative regulation? This administrative regulation will affect any unit, part, or division of local government which is covered by KRS Chapter 338 and engaged in general industry operations.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, KRS 338.053, 29 C.F.R. 1952.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1926.800 will not result in additional costs to employers.
(d) How much will it cost to administer this program for subsequent years? As published In the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1926.800 will not result in additional costs to employers.

Revenues (+/-): There will be no increase or decrease in local government revenue as a result of this administrative regulation.

Expenditures (+/-): As published in the April 3, 2006, Federal Register, OSHA has determined that the change to 29 C.F.R. 1926.800 will not result in additional costs to employers.

Other explanation: N/A

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

803 KAR 2:424. Commercial diving operations [Diving].

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926
STATUTORY AUTHORITY: KRS 338.051(5), 338.061,[338 0.06  authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations necessary to accomplish the purposes of KRS Chapter, 338. [Express authority to incorporate by reference established federal standards and national consensus standards is also given to the board.] The following administrative regulation established the diving [contains those] standards to be enforced by the Office (Division) of Occupational Safety and Health [Compliance] in the area of construction.

Section 1. The construction industry shall comply with the requirements of 29 C.F.R 1926.1071 through 1926.1091, and Appendices, revised as of July 1, 2006.

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


(b) The revision of 29 C.F.R. 1926.1071, "Scope and Application", as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.

(c) The revision of 29 C.F.R. 1926.1072, "Definitions", as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.

(d) The revision of 29 C.F.R. 1926.1076, "Qualifications of Diving Team", as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.


(g) The revision of 29 C.F.R. 1926.1082, "Procedure During Dive", as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.


(n) The revision of 29 C.F.R. 1926.1091, "Recordkeeping Requirements", as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.


(p) The revision of Appendix A of Subpart Y as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.

(q) The revision of Appendix B of Subpart Y as published in the Federal Register, Volume 61, Number 120, June 30, 1996, is incorporated by reference.

(r) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601. Office hours are 8 a.m. - 4:30 p.m. (ET), Monday through Friday.

LLOYD R. CRESS, Deputy Secretary
For TERESA HILL, Secretary
PHILIP ANDERSON, Chairman

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed regulatory change will be held on March 22, 2007, at 11 a.m. at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. No notification of intent to attend the hearing will be recorded. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled at the hearing. 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 attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1682.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact person: David Stumbo

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1926.1071 through 1926.1091. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) which removes 29 C.F.R. 1926.1092, effective date, because this standard refers to the obsolete 1910.441, effective date, as published in the April 3, 2006, Federal Register. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1912 and 1953 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged states to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How this administrative regulation conforms to the content
of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard's regulatory provisions, and reduce administrative costs to employers.

(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 administrative regulation requires employers covered by KRS Chapter 338 and engaged in general industry operations to comply with the requirements of 29 C.F.R. 1926.1071 through 1926.1091. This administrative regulation has been amended to include a change made by the Occupational Safety and Health Administration (OSHA) which removes 29 C.F.R. 1926.1092, effective date, because this standard refers to the obsolete 1910.441, effective date, as published in the April 3, 2006, Federal Register.

This administrative regulation is also updated to meet KRS Chapter 3A considerations.

(b) The necessity of this administrative regulation: Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is the result of an on-going review by OSHA of its regulations to update non-substantive or nomenclature references in the Code of Federal Regulations. The revisions do not affect the substantive requirements or coverage of the standards involved, modify or revoke existing rights and obligations, or establish new rights and obligations. State adoption will facilitate understanding and compliance with the standard's regulatory provisions, and reduce administrative costs to employers.

(3) List the type and number of individuals, businesses, organizations, and state and local governments affected by this administrative regulation: This administrative regulation affects all private and public sector employers in the Commonwealth covered by KRS Chapter 338 and engaged in general industry activities.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Employers will incur no additional regulatory responsibilities under this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As published in the April 3, 2006, Federal Register, OSHA has determined that the revocation of 29 C.F.R. 1926.1092 will not result in additional costs to employers.

(c) As a result of compliance, what benefits will accrue to the entity identified in question (3): This change to 29 C.F.R. 1910.805 may produce cost savings resulting from reduced administrative burdens, eliminating confusion, and clarifying employer obligations.

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

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

(b) On a continuing basis: There will be no additional costs on a continuing basis to implement this administrative regulation.

(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This ordinary administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is being applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate, Pub.L. 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State complex standards. Kentucky's Occupational Safety and Health program is mandated by 29 C.F.R. Parts 1926 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's Occupational Safety and Health Program is mandated by 29 C.F.R. Parts 1926 and 1926 to be at least as effective as OSHA. Since this amendment does not impose any additional or more stringent requirements on employers compared to the existing standard, Kentucky was not obligated to adopt this change. However, OSHA strongly encouraged state programs to adopt the revision in order to promote consistency and provide employers and employees with a clear understanding of the regulatory requirements. The Kentucky Occupational Safety and Health Standards Board adopted this amendment at its May 9, 2006, meeting.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government which is covered by KRS Chapter 338 and engaged in general industry operations.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? As published in the April 3, 2006, Federal Register, OSHA has determined that the revocation of 29 C.F.R. 1926.1092 will not result in additional costs to employers.

(d) How much will it cost to administer this program for subsequent years? As published in the April 3, 2006, Federal Register, OSHA has determined that the revocation of 29 C.F.R. 1926.1092 will not result in additional costs to employers.

Other explanation: N/A

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)

RELATES TO: KRS 338.051, 338.061, 29 C.F.R. 1926.1101 - 1926.1152

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health administrative regulations. 29 C.F.R. 1926.1101 to 1926.1152 establish the federal requirements relating to toxic and hazardous substances. This administrative regulation establishes the toxic and hazardous substances standards to be enforced by the Office of Occupational Safety and Health.[-Division-of-Compliance] in the construction industry.

Section 1. (1) Until midnight of February 23, 2007, the construction industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. 1926.1101 through 1926.1152, revised as of July 1, 2006.

(2) Beginning February 24, 2007, the construction industry shall comply with the occupational health and environmental controls requirements, established at 1926.1101 through 1926.1152, revised as of August 24, 2006.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
PHILIP J. ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 15, 2007 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007 at 11 a.m. (ET) at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1662.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of:

(a) What the administrative regulation does: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the requirements of 29 C.F.R. 1926.1101 through 1926.1152. As the result of a final rule issued by the Occupational Safety and Health Administration (OSHA) in the August 24, 2006, Federal Register, this regulation must be amended to include changes to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium. These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued major revisions on 1910.134, on January 1, 1998. The standard contains workplace-specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factors, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices are not protective. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance-specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal pro-
program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, will be harmonized with those carried under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF 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: This administrative regulation requires employers covered by KRS Chapter 338 and engaged in construction industry operations to comply with the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, this regulation must be amended to include changes to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium.

These revisions have been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for Assigned Protection Factors (APFs) and Maximum Use Concentrations (MUCs) relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. OSHA issued major revisions to 1910.134, on January 8, 1998. The standard contains workplace specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace participatory research studies, and after receiving comments and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for the respirators. The agency also super- seceded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, will be harmonized with those carried under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements.

(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 private and public sector employers in the Commonwealth engaged in construction industry activities covered by KRS Chapter 338 and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take with regard to this administrative regulation: Employers will have to ensure that the employees of their organization use respiratory protection equipment as determined by both the type of the respiratory protection equipment and the quantity of the airborne contaminant to which the employee may be exposed.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of non-powered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This administrative regulation will enhance worker health and safety throughout Kentucky by reducing employee exposure to asbestos and cadmium, hazardous chemicals covered by 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, respectively. While the agency did not quantify these benefits, it estimates that nationally, 29,655 employees would have a higher degree of respiratory protection as a result of the new provisions. At the time of the 1998 revisions to OSHA's Respiratory Protection standard, 1910.134, the agency estimated
that nationally, the standard would averet between 843 and 9,282 work-related injuries and illnesses annually, with a best estimate (expected value) of 4,046 averted injuries and illnesses annually. In addition, OSHA estimated that nationally, the standard would prevent between 351 and 1,626 deaths annually from cancer and many other chronic conditions, including cardiovascular disease, with a best estimate (expected value) of 932 averted deaths from these causes. The APFs in this regulation will help ensure that these benefits are achieved.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.
   (b) On a continuing basis: The August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current taxes and fees.

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees.

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18, 29 C.F.R. 1952.11.

2. State compliance standards. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1925.1101, Asbestos, and 1925.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

3. Minimum or uniform standards contained in the federal mandate. Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, the state must amend this regulation no later than February 24, 2007, in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor, in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This administrative regulation will not impose stricter, additional, or different requirements or responsibilities than those required by the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? This administrative regulation will affect any unit, part, or division of local government engaged in construction industry activities covered by KRS Chapter 338, and whose employees must use respiratory protection equipment as required by 29 C.F.R. 1926.1101, Asbestos, and 1926.1127, Cadmium.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 338.051, 338.061, 29 C.F.R. 1953.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect. (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

   (c) How much will it cost to administer this program for the first year? Cannot be determined. In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

   (d) How much will it cost to administer this program for subsequent years? Cannot be determined.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): There will be no increase or decrease in local government revenues as a result of this administrative regulation.

Expenses (-/-): In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,848 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.
of $2.3 million. A relatively small number of supplied air respirators users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available.

Other explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Office of Occupational Safety and Health
(Amendment)


RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1915, 1917, 1918, 1919

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires the Kentucky Occupational Safety and Health Standards Board to promulgate occupational safety and health administrative regulations. 29 C.F.R. Parts 1915, 1917, 1918, and 1919 establish federal requirements relating to maritime employment. This administrative regulation establishes maritime employment standards to be enforced by the Office of Occupational Safety and Health in the maritime industry.

Section 1. Definitions. (1) "Administrator" means the Kentucky Office of Occupational Safety and Health, Frankfort, Kentucky.
(2) "Assistant secretary" means Commissioner of Labor, Kentucky Department of Labor.
(3) "Employee" is defined in KRS 338.015(2).
(4) "Employer" is defined in KRS 338.015(1).
(5) "U.S. Department of Labor" means Kentucky Department of Labor or U.S. Department of Labor.

Section 2. Except as modified by the definitions established in Section 1 of this administrative regulation, the maritime industry shall comply with the following subsections:

(1) Until midnight of February 23, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established in 29 C.F.R. Part 1915, revised as of July 1, 2006, relating to occupational health and safety standards for shipyard employment.
(2) Beginning February 24, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. Part 1915, revised as of August 24, 2006, relating to occupational health and safety standards for shipyard employment.
(3) Beginning July 3, 2007, the maritime industry shall comply with the occupational health and environmental controls requirements established at 29 C.F.R. Part 1915, revised as of October 24, 2006, and relating to occupational health and safety standards for shipyard employment.
(4) [29 C.F.R. Part 1917, revised as of July 1, 2006, relating to maritime terminals;]
(5)[(3)](4) [29 C.F.R. Part 1918, revised as of July 1, 2006, relating to safety and health regulations for longshoremen; and]
(6)[(4)](5) [29 C.F.R. Part 1919, revised as of July 1, 2006, relating to safety and health regulations for longshoremen; and]

LLOYD R. CRESS
For TERESA J. HILL, Secretary
PHILIP J. ANDERSON, Chairman
APPROVED BY AGENCY: February 6, 2007
FILED WITH LRC: February 15, 2006 at noon
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 22, 2007, at 11 a.m. at the Kentucky Department of Labor, 1047 U.S. Highway 127, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify the agency in writing five (5) working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until March 31, 2007, and shall be considered part of the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: David Stumbo, Health Standards Specialist, Kentucky Department of Labor, 1047 U.S. HWY 127 South, Suite 4, Frankfort, Kentucky 40601, phone (502) 564-3070, fax (502) 564-1082.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: David Stumbo

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation, in Section 2, requires employers covered by KRS Chapter 338 and engaged in maritime industry operations to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 must be amended to include two distinct regulatory changes made by the Occupational Safety and Health Administration (OSHA). The first, published in the August 24, 2006, Federal Register, made changes to 29 C.F.R. 1915.1001. Asbestos, in regard to respiratory protection assigned protection factors (APFs) and maximum use concentrations (MUCs). The second, published in the October 17, 2006 Federal Register, and then confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA's standards for fire protection in shipyard employment. The OSHA standards affected by the second change are as follows: 1915.5, Incorporation by reference; 1915.503, Fire response; 1915.507, Land-side fire protection system. The first revision has been made in conjunction with OSHA's revision of 29 C.F.R. 1910.144, Respiratory Protection, which provides definitions and requirements for APFs and MUCs, relative to the use and selection of respiratory protection equipment against the majority of airborne contaminants. In doing so, OSHA issued a major revision to its Respiratory Protection standard, 29 C.F.R. 1910.144, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection using APFs and MUCs is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include chemical and biological agents. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defines the minimal level of protection that is expected to achieve, as well as the MUCs for the respirators. The agency also superseded most of the existing APF table requirements in its substance specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available.
as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of the standard among employers at levels at least as protective as the existing APF requirements. The second major revision stems from a new fire protection rule for shipyard employment promulgated by OSHA on September 15, 2004, that incorporated by reference 19 National Fire Protection Association (NFPA) standards. Ten of those NFPA standards had been updated by NFPA since the fire protection rule was proposed and an additional NFPA standard had been updated since the final rule was published. In this action, OSHA replaced the references to those eleven NFPA standards by adding the most recent versions. The changes to the NFPA standards included: Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services—NFPA 1981-2002 has been revised to add requirements for heads-up displays (HUD) that provide the user of a self-contained breathing apparatus (SCBA) with information regarding breathing air supply status, the alert the user when the breathing air supply is at 50 percent of full, and, where the HUD is powered by battery power source, warn the user when the HUD only has 2 hours of battery power. The updated standard also includes new requirements for a Rapid Intervention Company/Crew (RIC) Universal Air Connection (UAC) (or RIC UAC) on all new SCBA. The RIC UAC is a standard design developed by SCBA rescue breathing air supply to be joined to the SCBA of a victim, firefighter or other emergency service responder to replenish the breathing air in the SCBA breathing air cylinder when the victim cannot be rapidly moved to a safe atmosphere. Standard for Low, Medium-, and High-Expansion Foam—NFPA 11-2005 has been revised to include the older NFPA 11 low-expansion foam system requirements with the older NFPA 11A medium- and high-expansion foam system requirements for portable foam systems. NFPA 10-2002 has been revised to prohibit "extended wand-type" discharge devices on Class K—fire extinguishers manufactured after 01/01/2002. The new version of NFPA 10 allows the use of electronic equipment to monitor the status of portable fire extinguishers as required by NFPA 11 but that may be more effective and efficient than manual monitoring. National Fire Alarm Code—NFPA 72-2002 has been updated to revise fire alarm power supply requirements, to improve the survivability of fire alarms from attack by fire, and to improve the "supervising stations" used in larger fire alarm systems. Standard for the Installation of Sprinkler Systems—NFPA 13-2002 has been updated to add the sprinkler installation requirements found in other NFPA standards, to include criteria for solid storages, to require that storage tanks be made of materials that are resistant to fire. The remaining NFPA standards have been updated to make minor editorial changes and to improve readability by formatting them into a standard layout. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 29 C.F.R. Part 1953. Pursuant to KRS 355.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2006, Federal Register, were adopted by the Commissioner of Labor in his capacity as the Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the standards that include the asbestos in OSHA standards, were for fire protection were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will effectively maintain employee health and safety in Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1915.1001, Asbestos, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA's standards for fire protection will update the incorporations by reference to national consensus standards in these standards to the latest versions of the NFPA standards. OSHA found that the latest versions are as protective on the whole, and in certain ways more protective, than the earlier versions of the NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and training.

The amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This administrative regulation, in Section 2, requires employers covered by KRS Chapter 338 and engaged in maritime industry operations to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 must be amended to include two distinct regulatory changes mandated by the Occupational Safety and Health Administration (OSHA). The first, published in the August 24, 2006, Federal Register, made changes to 29 C.F.R. 1915.1001, Asbestos, in regard to respiratory protection assigned protection factors (APFs) and maximum use concentrations (MUCs). The second, published in the October 17, 2006 Federal Register, and then confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA's standards for fire protection in shipyard employment. The OSHA standards affected by the second change are as follows: 1915.5, Incorporation by reference; 1915.505, Fire response; 1915.507, Land-side fire protection system. The first revision has been made in conjunction with OSHA's revision of 29 C.F.R. 1910.134, Respiratory Protection, which provides definitions and requirements for APFs and MUCs, relative to respirator protection equipment assigned protection factors and maximum use concentrations. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. In doing so, OSHA issued a major revision to its Respiratory Protection standard, 29 C.F.R. 1910.134, on January 8, 1998. The standard contains worksite specific requirements for program administration, procedures for respirator selection, employee training, fit testing, medical evaluation, respirator use, and other provisions. However, OSHA reserved the sections of the final standard related to APFs and MUCs pending further rulemaking. Thereafter, the agency developed the final APFs and MUCs after thoroughly reviewing the available literature, including chamber simulation studies and workplace protection factor studies, comments submitted to the record, and hearing testimony. The final APFs and MUCs provide employers with critical information to use when selecting respirators for employees exposed to atmospheric contaminants. Proper respirator selection using APFs and MUCs is an important component of an effective respiratory protection program. OSHA has concluded that the final APFs and MUCs are necessary to protect employees who must use respirators to protect them from airborne contaminants. Kentucky's workers use respirators as a means of protection against a multitude of respiratory hazards that include occupational and non-occupational exposures. Respirators provide protection from hazards that are immediately life threatening, as well as hazards associated with routine operations for which engineering controls and work practices do not protect employees sufficiently. When respirators fail, or do not provide the degree of protection expected by the user, the user is placed at an
increased risk of adverse health effects that result from exposure to the respiratory hazards present. Therefore, it is critical that respirators perform properly to ensure that users are not at an increased risk of experiencing adverse effects caused by exposure to respiratory hazards. In the final rule, OSHA defined the minimal level of protection a respirator is expected to achieve, as well as the MUCs for respirators. The agency also superseded the existing APF table requirements in its substance-specific standards. By superseding the APF tables, the agency estimates that the benefits for the final APFs under the Respiratory Protection standard will be available as well to employers who must select respirators for employee use under the substance-specific standards. In addition, the agency believes that harmonizing the APFs of the substance-specific standards with the APFs in the Respiratory Protection standard will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The second major revision stems from a new fire protection rule for shipyard employment promulgated by OSHA on September 15, 2004, that incorporated by reference 19 National Fire Protection Association (NFPA) standards. Ten of those NFPA standards had been updated by NFPA since the fire protection rule was proposed and an additional NFPA standard has been updated since the final rule was published. In this action, OSHA replaced the references to those eleven NFPA standards by adding the most recent versions. The changes to the NFPA standards include: Standard on Open-Circuit Self-Contained Breathing Apparatus for Fire and Emergency Services; Standard on Portable Smoke Apparatus for Smoke and Fire by operators; Standard on the Use of Emergency Breathing Apparatus in Confined Spaces; and Standard on Self-Contained Breathing Apparatus for Use in Confined Spaces. OSHA has also updated the requirements for heads-up displays (HUD) that provide the user of a self-contained breathing apparatus (SCBA) with information regarding breathing air supply status, alert the user when the breathing air supply is at 50 percent of full, and, when the HUD is powered by battery power source, warn the user when the HUD only has 2 more hours of battery power. The updated standard also includes new requirements for routine inspection and maintenance of critical components and self-contained breathing apparatus (SCBA). The RTU is a standard connection and that allows a crew to be connected to the SCBA of a victim, fire fighter or other emergency service response to relieve the breathing air in the SCBA breathing cylinder when the victim cannot be rapidly moved to a safe atmosphere. Standard for Low-, Medium-, and High-Expansion Foam—NFPA 11-2005 has been revised to combine the older NFPA 11 low-expansion foam system requirements with the older NFPA 11A medium- and high-expansion foam provisions. Standard for Portable Fire Extinguishers—NFPA 10-2002 has been revised to prohibit "extended-tandem" discharge devices on Class K fire extinguishers manufactured after 01/01/2002. The new version of NFPA 10 includes a guidance on the use of extinguishing equipment for the status of portable fire extinguishers in buildings. The atmosphere in which the fire extinguisher can be more effective and efficient than manual monitoring. NFPA Standard for Fire Alarm Code—NFPA 72-2002 has been updated to revise fire alarm power supply requirements, to improve the survivability of fire alarms from attack by fire, and to improve the "supervising stations" used in larger fire alarm systems. Standard for the Installation of Standpipe Systems—NFPA 13-2002 has been updated to add the sprinkler installation requirements found in other NFPA standards, to include criteria for solid shelf storage areas, and to make the standard easier for users to reference. The remaining NFPA standards have been updated to make minor editorial, technical, and editorial changes and to improve readability by formatting them into a standard layout. This administrative regulation is also updated to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: Kentucky's occupational safety and health program is mandated by 29 C.F.R. Part 1953 to be at least as effective as OSHA. Consequently, Kentucky must amend this regulation in order to keep the state program as effective as the federal program and satisfy the requirements of 39 C.F.R. Part 1953. Pursuant to KRS 358.051(3), the revisions to 29 C.F.R. 1915.1001, Asbestos, as published in the August 24, 2004, Federal Register, were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the February 24, 2007, adoption deadline mandated by OSHA. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Landside fire protection system, as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involving the updating of national consensus standards in OSHA's standards for fire protection were adopted by the Commissioner of Labor in his capacity as Chairman of the Kentucky Occupational Safety and Health Standards Board, in order to meet the July 3, 2007, adoption deadline mandated by OSHA.

(c) How the amendment conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes of KRS 338.051 and 338.061.

(d) How the amendment will assist in the effective administration of the statutes: This administrative regulation will enhance worker health and safety throughout Kentucky and keep the state program as effective as the federal program. As a result of this administrative regulation, the APF requirements carried under 29 C.F.R. 1915.1001, Asbestos, will be harmonized with those required under 1910.134, Respiratory Protection. Accordingly, this will reduce confusion among the regulated community and aid in uniform application of APFs, while maintaining employee protection at levels at least as protective as the existing APF requirements. The revisions to 29 C.F.R. 1915.5, Incorporation by reference; 1915.505, Fire response; and 1915.507, Land-side fire protection system as published in the October 17, 2006, Federal Register, and confirmed in the January 3, 2007, Federal Register, involved the updating of national consensus standards in OSHA's standards for fire protection. The incorporation of these standards by reference to national consensus standards in these standards to the latest versions of the NFPA standards. OSHA found that the latest versions are as protective as the whole, and in certain ways more protective, than the earlier versions of the NFPA standards. The latest versions are also more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing requirements.

(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 public sector employers in the Commonwealth engaged in maritime industry activities covered by KRS Chapter 338.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity." * 

(2) As a result of compliance, what benefits will accrue to the entities identified in question (3)? This administrative regulation will enhance worker health and safety throughout Kentucky by reducing employee exposure to the hazardous chemical asbestos, covered by 29 C.F.R. 1915.1001, Asbestos, related to respiratory protection APFs and MUCs. At the time of the 1998 revisions to OSHA's Respiratory Protection standard, 1910.134, OSHA estimated that nationally, the standard would aver between 9.4% and 9.2% work-related injuries and illnesses annually, with a best estimate (expected value) of 4,046 avverted illnesses and injuries annually. In addition, OSHA estimated that nationally, the standard would prevent between 351 and 1,622 deaths annually from cancer and many other chronic diseases, including cardiovascular disease, with a best estimate (expected value) of 932 avverted deaths from cancer and other causes. The APFs in this regulation will help ensure that these benefits are achieved. Also, this administrative regulation will enhance worker health and safety throughout Kentucky by requiring employers to comply with the latest versions of the applicable NFPA standards. The latest versions are considered by OSHA to be more comprehensive than the earlier versions and reflect recent developments in safety technology, equipment, and testing. 

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

(a) Initially: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,948 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirator users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity." * 

(b) On a continuing basis: In the August 24, 2006, Federal Register, OSHA provided that nationally, the new provisions will require 1,918 users of nonpowered air-purifying respirators to upgrade to some respirator more expensive than they are now using at a cost of $1.8 million. The agency estimated that 22,948 powered air-purifying respirator users would upgrade their respirators at a cost of $2.3 million. A relatively small number of supplied air respirator users (5,110) would upgrade to more expensive respirators at a cost of $0.4 million. Costs specific to individuals, businesses, organizations, or state and local governments are not available. Regarding updating NFPA standards for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register, that, "The rulemaking would impose no additional costs on any private or public sector entity." * 

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Current state and federal funding. 

(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 neither an increase in fees nor an increase in funding necessary to implement these revisions. 

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation neither establishes any fees nor directly or indirectly increases any fees. 

(9) TIERING: Is tiering applied? Tiering is not applied. All employers covered by KRS Chapter 338 are treated equally.
Section 1. Definitions. (1) "Belt conveyor" means a belt which moves on rollers used to carry coal and any structures, motors, or accessories used to support, protect, or increase its efficiency.

(2) "Certified Belt Examiner" means someone certified by the Office of Mine Safety and Licensing who is trained to follow examination and reporting procedures in examining the belt conveyor and surrounding conditions.

(3) "Certified person" means a person certified by the commissioner to perform particular work duties in and around a coal mine.

(4) "Experienced surface miner" means a person who has worked a minimum of forty-five (45) working days at a surface mine or on the surface area of an underground mine and has complied with all statutory and regulatory training requirements.

(5) "Experienced underground miner" means a person who has worked a minimum of forty-five (45) working days in an underground coal mine and has complied with all statutory and regulatory training requirements.

(6) "Hazard training" means instruction in awareness and avoidance of accidents or injury from conditions inherent to mining provided by the licensee to visitors exposed to mining hazards.

(7) "Inexperienced surface miner" means a trainee miner who has not worked a minimum of forty-five (45) working days at a surface mine or on the surface area of an underground coal mine.

(8) "Inexperienced underground miner" means a trainee miner who has not worked a minimum of forty-five (45) working days in an underground coal mine.

(9) "Mine-specific training" means the instruction of mining relative to the distinct factors of a particular mine.

(10) "Newly employed miner" means a miner, experienced or inexperienced, employed by a licensee to work at a coal mine, who has not completed mine specific training requirements.

(11) "New work assignment" means a work duty in which a miner has not completed task training or demonstrated proficiency.

(12) "Normal" means for fire protection in shipyard employment, OSHA provided in the October 17, 2006, Federal Register.

(13) "Surface coal miner" means a person at a surface mine or on the surface area of an underground mine who is engaged in an activity of mining or processing coal.

LLOYD R. CRESS, Deputy Secretary
For THERESA J. HILL, Secretary
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 14, 2007 at 3 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 22, 2007, at 1 p.m. in Room D-16 of the Department for Natural Resources at 2 Hudson Hollow, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by March 15, 2007, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 4:30 p.m. on April 2, 2007. Send written notification of your intent to be heard at the hearing, or your written comments on the proposed administrative regulation, to the contact person listed below.

The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person. Holly McCoy

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes definitions required for proposed 805 KAR 7:100 establishing the criteria for a belt examiner certification.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement an effective training program in accordance with KRS 352.340, 352.350 and 351.106.
(c) How this administrative regulation conforms to the content of the authorizing statutes: The authorizing statutes call for the establishment of a belt examiner certification, and sets forth the examination criteria and the standards for a program of training and education for those wishing to become certified as a belt examiner.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes specific requirements for a belt examiner certification in accordance with KRS 352.340. 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 provides definitions necessary for a section of a new administrative regulation.
(b) The necessity of the amendment to this administrative regulation: The amended regulation, 805 KAR Chapter 7 establishes training requirements for mining certifications.
(c) How the amendment conforms to the content of the authorizing statutes: The proposed amendment creates necessary definitions for a new section of regulation that establishes criteria for a belt examiner certification.
(d) How the amendment will assist in the effective administration of the statutes: The proposed amendment creates necessary definitions for a new section of regulation that establishes criteria for a belt examiner certification.

(2) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Regulated entities including coal mines and individuals seeking a belt examiner certification.

(3) How the entities identified in question (3) will be impacted by either implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No action required if regulated entities wish to continue to utilize a certified mine foreman to perform conveyor belt examinations. Those wishing to obtain belt examiner certification must meet experience requirements and successfully complete an examination.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The minimal fees charged for belt examiner training will mirror the costs in administrating the program. Training personnel will be provided by the agency without an increase in resources.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Individual miners will attain new skills and become more valuable to the mine operation. Mine foremen, currently tasked with belt examination, will be able to concentrate their duties on other aspects of the operation.

(4) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: No significant change in workload is expected to result from this amendment, and therefore no significant cost is expected.
(b) On a continuing basis: No significant cost is expected.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The source of funding is the General Fund as budgeted to the Office of Mine Safety and Licensing.
(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or the change if it is an amendment: No increase in 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 directly or indirectly establish or increase fees.
(9) TIERING: Is tiering applied? Tiering is not applied. Tiering is not appropriate because there are no classes of regulated entities subject to this administrative regulation that could be identified for tiering. The entities subject to this administrative regulation contributes similarly to the safety concerns addressed by this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Mine Safety and Licensing.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: This administrative regulation is necessary to implement an effective training program in accordance with KRS 352.340, 352.350 and 351.106. Authorizing statutes call for the establishment of a belt examiner certification and set forth examination criteria.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Not applicable; proposed regulation will not generate any revenue.
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Not applicable; proposed regulation will not generate any revenue.
(c) How much will it cost to administer this program for the first year? Not applicable; proposed regulation will not incur costs.
(d) How much will it cost to administer this program for subsequent years? Not applicable; proposed regulation will not incur costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-):
Expenditures (+/-):
Other Explanation:
GOVERNOR'S OFFICE
Kentucky Department of Veterans' Affairs
Field Operations Division
(New Administrative Regulation)

17 KAR 1:020 Eligibility Criteria for Tuition Waiver Programs Related to Veterans.

RELATES TO: KRS 164.505, 164.507, 164.512, 164.515
STATUTORY AUTHORITY: KRS 164.479(2)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.479(2) authorizes the Kentucky Department of Veterans' Affairs to promulgate administrative regulations regarding the eligibility of applicants associated with certain categories of veterans to participate in tuition waiver programs. This administrative regulation establishes the eligibility criteria for these programs.

Section 1. Tuition Waiver Under KRS 164.505. The waiver of tuition granted by this regulation depends on the status of the veteran who has been killed, the wartime era during which the veteran was killed, and the status of the qualifying survivor as follows:

1. Status of veterans whose survivors may qualify for this waiver:
   a. Any Kentucky National Guard member killed while serving on state active duty;
   b. Any Kentucky National Guard member killed while serving on active duty for training,
   c. Any Kentucky National Guard member killed while on inactive duty training;
   d. Any active duty member of the U.S. Armed Forces who was killed,
   e. During a national emergency,
   f. During any war declared by Congress,
   g. During any action of the United Nations, or during peace operations or humanitarian operations,
   h. Through hostile fire while an active duty member of the U.S. Armed Forces or in the Kentucky National Guard;
   i. As a result of a service-connected disability acquired while a member of the Kentucky National Guard serving on state active duty, active duty for training, inactive duty training, or while on active duty as a member of the U.S. Armed Forces;
   j. Kentucky residency requirement for the veteran. The veteran must have been a resident of Kentucky at the time the veteran joined the Kentucky National Guard, or, for members of the U.S. Armed Forces, the veteran must have been a resident of Kentucky upon entering military service.
   k. What colleges, universities or institutions shall grant the waiver:
      a. Any state-supported university;
      b. Any state junior college, also referred to as a Kentucky community college;
      c. Any state vocational training institution.
   l. Qualification for the tuition waiver:
      a. A child of the veteran, also referred to as the dependent child, whether by birth or by adoption, shall qualify for the tuition waiver. Proof of the parent-child relationship with the veteran must be shown by a birth certificate, adoption papers, or other documentary evidence establishing this relationship,
      b. Children of the veteran shall qualify for the tuition waiver so long as the child or children has not remarried since the death of the veteran. Proof of the spousal relationship with the veteran must be shown by a marriage certificate or by other documentary evidence,
      c. A stepchild of the veteran shall qualify if the stepchild was a member of the veteran’s household at the time of the veteran’s death. Proof of the fact shall be by sworn affidavit or by other documentary evidence.

Section 2. Tuition Waiver Under KRS 164.507. (1) Status of veterans whose survivors qualify for tuition waiver:
   a. Any veteran who served in the U.S. Armed Forces during a national emergency, wars declared by Congress, or actions of the United Nations;
   b. Any veteran who died on active duty in the U.S. Armed Forces regardless of wartime service;
   c. Any veteran who died as a result of a service-connected disability acquired while on active duty regardless of wartime service.
   d. Kentucky residency requirement for the veteran’s spouse. In order to qualify for the tuition waiver, the veteran must have been a Kentucky resident at the time of death, or married to a Kentucky resident at the time of the veteran’s death.
   e. Type of discharge if the veteran was discharged. Any veteran under this section of the regulation was officially discharged from the military must have received a service characterization of Under honorable conditions. This means a discharge type of either Honorable or General under honorable conditions. Service characterizations of Under Other Than Honorable, Bad Conduct, Dishonorable, and officers dismissed by courts-martial shall not qualify for the waiver.
   f. Who qualifies for the tuition waiver:
      a. The nonremained spouse of the veteran qualifies regardless of the nonremained spouse’s age. The spousal relationship must be shown by a marriage certificate or other documentary evidence,
      b. Any child, stepchild, or orphan child of the veteran who is under the age of twenty-three (23) qualifies. The parent-child relationship must be shown by birth certificate, adoption papers, or other documentary evidence. A stepchild must have been a member of the veteran’s household at the time of the veteran’s death. Proof of this fact must be by sworn affidavit or by other documentary evidence.
      c. What colleges, universities or institutions shall grant the waiver:
         a. Any state-supported university;
         b. Any state junior college, also referred to as a Kentucky community college;
         c. Any state vocational training institution.
   g. Kentucky residency requirement: The veteran, if alive, must be a resident of Kentucky. The veteran, if deceased, must have been at one time a resident of Kentucky.
   h. Type of discharge. Any veteran whose child seeks to qualify under this section must have received a service characterization of Under honorable conditions. This means a discharge type of either Honorable or General under honorable conditions. Service characterizations of Under Other Than Honorable, Bad Conduct, Dishonorable, and officers dismissed by courts-martial shall not qualify for the waiver.
   i. Who qualifies for the tuition waiver:
      a. Any child of the veteran described above, regardless of the child’s age, who has acquired a disability as a direct result of the veteran’s service;
      b. The United State Veterans Administration must have determined that the child’s disability is compensable. The parent-child relationship must be shown by birth certificate, marriage certificate, or other documentary evidence.
   j. What colleges, universities and other institutions shall grant the waiver:
      a. Any state-supported university;
Section 4. Tuition Waiver Under KRS 164.515. (1) Status of veteran whose spouse or child qualifies for the waiver:
   (a) A permanently and totally disabled member of the Kentucky National Guard or Reserve Component who was injured while on state active duty, active duty for training, or inactive duty training; or
   (b) A permanently and totally disabled war veteran;
   (c) A 100 percent service-connected disabled veteran regardless of wartime service; or
   (d) Any prisoner of war; or
   (e) Any member of the U.S. Armed Forces declared missing in action.

(2) Disability rating requirements for living veterans:
   (a) If the veteran is living and is in the status of (1)(a) above and is not a member of the Kentucky National Guard, the United States Veterans Administration or the Department of Defense must have rated the veteran totally disabled for pension purposes; or
   (b) If the veteran is living and is in the status of (1)(a) above and is a member of the Kentucky National Guard, the rating must be according to KRS Chapter 343; or
   (c) If the veteran is living and is in the status of (1)(c) above, the United States Veterans Affairs or the Department of Defense must have rated the veteran 100 percent service-connected disabled for compensation purposes.

(3) Requirements for deceased veterans, POWs, and MIAs:
   (a) If the veteran is deceased, the qualifying rating, either totally disabled or 100 percent service-connected disabled, is the rating held by the veteran at the time of death, or
   (b) If the veteran is a POW, the POW status must have been declared as such by the Department of Defense, or
   (c) If the veteran is missing in action, the MIA status must have been declared as such by the Department of Defense.

(4) Kentucky residency requirement: The veteran, if alive, must be a resident of Kentucky. The veteran, if deceased, must have been at one time a resident of Kentucky.

(5) Type of discharge: In order to qualify for tuition waiver, any veteran identified in this section who was formally discharged from the military, must have been discharged under honorable conditions, meaning a discharge type of either Honorable or General under honorable conditions. Service characterizations of Under Other Than Honorable, Bad Conduct, Dishonorable, and officers dismissed by courts-martial shall not qualify for the waiver.

(6) Who qualifies for the tuition waiver:
   (a) The spouse, regardless of age, of any veteran specified above; or
   (b) Any child, stepchild, or orphan with any such child, stepchild and orphan being under the age of twenty-three (23).

   (c) Any child, stepchild, or orphan who enlists or otherwise fulfills a military obligation may extend the age limit, year for year of military service, for up to four years past the normal age limit of under 23.

(7) Proof of spousal and parent child relationship:
   (a) The spousal relationship must be shown by a marriage certificate or by other documentary evidence.
   (b) The parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or by other documentary evidence.

   (c) A stepchild must be a member of the veteran’s household. Proof of this fact must be shown by sworn affidavit or by other documentary evidence.

(8) What colleges, universities or institutions shall grant the waiver:
   (a) Any state-supported university; or
   (b) Any state junior college, also referred to as a Kentucky community college; or
   (c) Any state vocational training institution.

(9) The time limit for any course of study pursued under this tuition waiver section shall not exceed thirty-six (36) months and never in excess of a lesser amount of time if the lesser time will allow for completion of the course of study.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:

   (a) Application for Tuition Waiver, KDFV Form TW 1, dated Feb 1, 2007; and
   (b) Kentucky Tuition Waiver Certificate, KDFV Form TW 2, dated Feb 1, 2007.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, from the Kentucky Department of Veterans’ Affairs, Attn: Tuition Waiver Coordinator, 321 West Main Street, Suite 390, Louisville, Kentucky 40202, Monday through Friday, 8 a.m. to 4:30 p.m.

MARTIN F. LAUGHLIN, Deputy Commissioner
For LESLIE E. BEAVERS, Commissioner
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 14, 2007 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 27th at 10:30 a.m. at the Department of Veterans’ Affairs, 1111B Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five working days prior to hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will 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. Written comments shall be accepted until April 2nd, 2007. 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: Pamela Luce, Field Operations Branch Manager, Kentucky Department of Veterans Affairs, 1111B Louisville Road, Frankfort, Kentucky 40601, phone (502) 564-9203, fax (502) 564-9240.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Pamela Luce
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes the eligibility requirements for applicants associated with certain categories of veterans to receive tuition waivers at state supported institutions of higher learning.
   (b) The necessity of this administrative regulation: This administrative regulation is necessary to implement four separate Kentucky Revised Statutes, KRS 164.505, 507, 512, and 515.
   (c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 164.479(2) authorizes the Kentucky Department of Veterans' Affairs to promulgate administrative regulations to establish eligibility criteria for all veterans related tuition waiver programs. This regulation conforms precisely to the authorizing statute.
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation implements and administers a program required by Kentucky law.
   (f) 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.
      (b) The necessity of the amendment to this administrative regulation: This is not an amendment.
      (c) How the amendment conforms to the content of the authorizing statutes: This is not an amendment.
      (d) How the amendment will assist in the effective administration of the statutes: This is not an amendment.
      (3) A list the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This regulation impacts the 38 state-supported institutions of higher learning. Historically, approximately 400 applicants seeking tuition waiver under these statutes are affected an-
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment; No change anticipated.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3); No change anticipated;
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3); No change anticipated.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: No additional cost.
(a) Initially: No initial cost.
(b) On a continuing basis: No additional cost.
(5) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Existing Kentucky Department of Veterans Affairs 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 increase in fees or funding anticipated.
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees increased.
(9) TIERING, Is tiering applied? Tiering does not apply as this regulation is uniformly applied to all regulated entities.

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Administrative Regulation)
RELATES TO: KRS 42.470, 61.870-61.884, 131.020, 131.030,
(7) Revenue Form 10A100-1, "Instructions for Kentucky Tax Registration Application", shall provide instructions for the proper completion of Revenue Form 10A100, "Kentucky Tax Registration Application", which is used to apply for withholding, corporation, sales and use taxes, consumer's use, motor vehicle tire fee, and transient room rental tax accounts.

(8) Revenue Form 10A100-CS(f), "Instructions for Kentucky Tax Registration Application", shall provide instructions for the proper completion of Revenue Form 10A100-CS, "Kentucky Tax Registration Application", which is used to apply for withholding, corporation, sales and use taxes, consumer's use, motor vehicle tire fee, and transient room rental tax accounts.

(9) Revenue Form 10A170, "Request for Notice of Administration Regulations Filing", shall be used by individuals to request receipt of copies of ordinary administrative regulations filed with the Legislative Research Commission by the Department of Revenue.

(10) Revenue Form 10F100, "Your Rights As a Kentucky Taxpayer", shall provide the public with information describing taxpayer rights provided by KRS Chapters 131, 133 and 134.

(11) Revenue Form 12A100, "Release of Seized Property", shall be presented for execution to the taxpayer receiving returned property from the Kentucky Department of Revenue that was previously seized for failure to pay taxes in order to establish documentation that the property was returned to the taxpayer.

(12) Revenue Form 12A018, "Kentucky Department of Revenue Offer in Settlement", shall be presented for execution to persons requesting to settle their tax liabilities for less than the delinquent tax liability based upon doubt as to collectibility or doubt as to liability.

(13) Revenue Form 12A104, "Notice of Seizure", shall be presented to the owner or officer of the entity from which the Kentucky Department of Revenue is seizing property for failure to pay taxes owed to the Commonwealth.

(14) Revenue Form 12A107, "Notice of Sale", shall be presented to the owner of seized property, the newspaper with the highest circulation for that area, and posted at the courthouse, at three (3) other public places within the county, and where the seizure was made, for the purpose of notifying the property owner, and advertising to the public the sale of the seized property.

(15) Revenue Form 12A109-1, "Release of Bank Levy", shall be presented to the bank on which the levy was served for the purpose of releasing the seized property.

(16) Revenue Form 12A109-2, "Release of Levy", shall be presented to the party on which the levy was served for the purpose of releasing the seized property.

(17) Revenue Form 12A110, "Release of Levy on Wages, Salary, and Other Income", shall be presented to an employer for the purpose of releasing the wage levy.

(18) Revenue Form 12A500, "Certificate of Partial Discharge of Tax Lien", shall be presented to anyone who makes a proper application for a lien release on a specific piece of property if the Department of Revenue's lien attaches no equity or if the equity that the lien encumbers is paid to the Department of Revenue.

(19) Revenue Form 12A501, "Certificate of Subordination of Kentucky Finance and Administration Tax Lien", shall be presented to anyone who makes proper application requesting that the Department of Revenue subordinate its lien position to a new mortgage and demonstrates that the subordination is in the Commonwealth's best interest.

(20) Revenue Form 12A502, "Application for Certificate of Subordination of Kentucky Revenue Lien", shall be presented to anyone who requests to have the Department of Revenue subordinate its lien position to a new mortgage.

(21) Revenue Form 12A503, "Application for Specific Lien Release", shall be presented to anyone who requests that the Department of Revenue release its tax lien so that a specific piece of property can be sold.

(22) Revenue Form 12A504, "Personal Assessment of Corporate Officer", shall be presented to a corporate officer for the purpose of establishing responsibility of payment of trust taxes owed to the Commonwealth.

(23) Revenue Form 12A505, "Waiver Extending Statutory Period for Assessment of Corporate Officer", shall be presented to the corporate officers for the purpose of entering into a payment agreement to pay the trust taxes owed to the Commonwealth, and the terms of the payment agreement shall extend past the statutory period for assessing responsible corporate officers.

(24) Revenue Form 12A506, "Waiver Extending Statutory Period for Collections", shall be presented to the taxpayer for the purpose of extending the period in which the liability can be collected.

(25) Revenue Form 12A507, "Table for Figuring the Amount Exempt From Levy On Wages, Salary, and Other Income", shall be presented to employers with a wage levy on an employee for the purpose of calculating the dollar amount of wages due to the employee.

(26) Revenue Form 12A508-1, "Notice of Tax Due", shall be presented for the purpose of assessing an officer of a corporation who is personally liable for trust taxes owed to the Commonwealth.

(27) Revenue Form 12A508-2, "Notice of Tax Due", shall be presented for the purpose of assessing an officer of a corporation who is personally liable for Gasoline and Special Fuels taxes owed to the Commonwealth.

(28) Revenue Form 12A508-3, "Notice of Tax Due", shall be presented for the purpose of assessing a manager or partner of a limited liability company who is personally liable for trust taxes owed to the Commonwealth.

(29) Revenue Form 12A508-4, "Notice of Tax Due", shall be presented for the purpose of assessing a manager or partner of a limited liability company who is personally liable for Gasoline and Special Fuels taxes owed to the Commonwealth.

(30) Revenue Form 12A513, "Corporation Nexus Questionnaire", shall be presented to companies who are unsure if they have a Kentucky tax presence for the purpose of establishing nexus with the state.

(31) Revenue Form 12A514, "Questionnaires for Persons Relative to a Notice of Assessment", shall be presented to an officer of a corporation for the purpose of resolving responsibility of the trust taxes owed to the Commonwealth.

(32) Revenue Form 12A517, "Notice of State Tax Lien", shall be presented to the county clerk for appropriate recording and to the taxpayer against whom the lien is filed for the purpose of filing and recording the tax lien in the county clerk's office and giving notification to the taxpayer.

(33) Revenue Form 12A518, "Certificate of Release of Tax Lien", shall be presented to the county clerk and to the taxpayer against whom the tax lien is filed for the purpose of releasing the lien and notifying the taxpayer of the release.

(34) Revenue Form 12A538, "Statement of Financial Condition for Individuals", shall be presented to individuals requesting to make payments or settle their tax liability to the Commonwealth for the purpose of establishing the financial ability to make payments or settle.

(35) Revenue Form 12A538(l), "Instructions for Completing Statement of Financial Condition for Individuals", shall provide instructions for completing Revenue Form 12A538.

(36) Revenue Form 12A539, "Statement of Financial Condition for Business", shall be presented to business owners requesting to make payments or settle a tax liability to the Commonwealth for the purpose of establishing the financial ability to make payments or settle.

(37) Revenue Form 12A539(l), "Instructions for Completing Statement of Financial Condition for Businesses", shall provide instructions for completing Revenue Form 12A539.

(38) Revenue Form 12A538, "Notice of Levy on Wages, Salary, and Other Income", shall be presented to employers for the purpose of levying wages from an employee who owes taxes to the Kentucky Department of Revenue.

(39) Revenue Form 12B020, "Notice of Levy", shall be presented to banks for the purpose of levying bank accounts of taxpayers who owe taxes to the Kentucky Department of Revenue.

(40) Revenue Form 21A200, "Request for Copy of Tax Refund Check", shall be completed and submitted to the Department of Revenue in order to obtain a copy of a cashed refund check.

(41) Revenue Form 30A006, "Temporary Vendor Sales and Use Tax Return/Processing Document", shall be used to register temporary vendors who do business in the Commonwealth of Kentucky.
(22) Revenue Form 31A001, "Vendor Contact Authorization", shall be used by a Department of Revenue representative to obtain permission from a taxpayer to contact his vendors concerning the issuance of exemption certificates.

(23) Revenue Form 31A004, "Auditor Record of Money Received", shall be used by the taxpayer and the auditor to acknowledge payment of taxes determined to be tentatively due at the time of an audit.

(24) Revenue Form 31A012, "Interstate Sales/Income Tax Questionnaire", shall be used to establish possible taxing jurisdiction for sales and use tax and income tax for the states of Ohio and Indiana.

(25) Revenue Form 31A014, "SEATA - Southeastern Association of Tax Administrators Nexus Questionnaire", shall be used to establish possible taxing jurisdiction for sales and use tax and income tax for the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, Virginia and West Virginia.

(26) Revenue Form 31A020, "Office of Field Operations Request for Copy of Tax Return(s)", shall be used by Department of Revenue representatives to obtain permission from a taxpayer to release tax returns.

(27) Revenue Form 31A149, "Agreement Fixing Period of Limitation Upon Assessment of Sales, Use or Severance Tax", shall be completed by a taxpayer and a representative of the Kentucky Department of Revenue whereby both parties consent and agree that certain sales, use or severance tax deficiencies or overpayments for specific periods may be assessed or refunded beyond the normal four (4) year statute of limitations.

(28) Revenue Form 31A685, "Authorization to Examiner Bank Records", shall be used by the Department of Revenue to obtain permission from a taxpayer to examine records in connection with transactions at the taxpayer's bank.

(29) Revenue Form 31A725, "Statute of Limitations Agreement", shall be completed by a taxpayer and a representative of the Kentucky Department of Revenue whereby both parties consent and agree that certain income tax deficiencies or overpayments for specific periods may be assessed or refunded beyond the normal four (4) year statute of limitations.

(30) Revenue Form 31F010, "Kentucky's Computer Assisted Audit Program Brochure", shall be used as instructions for taxpayers who submit tax records in an electronic format.

Section 2. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Administrative - referenced material:
- 1. Revenue Form 10A001, "Request to Inspect Public Records", February, 1997;
- 4. Revenue Form 10A100, "Kentucky Tax Registration Application", June, 2005;
- 5. Revenue Form 10A100-CS, "Kentucky Tax Registration Application", August, 2006;
- 6. Revenue Form 10A100-FI, "Kentucky Tax Registration Application", November, 2006;
- 7. Revenue Form 10A100-I, "Instructions for Kentucky Tax Registration Application", June, 2005;
- 8. Revenue Form 10A100-CS(2), "Instructions for Kentucky Tax Registration Application", June, 2005;
- 10. Revenue Form 10F100, "Your Rights as a Kentucky Taxpayer", October, 2006;
- 11. Revenue Form 12A012, "Receipt of Seized Property", November, 2006;
- 12. Revenue Form 12A016, "Kentucky Department of Revenue Offer in Settlement", August, 2004;
- 17. Revenue Form 12A110, "Release of Levy on Wages, Salary, and Other Income", September, 2004;
- 22. Revenue Form 12A504, "Personal Assessment of Corporate Officer", June, 2003;
- 23. Revenue Form 12A505, "Waiver Extending Statutory Period for Assessment of Corporate Officer", June, 2003;
- 25. Revenue Form 12A507, "Table for Figuring the Amount Exempt from Levy on Wages, Salary, and Other Income", November, 2006;
- 27. Revenue Form 12A508-2, "Notice of Tax Due", February, 2003;
- 29. Revenue Form 12A508-4, "Notice of Tax Due", February, 2003;
- 30. Revenue Form 12A513, "Corporation Nexus Questionnaire", October, 2006;
- 31. Revenue Form 12A514, "Questionnaires for Persons Relative to a Notice of Assessment", August, 1996;
- 32. Revenue Form 12A517, "Notice of State Tax Lien", October, 2004;
- 34. Revenue Form 12A638, "Statement of Financial Condition for Individuals", July, 2004;
- 35. Revenue Form 12A639, "Instructions for Completing Statement of Financial Condition for Individuals", August, 2004;
- 38. Revenue Form 12B019, "Notice of Levy on Wages, Salary, and Other Income", September, 2004;
- 40. Revenue Form 21A020, "Request for Copy of Tax Refund Check", October, 2006;
- 41. Revenue Form 30A006, "Temporary Vendor Sales and Use Tax Return/Processing Document", December, 2006;
- 42. Revenue Form 31A001, "Vendor Contact Authorization", July, 2006;
- 43. Revenue Form 31A004, "Auditor Record of Money Receipt Issued", July, 2006;
- 44. Revenue Form 31A012, "Interstate Sales/Income Tax Questionnaire", July, 2006;
- 45. Revenue Form 31A014, "SEATA - Southeastern Association of Tax Administrators Nexus Questionnaire", July, 2006;
- 46. Revenue Form 31A020, "Office of Field Operations Request for Copy of Tax Return(s)", March, 2006;
- 47. Revenue Form 31A149, "Agreement Fixing Period of Limitation Upon Assessment of Sales, Use or Severance Tax", July, 2006;
- 49. Revenue Form 31A725, "Statute of Limitations Agreement", July, 2006;

(2) This material may be inspected, copied, or obtained, sub-
ject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.

JOHN R. FARRIS, Secretary
APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed new administrative regulation shall be held on March 28, 2007 at 7:00 a.m. in Room 385, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing may notify the agency in writing at least five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person noted below.

CONTACT PERSON: R. Mack Gilim, Executive Director, Office of Process, Enforcement, Department of Revenue, Finance and Administration Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 564-3227, fax (502) 564-9565.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: R. Mack Gilim, Executive Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity be included in an administrative regulation.
(c) How this administrative regulation conforms to the content of the statute: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the general administration of taxes by the Department of Revenue and not limited to a specific tax.

(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 statute: Not applicable
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent it administers the referenced forms.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions will have to be taken by the taxpayers or local governments to comply with this administrative regulation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? There would be no cost incurred by the taxpayer or local government.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Access to forms and instructions will enable taxpayers to comply with tax laws.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Revenue will be impacted by this administrative regulation.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 131.130(3)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures or revenue for the Commonwealth or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate revenue.
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? No additional cost.
(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
OTHER EXPLANATION:

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Administrative Regulation)


RELATES TO: KRS 61.870-61.884, 131.020, 131.030, 131.041-131.081, 131.081, 131.110, 131.130, 131.155, 131.170, 131.181, 131.193, 131.195, 131.199(1), 134.580, 139.600-139.650, 139.670, 139.690, 139.720, 139.920, 139.940, 139.950, 139.960, 139.970, 139.980, 139.990, 139.1200(1), 139.7700(2), 144.132, 154.45-090, 154.45-110, 160.613-160.617, 224.01-310, 247.920

STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating those forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Sales and Use Taxes and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.

Section 1. Sales and Use Tax - Required Forms. (1) Revenue Form 51A101, "Sales and Use Tax Permit", shall be conspicuously displayed by the sales and use tax permit holder at the location for which the permit was issued.

(2) Revenue Form 51A102, "Kentucky Sales and Use Tax Worksheet", shall be submitted to the Department of Revenue by a Kentucky sales and use tax permit holder to report total receipts, itemized deductions, amount subject to Kentucky use tax and total amount of Kentucky sales and use tax due for a particular reporting period.

(3) Revenue Form 51A102E, "Kentucky Sales and Use Tax Worksheet - Electronic Funds Transfer", shall be submitted to the Department of Revenue by a Kentucky sales and use tax permit holder who remits payment via electronic funds transfer to report total receipts, itemized deductions, amount subject to Kentucky use tax and total amount of Kentucky sales and use tax due for particular reporting period.

(4) Revenue Form 51A103, "Kentucky Accelerated Sales and Use Tax Worksheet", shall be completed by a Kentucky sales and use tax permit holder who has been designated as an accelerated filer to report total receipts, itemized deductions, amount subject to use tax, and total amount of sales and use tax due.

(5) Revenue Form 51A103E, "Kentucky Accelerated Sales and Use Tax Worksheet - Electronic Funds Transfer", shall be submitted on a monthly basis by a Kentucky sales and use tax permit holder to report total receipts, itemized deductions, amount subject to use tax, and total amount of sales and use tax due.

(6) Revenue Form 51A105, "Resale Certificate", shall be presented to a seller by a Kentucky sales and use tax permit holder to claim that the tangible personal property purchased from the seller will be:

(a) Resold in the regular course of business;
(b) Leased or rented;
(c) Used as raw material, industrial supply or industrial tool.

(7) Revenue Form 51A109, "Application for Energy Direct Pay Authorization (Sales and Use Tax and Utility Gross Receipts License Tax)", shall be filed with the Department of Revenue by a manufacturer, processor, miner or refiner to apply for an energy direct pay authorization.

(8) Revenue Form 51A110, "Direct Pay Authorization", shall be presented to a Kentucky sales and use tax permit holder by a company authorized to report and pay directly to the Department of Revenue the sales or use tax on all purchases of tangible personal property, excluding energy and energy-producing fuels.

(9) Revenue Form 51A111, "Certificate of Exemption Machine-
of a pollution control tax exemption certificate or jointly by a con-
tactor and the holder of a pollution control tax exemption certifi-
cate to claim exemption from sales and use tax on the purchase of materials and equipment that will become part of a certified pol-
ution control facility.
(26) Revenue Form 51A150, "Airport Exemption Certificate", shall be presented to a retailer by a purchaser to claim exemption from sales and use tax on the purchase of aircraft, repair and replacement parts for the aircraft, and supplies that will be used for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire.
(27) Revenue Form 51A152, "Enterprise Zone Sales and Use
Tax Exemption Certificate for Building Materials", shall be pre-
sented to a retailer by a purchaser to claim exemption from sales and use tax on the purchase of building materials to be used in remodeling, rehabilitation, or new construction in an enterprise zone.
(28) Revenue Form 51A154, "Certificate of Exemption Out-of-State Delivery for Aircraft, All Terrain Vehicle (ATV), Mobile/Manufactured Homes, Campers, Boats, Motors or Trailers", shall be completed in triplicate by the seller and buyer when the sale of the tangible personal property is on purchase basis and the purchaser is the direct owner of the tangible personal property at the time of sale, and also, the affidavit portion of the form within two (2) days of the time of delivery to claim that the property was purchased exempt from sales tax and delivered immediately out of state not to return to Kentucky for use.
(29) Revenue Form 51A157, "Certificate of Exemption - Water Use for Raising Livestock", shall be presented to a retailer by a person regularly engaged in raising equine as a business to claim exemption for the purchase of water used to raise equine.
(30) Revenue Form 51A158, "Farm Exemption Certificate", shall be presented to a retailer by a person regularly engaged in the occupation of tilling and cultivating the soil for the production of crops, raising and feeding livestock or poultry, or raising and feeding llamas, alpacas, ruminants, buffalo, aquatic organisms, or carnivora, to claim exemption from sales and use tax on the purchase of certain tangible personal property.
(31) Revenue Form 51A159, "On-Farm Facilities Certificate of Exemption for Materials, Machinery and Equipment", shall be presented to a retailer by a farmer or jointly by a farmer and a contractor to claim exemption from sales and use tax on the purchase of machinery, materials, equipment, or the new or replacement of tools, equipment, or the construction, repair, or renovation of on-farm facilities exempt under the provisions of KRS 139.480.
(32) Revenue Form 51A160, "Application for Truck Part Direct Pay Authorization", shall be filed with the Department of Revenue by the owner of a motor vehicle, including a towed unit, qualifying for the repair and replacement part exemption provided under KRS 139.480(32)(a) to apply for the truck part direct pay authorization.
(33) Revenue Form 51A161, "Truck Part Direct Pay Authoriza-
tion", shall be issued by the Department of Revenue to authorize motor carriers to report and pay directly to the department the sales and use tax on all purchases of repair and replacement parts for motor vehicles and to authorize retailers to sell motor vehicle repair and replacement parts directly to the authorized motor car-
ter without receipt of sales and use tax.
(34) Revenue Form 51A162, "Kentucky Sales and Use Tax Truck Part Direct Pay Authorization (TP DPA) Purchase Report", shall be filed annually by motor carriers using the truck part direct pay authorization to report purchases of repair and replacement parts for motor vehicle for the previous calendar year.
(35) Revenue Form 51A163, "Application for Charter Bus Part Direct Pay Authorization", shall be filed with the Department of Revenue by the owner of a charter bus qualifying for the repair and replacement part exemption provided under KRS 139.480(32)(b) to apply for a charter bus direct pay authorization.
(36) Revenue Form 51A164, "Charter Bus Direct Pay Authori-
zation", shall be issued by the Department of Revenue to authorize charter bus carriers to report and pay directly to the Department the sales and use tax on all purchases of repair and replacement parts for charter buses, and to authorize retailers to sell charter bus repair and replacement parts directly to the charter bus carriers without receipt of sales and use tax.
(37) Revenue Form 51A165, "Kentucky Sales and Use Tax Charter Bus Direct Pay Authorization (CB DPA) Purchase Report", shall be filed annually by charter bus carriers using the charter bus direct pay authorization to report purchases of repair and replacement parts for carrier vehicles for the previous calendar year.
(38) Revenue Form 51A200, "Application for Kentucky Enter-
prise Intensive Act (KEIA) Tax Refund Program", shall be used by qualified businesses to refund the sales and use tax paid on purchases of materials used in an approved project.
(39) Revenue Form 51A205, "Kentucky Sales and Use Tax Instruc-
tions", shall be used by Kentucky sales and use tax permit holders as a guide in filing their sales and use tax returns and
 maintaining permit account information.
(40) Revenue Form 51A209, "Sales and Use Tax Refund Ap-
 plication", shall be completed by a Kentucky sales and use tax permit holder and submitted to the Department of Revenue within four (4) years from the date the tax was paid to apply for a refund of sales and use tax previously paid by the permit holder.
(41) Revenue Form 51A216, "Application for Pollution Control Tax Exemption Certificate", shall be completed by a business, governmental unit or institution to apply for a sales and use tax exemption certificate or claim exemption from sales and use tax on materials and equipment that will become a part of an alcohol production facility as provided by KRS Chapter 247.
(42) Revenue Form 51A222, "Certificate of Exemption for Al-
cohol Production Facilities", shall be presented to a retailer by a holder of an alcohol production tax exemption certificate or jointly by a contractor and the holder of an alcohol production tax exemption certificate to claim exemption from sales and use tax on materials and equipment that will become a part of an alcohol production facility as provided by KRS Chapter 247.
(43) Revenue Form 51A223, "Application for Alcohol Produc-
tion Facility Tax Exemption Certificate", shall be completed by a business seeking exemption from sales and use tax on the purchase of materials and equipment that will become a part of an alcohol production facility as provided by KRS Chapter 247.
(44) Revenue Form 51A229, "Pollution Control Tax Exemption Certificate", shall be issued by the Department of Revenue to a business who has qualified for certain sales and use tax, corporation income, corporation license, and property tax benefits.
(45) Revenue Form 51A227, "Certificate of Rosale (Schools)", shall be issued to a retailer by an exempt nonprofit elementary or secondary school or an organization that is exempted from sales and use tax on the purchase of tangible personal property that will be resold if the proceeds from the resale of the property is used solely for the benefit of the elementary or secondary schools or their students.
(46) Revenue Form 51A228, "Application for Fluidized Bed Combustion Technology Tax Exemption Certificate", shall be completed by a business, governmental unit or organization and submitted to the Department of Revenue to apply for a sales and use tax exemption on the purchase of equipment and materials used in fluidized bed combustion technology.
(47) Revenue Form 51A229, "Fluidized Bed Combustion Tech-
nology Tax Exemption Certificate", shall be issued by the Depart-
ment of Revenue to a business, governmental unit or organization to advise that they qualify for corporation license tax, property tax, and sales and use tax benefits.
(48) Revenue Form 51A241, "Registration for the Kentucky Sales and Use Tax Refund for Motion Picture and Television Pro-
duction Companies", shall be completed by a motion picture production company and submitted to the Department of Revenue to register for a sales and use tax refund.
(49) Revenue Form 51A42, "Application for Sales and Use Tax Refund for Motion Picture Production Company", shall be completed by a registered motion picture production company and submitted to the Department of Revenue within sixty (60) days after completion of the filming or production of the motion picture in Kentucky to request a refund of the Kentucky sales and use tax.
paid on purchases of tangible personal property made in connection with filming and producing motion pictures in Kentucky.

(50) Revenue Form 51A250, "Application for Transient Merchant Permit", shall be completed by a transient merchant and filed with the clerk in the county in which the business is to be conducted, or if an urban county government, with the office of the county government who has responsibility for the issuance of business permits and licenses to obtain a permit before conducting any business in Kentucky.

(51) Revenue Form 51A260, "Streamlined Sales Tax Agreement -Certificate of Exemption", shall be presented to a seller by a purchaser to claim that tangible personal property purchased from the seller qualifies for exemption.

(52) Revenue Form 51A270, "Certificate of Sales Tax Paid on the Purchase of a Motor Vehicle", shall be issued by motor vehicle dealers to a non-resident purchaser of a motor vehicle on which the Kentucky sales tax has been paid.

(53) Revenue Form 51F008, "Federal Government Exemption from Kentucky Sales and Use Tax Notification", shall be issued by the Department of Revenue to a federal government unit which in turn is presented to a retailer by the federal government unit in claiming exemption from sales and use tax on purchases of tangible personal property to be used in the exempt governmental function.

(54) Revenue Form 51F009, "Purchase Exemption Notification", shall be issued by the Department of Revenue to a resident nonprofit charitable, educational or religious institution to advise the entity of the assigned purchase exemption number additional information concerning the exemption from sales and use tax.

(55) Revenue Form 51F010, "Energy Direct Pay Authorization: Notice to Collector", shall be issued by the Department of Revenue to advise a Kentucky sales and use tax permit holder that it has been authorized to purchase energy and energy-producing fuels without paying or reimbursing the vendor for the sales and use tax and that they are required to report and pay directly to the Department of Revenue the sales and use tax on that portion of the cost price which is subject to tax pursuant to KRS 159.490(3).

Section 2. Telecommunications Provider Tax - Required Forms.

(1) Revenue Form 75A001, "Telecommunications Tax Receipts Certification Form", shall be used by city and county taxing jurisdictions to certify tax receipts for prior fiscal year if applicable.

(2) Revenue Form 75A002, "Telecommunications Provider Tax Return", shall be used by telecommunication providers to report gross revenues subject to the excise tax and gross revenues tax, and by consumers to report retail purchases of multi-channel video programming services to report the tax due.

(3) Revenue Form 75A002 (1), "Instructions For Telecommunications Provider Tax Return", shall be used by telecommunication providers as a guide in filing their telecommunications provider tax return.

(4) Revenue Form 75A005, "Telecommunications Tax Complaint Form", shall be submitted to the Department of Revenue by local taxing authorities who express disagreement with the distribution of telecommunications tax to their jurisdiction.

(5) Revenue Form 75A900, "Telecommunications Tax Application", shall be used by telecommunications providers to register with the Department of Revenue.

Section 3 Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Sales and use tax - referenced material:

1. Revenue Form 51A101, "Sales and Use Tax Permit", September, 2004;
2. Revenue Form 51A102, "Kentucky Sales and Use Tax Worksheet", January, 2007;
4. Revenue Form 51A103, "Kentucky Accelerated Sales and Use Tax Worksheet", January, 2007;
5. Revenue Form 51A103E, "Kentucky Accelerated Sales and Use Tax Worksheet - Electronic Funds Transfer", January, 2007;
7. Revenue Form 51A109, "Application for Energy Direct Pay Authorization (Sales and Use Tax and Utility Gross Receipts Li-
VOLUME 33, NUMBER 9 – MARCH 1, 2007

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Richard Dobson, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Sales and Use Tax and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.

(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of the Sales and Use Tax and the Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required revenue forms used in the administration of the Sales and Use Tax and Telecommunications Excise and Gross Revenues Tax by the Department of Revenue.

(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: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: No actions will have to be taken by the taxpayers or local governments to comply with this administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no anticipated cost incurred by the taxpayer or local government.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Taxpayers will be able to reference all sales and use and telecommunications excise and gross revenues tax forms in one location.

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

(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.

(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cases, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Revenue will be impacted by this administrative regulation.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS 131.130(3).

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expenditures or revenue for the Commonwealth or local government agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation does not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate revenue.

(c) How much will it cost to administer this program for the first year? No additional cost.

(d) How much will it cost to administer this program for subsequent years? No additional cost.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

FINANCE AND ADMINISTRATION CABINET

Department of Revenue
(Effective Administrative Regulation)


STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms, used in the administration of Property and Severance Taxes by the Department of Revenue.

Section 1. Property Tax - Required Forms. (1) Revenue Form 61A200, "Property Tax Forms and Instructions for Public Service Companies 2006", shall be filed by public service companies with the Department of Revenue reporting company name, location and other pertinent filing information.

(2) Revenue Form 61A200(A), "Report of Total System and Kentucky Operations", shall be filed by public service companies with the Department of Revenue, reporting the System and Kentucky original cost, total depreciation and depreciated cost for all operating and non-operating property types as of the end of the taxable year.

(3) Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", shall be filed by public service companies with the Department of Revenue, reporting the assessed value of all Kentucky apportioned and regular licensed motor vehicles, railroad carlines and commercial watercraft as of the end of the year.

(4) Revenue Form 61A200(C), "Report of Total System Operations Balance Sheet", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (Balance sheet) as of December 31 for the system operating unit including Kentucky.

(5) Revenue Form 61A200(D), "Report of Total System Operations Income Statement", shall be filed by public service companies with the Department of Revenue, reporting a financial statement (Income statement) for 12 months ending December 31 for the system operating unit including Kentucky.

(6) Revenue Form 61A200(E), "Filing Extension Application", shall be used by public service companies to request an extension of time to file the public service company tax return.

(7) Revenue Form 61A200(G), "Report of Capital Stocks", shall be filed by public service companies with the Department of Revenue, reporting an analysis of their capital stocks as of the end of the taxable year.

(8) Revenue Form 61A200(H), "Report of Funded Debt", shall be filed by public service companies with the Department of Revenue reporting an analysis of their debt as of the end of the taxable year.

(9) Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue, reporting a summary of the business activity within each taxing district.

(10) Revenue Form 61A200(U), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue reporting a summary of the amount of operating and nonoperating property owned or leased in this state, by each county, city and special taxing district.

(11) Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction, Operating and Nonoperating Property", shall be filed by public service companies with the Department of Revenue, reporting an inventory of the amount and kind of operating property, owned or leased, located in this state, for each county, city and special taxing district.

(12) Revenue Form 61A200(K2), "Nonoperating/Nonutility Property Listing by Taxing Jurisdiction", shall be filed by public service companies with the Department of Revenue reporting an inventory of the amount and kind of nonoperating property owned or leased, located in this state, for each county, city and special taxing district.

(13) Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for All Interstate Companies", shall be filed by Interstate, noncarrier, public service companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(14) Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies",
shall be filed by interstate railroad and sleeping car companies with the Department of Revenue, reporting property and business factors in total and for the state of Kentucky.

(15) Revenue Form 61A290(N), "Report of Leased Real Property, Kentucky Operating Leases", shall be filed by public service companies with the Department of Revenue, reporting all leased property and the terms of the lease.

(16) Revenue Form 61A290(O), "Railroad Private Car Mileage Report", shall be filed by railroad car line companies with the Department of Revenue reporting the name and address of the company and the mileage in Kentucky.

(17) Revenue Form 61A290(Q), "Supplemental Report of Operations for Contained and Residential Landfills", shall be filed by landfills with the Department of Revenue, reporting historic, current, and projected operational information.

(18) Revenue Form 61A290(R), "Report of Property Subject to the Pollution Control Tax Exemption", shall be filed by public service companies with the Department of Revenue, reporting certified pollution control equipment, the original cost and the net book value.

(19) Revenue Form 61A290(S), "Filing Requirements for Commercial Passenger and Cargo Airlines", shall be filed by passenger and cargo airline companies with the Department of Revenue, reporting statistical information about all owned and leased aircraft.

(20) Revenue Form 61A290(U), "Industrial Revenue Bond Property", shall be filed by a public service company to list real and tangible personal property purchased with an industrial revenue bond.

(21) Revenue Form 61A202, "2006 Public Service Company Property Tax Return for Railroad Car Line" shall be filed by railroad car line companies with the Department of Revenue, classifying the railcars by type and reporting cost, age, and mileage for each railcar.

(22) Revenue Form 61A207, "Nonresident Watercraft Property Tax Return", shall be filed by nonresident watercraft owners which do not fall under the filing requirements of KRS 136.120, with the Department of Revenue, reporting the watercraft's book value, original cost and total and Kentucky mileage.

(23) Revenue Form 61A209, "Public Service Company Sales", shall be filed by public service companies with the Department of Revenue, reporting any full or partial sale or purchase of assets of the public service company.

(24) Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Plates" shall be filed by public service companies with the Department of Revenue reporting all motor vehicles owned or leased within Kentucky.

(25) Revenue Form 61A211(N), "Instructions for Enclosed Form 61A211", shall provide instructions for completing "Revenue Form 61A211, Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Plates".

(26) Revenue Form 61A230, "Notice of Assessment for Public Service Company", shall be sent by the Department of Revenue to the taxpayer notifying him of the final assessment of the public service company property.

(27) Revenue Form 61A240, "Notice of Assessment for Public Service Company", shall be sent by the Department of Revenue notifying him of a tentative assessment of the public service company property. This notice shall inform the taxpayer of the protest period.

(28) Revenue Form 61A250, "Notice of Assessment for Public Service Company on the Taxpayer's Claim of Value", shall be sent by the Department of Revenue notifying the taxpayer of his claim of assessed value on public service company property.

(29) Revenue Form 61A255, "Public Service Company Property Tax Statement", shall be used by the counties, schools and special districts to bill public service companies for local property taxes.

(30) Revenue Form 61A500, "2007 Tangible Personal Property Tax Form and Instructions for Communications Service Providers and Multi-channel Video Programming Service Providers", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, reporting all tangible personal property.

(31) Revenue Form 61A500(H), "Report of Total Personal Tangible Property in Kentucky", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky original cost, depreciation, and net book value of each class of tangible personal property.

(32) Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, summarizing the Kentucky reported value by taxing jurisdiction.

(33) Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite, and cable television companies with the Department of Revenue, containing an inventory of the amount and kind of personal property owned and located in Kentucky by taxing jurisdiction.

(34) Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", shall be filed by telecommunication, satellite and cable television companies with the Department of Revenue, containing an inventory of the amount and kind of personal property owned and located in Kentucky by taxing jurisdiction.

(35) Revenue Form 61A507, "Nonresident Watercraft Property Tax Statement", shall be used by county clerks and local tax jurisdictions to bill assessments of nonresident watercraft personal property.

(36) Revenue Form 61A508, "Annual Report of Distilled Spirits in Bonded Warehouse", shall be filed by distilleries with the Department of Revenue, reporting the average cost per gallon of production.

(37) Revenue Form 61A508-S1, "Schedule 1 Department of Property Valuation Cost of Production Schedule", shall be filed by distilleries with the Department of Revenue, reporting the average cost per gallon of production.

(38) Revenue Form 61A508-S2, "Schedule 2 Department of Property Valuation Storage of Cost Schedule", shall be filed by distilleries with the Department of Revenue, reporting average per barrel storage cost.

(39) Revenue Form 61A508-S3, "Schedule 3 Schedule of Bulk Sales", shall be filed by distilleries with the Department of Revenue, reporting the date of the sale or purchase, the number of barrels, age, and the price.

(40) Revenue Form 61A508-S4, "Schedule 4", shall be filed by distilleries with the Department of Revenue, reporting the fair cash value for case goods and other inventory reported on Form 61A508.

(41) Revenue Form 61A509, "Distilled Spirits or Telecommunications Property Tax Statement", shall be used by county clerks and local tax jurisdictions to bill assessments of distilled spirits and telecommunications personal property.

(42) Revenue Form 61F007, "Notification for Contesting Commercial Watercraft Assessments", shall inform taxpayers of the protest procedures on Commercial Watercraft assessments.

(43) Revenue Form 61F007, "Notification for Contesting Railroad Carriage Assessments", shall inform taxpayers of the protest procedures on Railroad Carriage assessments.

(44) Revenue Form 61F009, "Notification for Contesting Public Service Company Property Assessments", shall inform taxpayers of the protest procedures on Public Service Company Property Tax assessments.

(45) Revenue Form 61F010, "Notification for Contesting Distilled Spirits", shall inform taxpayers of the protest procedures on Distilled Spirits assessments.

(46) Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities and registration renewal deadline.

(47) Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax Notice - Second Notice", shall be issued by the Department of Revenue to notify motor vehicle and boat owners of their deficient ad valorem property tax liabilities.

(48) Revenue Form 62A008, "Motor Vehicle Tax Notice", shall be issued by the Department of Revenue to notify motor vehicle owners of their ad valorem property tax liabilities.

(49) Revenue Form 62A009, "Map Sales Invoice Form", shall be provided to the customer by the Department of Revenue as a
receipt for payment of maps purchased

(50) Revenue Form 62A010, "Notice for Boat Transfer", shall be issued to January 1 owners of boats transferred during the calendar year informing them of the ad valorem tax due on the transferred boat.

(51) Revenue Form 62A013, "Application for Assessment Moratorium Certificate", shall be filed by property owners seeking an assessment moratorium on qualifying existing property undergoing repair, rehabilitation or restoration. The form shall be filed with the proper administering agency of the county in which the property is located, thirty (30) days prior to restoration or repair.

(52) Revenue Form 62A015, "Motor Vehicle and Watercraft Property Tax Rate Certification", shall be submitted annually to the Department of Revenue by motor vehicle and watercraft taxing jurisdictions to certify the rates established by the taxing jurisdiction for motor vehicles and watercraft.

(53) Revenue Form 62A016, "Quietus" shall be issued by the Department of Revenue to certify that a county clerk is in good standing with regard to the conduct of ad valorem property tax collection duties.

(54) Revenue Form 62A017, "County Clerk's Claim for Calculation of Motor Vehicle and Boat Bills" shall be completed by the Department of Revenue and county clerk to certify the total number of motor vehicle and boat accounts for a given county and determine the county clerk's compensation for making tax bills.

(55) Revenue Form 62A018, "School Taxing Jurisdiction - Motor Vehicle and Watercraft Property Tax Rate" shall be completed by the Department of Revenue to list the motor vehicle and watercraft property tax rates for each school taxing jurisdiction.

(56) Revenue Form 62A019, "Distributions of Ad Valorem Tax to the Fiscal Courts" shall be completed by the Department of Revenue to list the fiscal year ad valorem property tax distributions to the various county fiscal courts.

(57) Revenue Form 62A020, "Intercounty Property Tax Collections", shall be completed by the Department of Revenue to list distributions of ad valorem property tax made to individual taxing jurisdictions.

(58) Revenue Form 62A023, "Application for Exemption from Property Taxation" shall be filed by organizations, other than institutions of religion seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the Department of Revenue.

(59) Revenue Form 62A023-R, "Application for Exemption from Property Taxation for Religious Organizations" shall be filed by institutions of religion seeking a property tax exemption under Ky. Const. Sec. 170. This form shall be filed with the Department of Revenue.

(60) Revenue Form 62A030, "Request for Reproduction of PVA Public Records", shall be submitted to request copies of documents required to be retained by the PVA.

(61) Revenue Form 62A037, "Mail Back Card Department of Property Valuation", shall be filed by property owners, other than the owners of mobile homes, to report information regarding their property to the Department of Revenue in order to ensure assessment quality.

(62) Revenue Form 62A039, "Mail Back Card Department of Property Valuation for Mobile Manufactured Home", shall be filed by owners of mobile homes to report information regarding their property to the Department of Revenue in order to ensure assessment quality.

(63) Revenue Form 62A044, "Affidavit for Correction/Exemption of Motor Vehicle/Boat Property Tax", shall be completed by the owner of a vehicle or boat, at the property valuation administrator's office in order to correct owner or vehicle/boat information in the ad valorem tax computer system. The PVA shall present the form to the county clerk when a tax refund is authorized.

(64) Revenue Form 62A200, "2007 Unmined Coal Property Tax Information Return", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting filer information.

(65) Revenue Form 62A200A, "Schedule A Fee Property Ownership", shall be filed by owners or lessees of unmined minerals with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(66) Revenue Form 62A200B, "Schedule B Mineral Property Ownership (Coal Only)", shall be filed by owners or lessees of unmined coal with the Department of Revenue, reporting ownership information for each parcel or royalty information for each leased parcel.

(67) Revenue Form 62A200C, "Schedule C Leased Property", shall be filed by all lessees and sublessees with the Department of Revenue, reporting a property schedule for each parcel leased from another party and outlined on the lessee map.

(68) Revenue Form 62A200D, "Schedule D Property or Stock Transfers" shall be filed by both purchasers and sellers of unmined mineral property, with the Department of Revenue, reporting details of the transaction.

(69) Revenue Form 62A200E, "Schedule E Lease Terminations, Transfers or Assignments", shall be filed by lessors or lessees of unmined minerals, with the Department of Revenue, reporting the parcel number, date lease was terminated and the reason for termination.

(70) Revenue Form 62A200F, "Schedule F Farm Exception to Unmined Minerals Tax", shall be filed by surface owners, who own the mineral rights in their entirety and are engaged primarily in farming, to be excepted from the unmined minerals tax.

(71) Revenue Form 62A200G, "Schedule G Geologic Information by County", shall be filed by owners or lessees of unmined minerals, with the Department of Revenue, reporting exploration and mineral information.

(72) Revenue Form 62A302, "Request for Information for Local Board of Tax Appeals", shall be filed by taxpayers with the property valuation administrator, if appealing their assessment on real property.

(73) Revenue Form 62A304, "Property Valuation Administrator's Receiptulation of Real Property Tax Roll" shall be filed by the property valuation administrator by the first Monday in April, showing a recapitulation of property assessments by type of property and by taxing district. This form shall also be known as "first recap".

(74) Revenue Form 62A305, "Property Valuation Administrator's Summary of Real Property Tax Roll Changes" shall be filed by the property valuation administrator within six (6) days of the conclusion of the real property tax roll inspection period, showing all changes made since the submission of Revenue Form 62A304. This form shall also be known as "final recap" or "second recap".

(75) Revenue Form 62A307, "Property Owner Conference Record", shall be used by the property valuation administrator to document a property owners appeal conference. The property owner or his representative shall be asked to sign the record and shall be given a copy of the record.

(76) Revenue Form 62A323, "Record of Additions and Deletions" shall be used by the PVA to report all real property additions and deletions for a particular assessment year.

(77) Revenue Form 62A329, "Annual Report of Domestic Life Insurance Companies", shall be filed by life insurance companies doing business in Kentucky, with the Department of Revenue, reporting the fair cash value of the company's intangible property, both taxable and exempt, and the aggregate amount.

(78) Revenue Form 62A350, "Application for Exemption Under the Homestead/Disability Amendment", shall be filed by property owners seeking an exemption from property taxes under Ky. Const. Sec. 170. This application shall be filed with the property valuation administrator of the county in which the residential unit is located.

(79) Revenue Form 62A352, "Notice to Real Property Owner of Assessment by Property Valuation Administrator", shall be mailed to the property owner by the property valuation administrator notifying him of the assessment amount and of his appeal rights.

(80) Revenue Form 62A353, "Notice of Listing of Immuted Real Property", shall be mailed by the property valuation administrator to the property owner. This document shall notify the property owner that his omitted property has been listed and assessed and of his appeal rights.

(81) Revenue Form 62A354, "Notice to Property Owner of Final Decision of Board of Assessment Appeals", shall be sent from the Board of Assessment Appeals to the property owner to
inform him of their ruling.

(32) Revenue Form 62A359, "Sheriff's Report of Tax Claims Purchased for Taxing Districts", shall be used by the sheriffs to report delinquent real estate tax bills that were purchased by the sheriff on behalf of the taxing district.

(33) Revenue Form 62A359-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent real estate tax bills is accurate.

(34) Revenue Form 62A360, "Order Correcting Erroneous Assessment for All Minerals", shall be issued to the collection agency (county sheriff or clerk) and taxpayer correcting an erroneous mineral property tax assessment.

(35) Revenue Form 62A362, "Sheriff's Report of Delinquent Taxpayers", shall be used by the sheriff to report delinquent tangible property tax bills.

(36) Revenue Form 62A362-A, "Certification", shall be used by the sheriff to affirm that the list of delinquent tangible property tax bills is accurate.

(37) Revenue Form 62A363-B, "County Clerk's Claim for Preparing Omitted Tax Bills", shall be submitted by the county clerk in order to receive payment of one (1) dollar for each omitted property tax bill prepared, with one-half (1/2) paid out of the county treasury and one-half (1/2) paid out of the State Treasury.

(38) Revenue Form 62A365, "Nonresidency Affidavit", shall be filed as proof of nonresidency in Kentucky as of January 1, for ad valorem tax purposes.

(39) Revenue Form 62A366, "Order Correcting Erroneous Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in an assessment of property.

(40) Revenue Form 62A366-D, "Order Correcting Delinquent Assessment", shall be filed by the property valuation administrator with the sheriff, to correct an error made in a delinquent assessment of property.

(41) Revenue Form 62A366-R, "Exoneration Form for Property Tax Refund" shall be filed a by taxpayer for refunds of property tax.

(42) Revenue Form 62A367, "Authorization for Preparing Additional/Supplemental Property Tax Bills" shall be used by property valuation administrator to prepare additional/supplemental tax bills.

(43) Revenue Form 62A367-A, "Instructions for Preparation of Additional/Supplemental Tax Bills and Official Receipt", shall be provided to assist the PVA with the preparation of additional or supplemental tax bills.

(44) Revenue Form 62A368-A, "County Clerk's Monthly Report of Delinquent Tax Collections" shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1996 and earlier tax years.

(45) Revenue Form 62A368-B, "County Clerk's Monthly Report of Delinquent Tax Collections" shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for the 1997 tax year only.

(46) Revenue Form 62A369, "County Clerk's Monthly Report of Delinquent Tax Collections", shall be used by county clerks to report monthly to the Department of Revenue delinquent property tax collections for years after 1997.

(47) Revenue Form 62A372, "Sheriff's List of Orders Correcting Erroneous Assessments", shall be used by the sheriff to report all exoneration made to the tax bills by the property valuation administrator.

(48) Revenue Form 62A372-A, "Certification", shall be used by the sheriff to affirm that the list of exoneration is accurate.

(49) Revenue Form 62A373, "Report of Location of Mobile Homes", shall be filed by every person providing rental space for mobile homes and house trailers. This form shall be filed with the property valuation administrator of the county in which the park is located.

(50) Revenue Form 62A379, "Listing of Omitted Real Property", shall be used by a taxpayer to voluntarily list any property property omitted from the tax roll by property valuation administrator to list any involuntary omitted property.

(51) Revenue Form 62A384, "Clay Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing clay property, reporting owner's name and address, percent ownership, product tons, and royalty rate.

(52) Revenue Form 62A384-C(I), "Instructions to Complete Clay Property Tax Return for 2007 Tax Year", shall be used by owners and lessees of land containing mineable clay minerals to file Revenue Form 62A384.

(53) Revenue Form 62A384-G, "Natural Gas Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing developed natural gas properties, reporting the location of the property, total yearly gas production, number of producing wells, and the total dollar value of production.

(54) Revenue Form 62A384-G/O "Instructions for Gas and Oil Property Tax Returns", shall be provided to filers of gas and oil property tax returns instructing filers of the acceptable method of completing the gas and oil property tax return.

(55) Revenue Form 62A384-L, "Limestone and Sand and Gravel Property Tax Return", shall be filed with the Department of Revenue by persons owning or leasing limestone, sand or gravel properties reporting mineral location, type of mining and production in the last three (3) years.

(56) Revenue Form 62A384-O, "Oil Property Tax Return Listing Report", shall be filed with the Department of Revenue by all persons, corporations, businesses and partnerships owning, leasing or having knowledge of developed oil properties to report developed oil property in Kentucky.

(57) Revenue Form 62A385, "Sheriff's Official Receipt for Property Tax Bills", shall be used by sheriffs to acknowledge receipt of the county's property tax bills and to document the total tax amount to be collected for a taxing district.

(58) Revenue Form 62A385-A, "Sheriff's Receipt For Unpaid And Partially Paid Tax Bills", shall be used by incoming sheriffs to give receipt to the outgoing sheriff for the unpaid and partially paid tax bills outstanding when he assumes office.

(59) Revenue Form 62A394, "Sheriff's Monthly Report of Property Tax Collections", shall be used by sheriffs to report to the Department of Revenue property tax collections for the month.

(60) Revenue Form 62A394-MV, "County Clerk's Monthly Report of Motor Vehicle Property Tax Collections" shall be submitted by the county clerk to the Department of Revenue and local taxing jurisdictions to report ad valorem property tax collections for the month.

(61) Revenue Form 62A396, "Property Valuation Administrator's Bond" shall be completed by Property Valuation Administrator evidencing surety with the Commonwealth and a local school board and affirming a commitment to fulfill the duties of the office.

(62) Revenue Form 62A399, "Notice To Appear in Circuit Court", shall be served to a person who is indebted to another person who has a delinquent tax liability.

(63) Revenue Form 62A400, "Notice of Distrain", shall be served by the sheriff to notify a person in possession of personal property belonging to a delinquent taxpayer that this property is subject to distrain in order to settle the tax liability.

(64) Revenue Form 62A401, "Final Notice Before Distrain", shall be served by the sheriff to the owner of real and personal property omitted from the tax roll.

(65) Revenue Form 62A405, "Notice of Sale of Tax Bill", shall be sent by the county attorney to the owner of real property to notify that a certificate of delinquency has been issued against the property.

(66) Revenue Form 62A500, "2007 Tangible Personal Property Tax Return", shall be filed by owners or lessees of tangible personal property, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting taxpayer information, original cost of tangible property and reported value of tangible property.

(67) Revenue Form 62A500-A, "2007 Tangible Personal Property Tax Return (Aircraft Assessments Only)", shall be filed by owners or lessees of aircraft not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the federal registration number, make and model, and taxpayer's value for each aircraft.

(68) Revenue Form 62A500-C, "Consignee Tangible Personal Property Tax Return", shall be filed by persons in possession of consigned inventory, that has not been reported on Revenue Form 62A500, with either the property valuation administrator of

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the county of taxable situs or the Department of Revenue, reporting consignor information and consigned inventory information.

(119) Revenue Form 62A500-L, "Lessee Tangible Personal Property Tax Return" shall be filed by lessees of tangible personal property who did not list the property on Revenue Form 62A500, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting lesser information and equipment information.

(120) Revenue Form 62A500-S1, "Dealer's Inventory Listing for Line 34 Tangible Personal Property Tax Return" shall be filed by automobile dealers, dealers with new boat and marine equipment held under a floor plan or dealers with new farm machinery held under a floor plan with the Property Valuation Administrator of each county or with the Department of Revenue, containing a detailed listing of property reported on line 34 of the Tangible Personal Property Tax Return.

(121) Revenue Form 62A500-W, "2007 Tangible Personal Property Tax Return (Documented Watercraft)" shall be filed by owners or lessees of documented vessels not used for commercial purposes, with either the property valuation administrator of the county of taxable situs or with the Department of Revenue, reporting the coast guard number, make and model and taxpayer's value for each watercraft.

(122) Revenue Form 62A600, "Domestic Savings and Loan Tax Return" shall be filed with the Department of Revenue by savings and loans operating solely in Kentucky, reporting the balances in their capital accounts.

(123) Revenue Form 62A601, "Foreign Savings and Loan Tax Return" shall be filed with the Department of Revenue by foreign savings and loans authorized to do business in this state, reporting the balances in their capital accounts.

(124) Revenue Form 62A601-S2, "Schedule B, Computation of Exempt Securities", shall be filled with the Department of Revenue, by taxpayers filing Revenue Form 62A600 or 62A601, reporting the market value of US government securities.

(125) Revenue Form 62A850, "Bank Deposits Tax Return" shall be filed with the Department of Revenue by financial institutions, reporting the amount of its deposits as of the preceding January 1.

(126) Revenue Form 62A862, "Certification of Tax Rate for Bank Deposits Franchise Tax", shall be filed by the local taxing district with the Department of Revenue to notify the Department of Revenue of the rate set on bank deposits.

(127) Revenue Form 62A863, "Financial Institutions Local Deposits Summary Report", shall be filled with the Department of Revenue, by financial institutions, reporting all deposits located within the state as of the preceding June 30, along with a copy of the most recent summary of deposits filed with the Federal Deposit Insurance Corporation.

(128) Revenue Form 62A863-A, "Schedule A, Summary of Deposits", shall be filled with the Department of Revenue, by financial institutions filing Revenue Form 62A863, to summarize deposits.

(129) Revenue Form 62A872, "Intangible Property Assessment Notice for Proprietors of Estates", shall be sent by the Department of Revenue to the taxpayer notifying him of the assessed value of intangible property in the settlement of an estate.

(130) Revenue Form 62A880, "Personal Property Assessment", shall be sent by the Department of Revenue to the owner of omitted personal property notifying him of the value assessed by the department as well as all applicable penalties and interest.

(131) Revenue Form 62B003, "Unmined Coal Tax Notice (Owner)", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in unmined coal property.

(132) Revenue Form 62B011, "Limestone, Sand, or Gravel Tax Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in limestone, sand or gravel property.

(133) Revenue Form 62B012, "Oil Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in oil property.

(134) Revenue Form 62B013, "Clay Property Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in clay property.

(135) Revenue Form 62B015, "Gas Assessment Notice", shall be sent by the Department of Revenue to the taxpayer notifying him of the value of his interest in gas property.

(136) Revenue Form 62F003, "Appeals Process for Real Property Assessments", shall be an informational brochure on the procedure to follow to appeal an assessment on real property.

(137) Revenue Form 62F015, "PVA Open Records Commercial Fee Guidelines", shall be used by the PVA to establish fees to be charged for the cost of reproduction, creation, or other acquisition of records.

(138) Revenue Form 62F020, "Deeds/Transfers and Property Taxes", shall be an informational brochure on Kentucky's property tax system, sales and transfers of property and the requirements for preparing a deed.

(139) Revenue Form 62F031, "Appeal to Local Board of Assessment Appeals", shall be filed with the county clerk by any taxpayer who wishes to appeal his assessment on real property.

(140) Revenue Form 62F1341, "Exemptions Allowed for Savings and Loans, Savings Banks and Similar Institutions for Intangible Property Tax Purposes", shall inform taxpayers, subject to intangible property tax on the value of their capital stock, of those institutions which issue obligations that are exempt from state ad valorem taxation.

Section 2. Severance Taxes - Required Forms. (1) Revenue Form 55A001, "Application for Certificate of Registration for Coal Sevners and/or Processors" shall be used by the Department of Revenue to register businesses that sever or process coal.

(2) Revenue Form 55A003, "Certificate of Registration Severance Taxes", shall be used by the Department of Revenue to register coal severance taxpayers.

(3) Revenue Form 55A004, "Coal Severance Tax Seller's Certificate", shall be filed by the taxpayer to verify purchase coal deductions.

(4) Revenue Form 55A100, "Coal Tax Return", shall be filed monthly by the taxpayer to report production and tax due.

(5) Revenue Form 55A100, "Part IV & V - Schedule IV of Coal Sales (Continuation)", shall be used by the taxpayer to report additional coal sales if there is not room on the return. "Part V of Coal Sales (Continuation) for Thin Seam Coal Tax Credit", shall be used by the taxpayer to apply for tax credit for underground mining of thin coal seams.

(6) Revenue Form 55A101, "Coal Tax Return Instructions", shall be included with the coal tax return mailed to the taxpayer to assist in the completion of his return.

(7) Revenue Form 55A101, "Credit Memorandum", shall be used by the department to issue a credit to the taxpayer for an overpayment rather than a refund.

(8) Revenue Form 55A209, "Severance Tax Refund Application", shall be used by the taxpayer for the purpose of requesting a refund of tax overpaid.

(9) Revenue Form 56A001, "Application for Certificate of Registration Minerals and Natural Gas Tax", shall be used by persons dealing in minerals, natural gas or natural gas liquids who wish to register with the Department of Revenue to acquire an account number.

(10) Revenue Form 56A100, "Natural Gas and Natural Gas Liquids Tax Return", shall be used by registered natural gas and natural gas liquids taxpayers monthly to report production and tax due.

(11) Revenue Form 56A101, "Minerals Tax Return", shall be used by registered mineral taxpayers monthly to report production and tax due.

(12) Revenue Form 56A106, "Minerals Tax Certificate of Exemption", shall be used by mineral taxpayers to claim exemptions from minerals tax for minerals purchased for the maintenance of a property maintained but publicly dedicated road.

(13) Revenue Form 56A107, "Schedule A, Allocation of Gross Value of Minerals Severed in Kentucky and Schedule B, Minerals Purchased from Others for Processing by Taxpayer", shall be used by mineral taxpayers to compute gross value of minerals to be allocated and to show the allocation by county of the gross value of minerals severed in Kentucky and also shall be used by taxpayer
for showing minerals that are purchased from others for processing by the taxpayer.

(14) Revenue Form 56A108, "Schedule A, Gross Value of Natural Gas Sold to Nonconsumers and Schedule B, Taxable Gross Value of Natural Gas and Natural Gas Liquids Extracted in Kentucky by Taxpayer - Allocation", shall be used by natural gas taxpayers to show details of all natural gas extracted in Kentucky and sold to nonconsumers and also shall be used by natural gas taxpayers to allocate the natural gas to the county or counties where the natural gas or natural gas liquids were located prior to extraction.

(15) Revenue Form 56A109, "Schedule C, Natural Gas First Purchased by Taxpayer From Kentucky Producers", shall be used by natural gas taxpayers who are first purchasers of natural gas to show gross value by county or counties from which the natural gas was extracted.

(16) Revenue Form 56A110, "Attachment C Computation of Clay Severed and Processed in Kentucky and Allocation of Tax Attributable to Clay", shall be used by mineral taxpayers that sever clay to compute tax due.

(17) Revenue Form 56A112, "Crude Petroleum Transporter's Monthly Report, Kentucky Oil Production Tax", shall be used by registered crude petroleum transporter's for reporting gross value and tax due.

(18) Revenue Form 56A113, "Minerals Tax Credit for Limestone Sold in Interstate Commerce", shall be used by mineral taxpayers for the purpose of determining the eligibility for the minerals tax credit.

(19) Revenue Form 56A114, "Crude Petroleum Transporter's Application for Registration", shall be used by crude petroleum transporter's who wish to acquire an account number with the Kentucky Department of Revenue.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Property tax - referenced material.
1. Revenue Form 61A200, "Property Tax Forms and Instructions for Public Service Companies", November, 2006;
2. Revenue Form 61A200(A), "Report of Total Unit System and Kentucky Operations", November, 2006;
3. Revenue Form 61A200(B), "Report of Kentucky Vehicles, Car Lines and Watercraft", November, 2006;
4. Revenue Form 61A200(C), "Report of Total Unit Operations Balance Sheet", November, 2006;
5. Revenue Form 61A200(D), "Report of Total Unit Operations Income Statement", November, 2006;
6. Revenue Form 61A200(E), "Filing Extension Application", November, 2006;
7. Revenue Form 61A200(G), "Report of Capital Stocks", November, 2006;
9. Revenue Form 61A200(I), "Business Summary by Taxing Jurisdiction", November, 2006;
10. Revenue Form 61A200(U), "Property Summary by Taxing Jurisdiction, Operating and Nonoperating Property", November, 2006;
11. Revenue Form 61A200(K), "Operating Property Listing by Taxing Jurisdiction", November, 2006;
12. Revenue Form 61A200(K2), "Nonoperating/Nonutility Property Listing by Taxing Jurisdiction", November, 2006;
13. Revenue Form 61A200(L), "Report of Allocation Factors, Operating and Noncarrier Property for all Interstate Companies", November, 2006;
14. Revenue Form 61A200(M), "Report of Property and Business Factors for Interstate Railroad and Sleeping Car Companies", November, 2006;
15. Revenue Form 61A200(N), "Report of Leased Real Property, Kentucky Operating Leases", November, 2006;
16. Revenue Form 61A200(Q), "Railroad Private Car Mileage Report", November, 2006;
18. Revenue Form 61A200(R), "Report of Property Subject to the Pollution Control Tax Exemption", November, 2006;
19. Revenue Form 61A200(S), "Filing Requirements for Commercial Passenger and Cargo Airlines", November, 2006;
20. Revenue Form 61A200(U), "Industrial Revenue Bond Property", November, 2006;
22. Revenue Form 61A207, "Nonresident Watercraft Property Tax Return", November, 2006;
23. Revenue Form 61A209, "Public Service Company Sales", November, 2006;
24. Revenue Form 61A211, "Public Service Company Schedule of Owned and/or Leased Motor Vehicles with Kentucky Title", November, 2006;
25. Revenue Form 61A211(I), "Instructions for Enclosed Form 61A211", November, 2006;
26. Revenue Form 61A230, "Notice of Assessment for Public Service Company", August, 2006;
27. Revenue Form 61A240, "Notice of Assessment for Public Service Company", August, 2006;
28. Revenue Form 61A250, "Notice of Assessment for Public Service Company", August, 2006;
30. Revenue Form 61A500, "2007 Tangible Personal Property Tax Forms and Instructions for Communications Service Providers and Multichannel Video Programming Service Providers", November, 2006;
31. Revenue Form 61A500(H), "Report of Total Tangible Property in Kentucky", November, 2006;
32. Revenue Form 61A500(I), "Summary of Gross Personal Tangible Property Listing by Taxing District", November, 2006;
33. Revenue Form 61A500(J), "Summary of Reported Personal Tangible Property Listing by Taxing District", November, 2006;
34. Revenue Form 61A500(K), "Personal Tangible Property Listing by Taxing District", November, 2006;
35. Revenue Form 61A507, "Nonresident Watercraft Property Tax Statement", January, 2006;
37. Revenue Form 61A508-S1, "Schedule 1 Department of Property Valuation Cost of Production Schedule", November, 2005;
38. Revenue Form 61A508-S2, "Schedule 2 Department of Property Valuation Storage Cost Schedule", November, 2005;
40. Revenue Form 61A508-S4, "Schedule 4", November, 2005;
41. Revenue Form 61A509, "Distilled Spirits or Telecoms Property Tax Statement", January, 2006;
42. Revenue Form 61F007, "Notification for Protesting Commercial Watercraft Assessments", August, 2006;
43. Revenue Form 61F008, "Notification for Protesting Railroad Carine Assessments", August, 2006;
44. Revenue Form 61F009, "Notification for Protesting Public Service Company Property Assessments", August, 2006;
45. Revenue Form 61F010, "Notification for Protesting Distilled Spirits", August, 2006;
46. Revenue Form 62A007, "Motor Vehicle Tax and/or Registration Renewal Notice", October, 2005;
47. Revenue Form 62A007S, "Motor Vehicle/Boat Property Tax - Second Notice", October, 2006;
49. Revenue Form 62A009, "Map Sales Invoice Form", July, 2006;
50. Revenue Form 62A010, "Notice for Boat Transfer", 2006;
52. Revenue Form 62A015, "Motor Vehicle and Watercraft Property Tax Rate Certification", 1999;
53. Revenue Form 62A016, "Quickus", 1999;
54. Revenue Form 62A017, "County Clerk's Claim for Calcula-
VOLUME 33, NUMBER 9 – MARCH 1, 2007

John R. Farris, Secretary

APPROVED BY AGENCY: January 23, 2007
FILED WITH LRC: February 1, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed new administrative regulation shall be held on March 28, 2007 at 10 a.m. in Room 500, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person noted below.

CONTACT PERSON: Thomas Crawford, Assistant Director, Division of Local Valuation, Office of Property Valuation, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, phone (502) 564-8338.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Thomas Crawford, Assistant Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS Chapter 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.
(2) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(3) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms used in the administration of Property and Severance Taxes by the Department of Revenue.
(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: 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.
(5) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.
(6) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment,
in question (3) will have to take to comply with this administrative regulation or amendment: As forms are changed, the manuals in which copies of all forms listed in this regulation are maintained will be updated.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional costs will be incurred by complying with this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All taxpayers and the administering agencies will benefit by having access to a centralized listing of the most current forms in use

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

(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.

(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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: This administrative regulation does not require an increase in fees or funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.

(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue, Office of Property Valuation, Division of Local Valuation, Division of State Valuation and Division of Mineral / GIS Services. The division level shall be responsible for the creation and updating of forms.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation, KRS 131.130(1)

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No change.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No change.

(c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the department.

(d) How much will it cost to administer this program for subsequent years? The same administrative cost will be absorbed in the normal operating budget of the department.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: N/A

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation
(New Administrative Regulation)


STATUTORY AUTHORITY: KRS 131.130(3)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required Revenue Forms used in the administration of Income Taxes by the Department of Revenue.

Section 1. Corporation Income Taxes. (1) Revenue Form 41A720, "Form 720, 2006 Kentucky Corporation Income Tax Return", shall be used by a C corporation to determine corporation income tax due in accordance with KRS 141.040 for years beginning in 2006.

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocaton", shall be used by a corporation doing business within and without of Kentucky to apportion and allocate net income to Kentucky in accordance with KRS 141.120.

(3) Revenue Form 41A720AMC, "Schedule AMC, Alternative Minimum Calculation", shall be used by a corporation doing business in Kentucky to compute the corporate Alternative Minimum Calculation tax on Kentucky gross receipts and Kentucky gross profits.

(4) Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax Credit Biodiesel", shall be used by a taxpayer claiming a Biodiesel tax credit allowed by KRS 141.423.

(5) Revenue Form 41A720BIO (K-1), "Schedule BIO (K-1), Distriutive Share of Approved Biodiesel and/or Blended Biodiesel Tax Credit", shall be used by a general partnership to report the distributive share of Biodiesel Tax Credit to general partners.

(6) Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", shall be used by a corporation to compute the credit allowed by KRS 141.041 for coal used or substituted for other fuels in an eligible heating facility as described by KRS 141.041(1).

(7) Revenue Form 41A720CI, "Schedule CI, Application for Coal Incentive Tax Credit", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.0405 for the purchase of Kentucky coal used by the taxpayer to generate electricity.

(8) Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", shall be used by a C corporation filing a consolidated return to show its federal pro forma consolidated return.

(9) Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a consolidated return as a continuation of Revenue Form 41A720CR.

(10) Revenue Form 41A720ES, "Form 720ES, 2007 Kentucky Corporation Income Tax Estimated Tax Voucher", shall be used by a corporation to submit payments of estimated corporation income tax as required by KRS 141.044.

(11) Revenue Form 41A720EZC, "Schedule EZC, Enterprise
Zone Tax Credit*, shall be used by a qualified taxpayer to determine the Enterprise Zone Tax Credit allowed in accordance with KRS 154.45-090.

(12) Revenue Form 41A7202H, "Schedule HH, Kentucky Housing for Homeless Families Deduction", shall be used by an individual, corporation, fiduciary, or partnership to determine the credit allowed by KRS 141.0202.

(13) Revenue Form 41A7202L, "InSTRUCTIONS, 2006 Kentucky Corporation Income Tax Return", shall be used by a corporation to file its 2006 Kentucky Corporation Income Tax Return and related schedules.

(14) Revenue Form 41A7202KC, "Schedule KCR, Kentucky Consolidated Return Schedule", shall be used by a C corporation filing a nexus consolidated return showing the income or loss of each entity included in the nexus consolidated tax return.

(15) Revenue Form 41A7202KR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule Continuation Sheet", shall be used by a C corporation filing a nexus consolidated return as a continuation of Revenue Form 41A7202KCR.

(16) Revenue Form 41A7202NCL, "Schedule NCL, Net Operating Loss Schedule", shall be used by C corporation with a current year net operating loss or net operating loss carry-forward.

(17) Revenue Form 41A7202P, "2006 Kentucky Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720, Kentucky Corporation Income Tax, other forms commonly used by a C corporation in conjunction with Form 720 and instructions for filing these forms. The packet shall also include a brochure entitled "Your Rights as a Kentucky Taxpayer."

(18) Revenue Form 41A7202Q, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation or partnership to determine the credit against income tax liability allowed by KRS 141.395.

(19) Revenue Form 41A7202QR-K(1), "Schedule QR-K(1), Pro Rata/Distributive Share of Approved Qualifying Research Facility Tax Credit", shall be used by a general partnership to compute each of its partners’ share of income tax credit for qualified costs of research facilities.

(20) Revenue Form 41A7202RC, "Schedule RC, Application for Income Tax Credit for Recycling and/or Composting Equipment or Major Recycling Project", shall be used by a taxpayer to request approval for the amount of credit allowed by KRS 141.390 for the purchase and installation of recycling or composting equipment or major recycling project. This form shall also be used by an individual, corporation, fiduciary, or partnership to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(21) Revenue Form 41A7202RC(C), "Schedule RC - Part I Continuation", shall be used by an individual, corporation, fiduciary, or partnership to list additional equipment for which approval of the credit allowed by KRS 141.390 is being requested.

(22) Revenue Form 41A7202RC(G), "Instructions for Schedule RC", shall be used by taxpayers requesting approval of a recycling, composting equipment, or major recycling project

(23) Revenue Form 41A7202RC-K(1), "Schedule RC-K(1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", shall be used by a general partnership to report each of its partners pro rata or distributive share of approved income tax credit for the purchase and installation of recycling or composting equipment. This form shall also be used by general partners to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(24) Revenue Form 41A7202RC-K(R), "Schedule RC-R, Kentucky Development of Recycling or Composting Equipment Schedule", shall be used by a taxpayer disposing of recycling or composting equipment before the end of the recapture period to compute tax credit recaptured to be reported on applicable tax return.

(25) Revenue Form 41A7202RC-R-K(1), "Schedule RC-R (K-1), Pro Rata/Distributive Share of Disposition of Recycling and/or Composting Equipment Tax Credit/Recapture", shall be used by a general partnership to report each of its partners’ proportionate share of recycling or composting equipment disposed of before the end of the recapture period.

(26) Revenue Form 41A720S, "Form 720S, 2006 Kentucky Corporation Income Tax Return", shall be used by an S corporation to determine the amount of corporation-income tax due in accordance with KRS 141.040 and to report the shareholders’ share of income, loss, credits, deductions, etc. for tax years beginning in 2006.

(27) Revenue Form 41A720S(I), "Instructions for 2006 Kentucky Corporation Income Tax Return", shall be used by an S corporation to file its 2006 Kentucky Corporation Income Tax Return and related schedules.

(28) Revenue Form 41A720S(K-1), "Schedule K-1 (Form 720S), 2006 Kentucky Shareholder’s Share of Income, Credits, Deductions, etc., shall be used by an S corporation to report to each of its shareholders the amount of income, credit, deduction, etc., that the shareholder should report for Kentucky income tax purposes. Instructions shall be included on the back of the form to assist the shareholder in preparing their Kentucky individual income tax return.

(29) Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation Income Tax Ret", shall be used by a corporation to request a six (6) month extension of time to file its Kentucky Corporation Income Tax Ret. Instructions shall be included on the back of the form.

(30) Revenue Form 41A720SP, "2006 Kentucky S Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720S, Kentucky S Corporation Income Tax Retum, other forms commonly used by an S corporation in conjunction with Form 720S and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer."

(31) Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", shall be used by a corporation to summarize tax credits claimed and shall be attached to the corporation income tax return.

(32) Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", shall be used by an entity claiming a tax credit provided by KRS 141.418.

(33) Revenue Form 41A720VERB-K(1), "Schedule VERB-K(1), Distributive Share of Approved Voluntary Environmental Remediation Tax Credit", shall be used by a general partnership to allocate the distributive share of credit to its general partners.

(34) Revenue Form 41A720VERB-S, "Schedule VERB-S, Voluntary Environmental Remediation Tax Credit (Brownfield) Expenditure Summary Schedule", shall be used by a taxpayer to list the expenditures incurred in qualifying voluntary environmental remediation property.

(35) Revenue Form 41A720AM, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning on or after January 1, 2005, as previously filed.

(36) Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Retum", shall be used by a C corporation to amend its Kentucky Corporation Income and License Tax Return for tax periods beginning prior to January 1, 2005, as previously filed.

(37) Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax Retum", shall be used by a C corporation to amend its Kentucky Corporation Income Tax Return for periods beginning in 2005, as previously filed.

(38) Revenue Form 41A720S1, "Form 2229-K, Underpayment of Estimated Tax By Corporations", shall be used by a corporation to document that it meets the exception to the estimated tax underpayment penalty, if its prior year tax liability was equal to or less than $25,000 and estimated tax equals or exceeds the prior year tax as provided by KRS 141.042 and KRS 141.590.

(39) Revenue Form 41A720S4, "Instructions for Filing Corporation Estimated Income Tax Voucher", shall include instructions used by a corporation to determine the amount of estimated corporation income tax that is required to be paid in accordance with KRS 141.144.

(40) Revenue Form 41A720S5, "Form 8903-K, Kentucky Domestic Product Activities Deduction", shall be used by a corporation to determine the Domestic Product Activities Production amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return;
(41) Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For A KREDA Project of Corporation)" shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against the Kentucky corporation income tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(42) Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for A KREDA Project" shall be used by a corporation which has a Kentucky Rural Economic Development Act (KREDA) project to maintain a record of the debt service payments, wage assessment fees and income tax credits for the duration of the project. Instructions shall be included on the back of the form.

(43) Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For A KREDA Project of a General Partnership)" shall be used by a general partnership which has a Kentucky Rural Economic Development Act (KREDA) project to determine the credit allowed against the Kentucky income tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(44) Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For A KIDA Project of Corporations)" shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against its Kentucky corporation income tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(45) Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for A KIDA Project" shall be used by a corporation which has a Kentucky Industrial Development Act (KIDA) project to maintain a record of the debt service payments and income tax credits for the duration of the project. Instructions shall be included on the back of the form.

(46) Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For A KIDA Project of a General Partnership)" shall be used by a general partnership which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against the Kentucky income tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(47) Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For A KIRA Project of Corporations)" shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against the Kentucky corporation income tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(48) Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for A KIRA Project" shall be used by a corporation which has a Kentucky Industrial Revitalization Act (KIRA) project to maintain a record of the approved costs, wage assessment fees and income tax credits for the duration of the project. Instructions shall be included on the back of the form.

(49) Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For A KIRA Project of a General Partnership)" shall be used by a general partnership which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against the Kentucky income tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(50) Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For A KJDA Project of Corporations)" shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against the Kentucky corporation income tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(51) Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for A KJDA Project" shall be used by a corporation which has a Kentucky Jobs Development Act (KJDA) project to maintain a record of the approved costs, wage assessment fees, in-lieu-of credits and income tax credits for the duration of the project. Instructions shall be included on the back of the form.

(52) Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For A KJDA Project of a General Partnership)" shall be used by a general partnership which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against the Kentucky income tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(53) Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For A KRA Project of Corporations)" shall be used by a corporation which has entered into a Kentucky Reinvestment (KRA) Act project to compute the allowable KRA credit allowed against the Kentucky corporation income tax liability.

(54) Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for A KRA Project" shall be used by a company which has entered into a Kentucky Reinvestment (KRA) Act project to maintain a record of the balance of approved costs and income tax credits for the duration of the agreement.

(55) Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For A KEOZ Project of Corporations)" shall be used by a corporation which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to compute the allowable KEOZ credit allowed against the Kentucky corporation income tax liability.

(56) Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For A KEOZ Project of a General Partnership)" shall be used by any general partnership which has entered into a Kentucky Economic Opportunity Zone (KEOZ) Act project to determine the credit allowed against the Kentucky income tax liability.

(57) Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for A KEOZ Project" shall be used by any company which has entered into an agreement for a Kentucky Economic Opportunity Zone (KEOZ) Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and income tax credits for the duration of the agreement.

(58) Revenue Form 41A725, "Form 725, 2006 Kentucky Single Member LLC Individually Owned Corporation Income Tax Return" shall be used by a single member individually-owned LLC to file a corporation tax return in accordance with KRS 141.040.

(59) Revenue Form 41A725C, "Schedule CP Form 725, 2006 Kentucky Single Member LLC Individually Owned Composite Return Schedule" shall be used by a single member individual with multiple LLC entities to file corporation tax returns in accordance with KRS 141.040.

(60) Revenue Form 41A725F, "Instructions, 2006 Kentucky Single Member LLC Individually Owned Corporation Income Tax Return" shall be used by single member LLC individually owned to file a 2006 Kentucky corporation income tax return and related schedules.

(61) Revenue Form 41A725CKR, "Schedule KCR (Form 725), Kentucky Nexus Consolidated Return Schedule" shall be used by a single member limited liability company individually owned and filing a nexus consolidated return to show the income or loss computation of each entity included in the nexus consolidated return.

(62) Revenue Form 41A725, KCR-C, "Schedule KCR-C (Form 725), Kentucky Nexus Consolidated Return Schedule Continuation Sheet" shall be used as needed by a single member limited liability company and filing a Revenue Form 41A725CKR.

(63) Revenue Form 41A725NOL, "Schedule NOL (Form 720S, 725 or 765), Net Operating Loss Schedule Pass-Through Entities", shall be filed by a corporation filing Form 720S, Form 725 or Form 765 and having a current year net operating loss or a net operating loss carry forward.

(64) Revenue Form 41A725P, "2006 Kentucky Single Member LLC Individually Owned Corporation Income Tax Return Forms and Instructions", shall provide, in a single packet Form 725, Kentucky Single Member LLC Individually Owned Corporation Income Tax Return, other forms commonly used by corporations in conjunction with Form 725, and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".

(65) Revenue Form 41A750, "Business Development Corporation Tax Return", shall be used by a corporation organized under the provisions of KRS Chapter 155 to determine the excise tax due in accordance with KRS 155.170.
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(66) Revenue Form 41A765, "Form 765, 2006 Kentucky Partnership Income Tax Return (LLC, LLP and LP Taxed as a Corporation)", shall be used by a partnership organized as a LLC, LLP or LP to file a corporation tax return in accordance with KRS 141.040.

(67) Revenue Form 41A765(C), "Instructions, 2006 Kentucky Partnership Income Tax Return (LLC, LLP, and LP Taxed as a Corporation)", shall be used by a partnership organized as a LLC, LLP, or LP to file the 2006 Kentucky corporation income tax return and related schedules.

(68) Revenue Form 41A765 (K-1), "Schedule K-1 (Form 765), 2006 Partner's Share of Income, Credits, Deductions, etc.", shall be used by a partnership organized as a LLC, LLP, or LP to report to its partners the amount of income, credit, deduction, etc., that the partners shall report for Kentucky income tax purposes. Instructions shall be included on the back of the form to assist the partner in preparing their Kentucky Individual income tax return.

(69) Revenue Form 41A765KC(R), "Schedule KCR (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule"). shall be used by an S corporation or partnership organized as a LLC, LLP, or LP filing a consolidated return to show the income or loss of each entity included in the nexus consolidated return.

(70) Revenue Form 41A765KC-R, "Schedule KCR-C (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", shall be used as needed by an S corporation or partnership organized as a LLC, LLP, or LP filing a consolidated return and Revenue Form 41A765KC-R, "Revenue Form 41A765(KC), "Revenue Report of Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax Return Forms and Instructions", shall provide in a single packet Form 765, Kentucky Partnership (LLC, LLP, or LP) Income Tax Return, other forms commonly used by corporations in conjunction with Form 765, and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer."

(71) Revenue Form 41A851-N, "Form 851-N, Kentucky Affiliations and Payment Schedule (Form 720S, 725 or 765)", shall be used by a corporation filing Form 720S, Form 725 or Form 765 and filing a nexus consolidated return to be attached to the tax return filed with the Department of Revenue to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax being paid for each corporation if payment is being submitted by a single check.

(72) Revenue Form 41A851-K, "Form 851-K, Kentucky Affiliations and Payment Schedule", shall be used by a corporation filing a consolidated Kentucky income tax return on Form 720 to identify the members of the affiliated group which are subject to the Kentucky corporation tax and to list the amount of tax being paid for each corporation if payment is being submitted by a single check.

(73) Revenue Form 41A779-S1, "Form 796, Annual Income Information Return", shall be used by a corporation, in accordance with KRS 141.150 and 103 KAR 19.030, to report distributions of assets as a result of dissolution or liquidation. A separate form shall be prepared for each payee and filed with the Department of Revenue, and a copy shall be provided to the payee.

(74) Revenue Form 42A799-S1, "Form 796, Annual Income Information Return", shall be used by a corporation, in accordance with KRS 141.150 and 103 KAR 19.030, to summarize the reports of distributions of assets as a result of dissolution or liquidation.

Section 2. Individual Income and Withholding Taxes. (1) Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", shall be submitted to the Department of Revenue to request an installment agreement to pay tax due.

(2) Revenue Form 40A100, "Application for Refund of Income Taxes* shall be presented to the Department of Revenue to request a refund of income taxes paid.

(3) Revenue Form 40A102, "2006 Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", shall be submitted to the Department of Revenue by individuals, general partnerships, and fiduciaries prior to the date prescribed by law for filing a return to request a six (6) months extension to file the return or to remit payment of tax prior to the date the return is due.

(4) Revenue Form 40A200 (PT-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income", shall be used by a general partnership doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual partner whose net distributive share income is at least $1,000.

(5) Revenue Form 40A201 (740NP-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Installment Report", shall be used by a general partnership doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual partners.

(6) Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", shall be used by a taxpayer or tax preparer to order individual income tax forms.

(7) Revenue Form 42A000, "Withholding Kentucky Income Tax Instructions for Employers", instructions for employers containing forms used for withholding and reporting Kentucky income tax withholding.

(8) Revenue Form 42A003(T), "2007 Withholding Tax Tables Computer Formula", shall be used by an employer for computing employees Kentucky income tax withholding each pay period.

(9) Revenue Form 42A740, "2006 Kentucky Individual Income Tax Return Full-Year Residents Only", shall be completed by a resident individual to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(10) Revenue Form 42A740-A, "Schedule A, Form 740, 2006 Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2006.

(11) Revenue Form 42A740ES, "2007 Individual Income Tax Kentucky Estimated Tax Voucher", shall be submitted to the Department of Revenue by individuals with payment of quarterly estimated tax.

(12) Revenue Form 42A740-EZ, "2006 Kentucky Individual Income Tax Return (For Single Persons with No Dependents)", shall be completed by resident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(13) Revenue Form 42A740(I), "2006 Kentucky Individual Income Tax Instructions for Form 740 and 740EZ", shall be used by resident individuals to file the 2006 Kentucky Individual Tax Return and related schedules.

(14) Revenue Form 42A740-J (10-06), "Schedule J, Kentucky Farm Income Averaging", shall be completed by individuals and attached to Form 740 to compute tax liability by averaging farm income for taxable years beginning after December 31, 1997.

(15) Revenue Form 42A740-KNOL, "Schedule KNOL, 2006 Kentucky Net Operating Loss Schedule", shall be used by individuals to compute and carry forward a net operating loss to subsequent years.

(16) Revenue Form 42A740-M, "Schedule M, 2006 Kentucky Federal Adjusted Gross Income Modifications", shall be completed by individuals and attached to Form 740 in support of additions to and subtractions from federal adjusted gross income.

(17) Revenue Form 42A740-NP, "2006 Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be completed by part-year or full-year nonresident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be filed within three and one-half (3 1/2) months after the close of the taxable year.

(18) Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2006 Kentucky Schedule A Itemized Deductions", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support the itemized deductions claimed for 2006.

(19) Revenue Form 42A740-NP-ME, "Schedule ME, 2006 Moving Expense and Reimbursement", shall be completed and attached to Form 42A740-NP by part-year or full-year nonresidents to support moving expenses and reimbursement by employers for moving expenses for 2006.

(20) Revenue Form 42A740-NP(II), "Instructions for 2006 Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be completed by nonresident or part-year resident individuals to report taxable income and income tax liability for taxable years beginning in 2006, and shall be due within three and one-half (3 1/2) months after the close of the taxable year.

(22) Revenue Form 42A740-S10, "Instructions for 2006 Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", packet containing forms and instructions shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2006.

(23) Revenue Form 42A704-S11, "2006 Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", packet containing forms and instructions shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2006.

(24) Revenue Form 42A704-S11, "2006 Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", packet containing forms and instructions shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2006.

(25) Revenue Form 42A740-UTC, "Schedule UTC, Form 740 Unemployment Tax Credit", shall be completed by individuals and attached to Form 740, or Form 740-NP to provide the Department for Employment Services Certificate Numbers in support of credit claimed for hiring an unemployed person.

(26) Revenue Form 42A740-X, "Amended Kentucky Individual Income Tax Return For Tax Years 2005 and 2006", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return with tax years beginning in 2005 and 2006.

(27) Revenue Form 42A740-XP, "Amended Kentucky Individual Income Tax Return for Tax Years 2003 and 2004", shall be completed by individuals and filed with the Department of Revenue to amend a previously filed tax return with tax years beginning in 2003 and 2004.

(28) Revenue Form 42A740-S1, "Form 2210-K, 2006 Underpayment of Estimated Tax by Individuals", shall be filed by individual to request a waiver of estimated tax penalty or to compute and assess an estimated tax penalty for tax year beginning in 2006.

(29) Revenue Form 42A740-S4, "2007 Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2007.

(30) Revenue Form 42A740-S18, "5852-K, 2006 Kentucky Passivity Activity Loss Limitations", shall be completed by an individual taxpayer and attached to the individual tax return in support of an allowable passive loss deduction and carryover of a passive activity loss.

(31) Revenue Form 42A740-S21, "4972-K, 2006 Kentucky Tax on Lump-Sum Distributions", shall be completed by an individual taxpayer to compute tax liability on a lump sum distribution and attached to their individual income tax return.

(32) Revenue Form 42A740-S22, "8453-K, 2006 Kentucky Individual Income Tax Declaration for Electronic Filing", shall be completed, signed by the individual taxpayer or taxpayers and maintained by the preparer or taxpayer in support of an electronically filed return.

(33) Revenue Form 42A740-S23, "740-V, 2006 Kentucky Electronic Payment Voucher", shall be used by the individual taxpayer or taxpayers for the payment of additional tax due on an electronically filed return and submitted to the Department of Revenue.

(34) Revenue Form 42A740-S24, "8663-K, 2005 Kentucky Education Tuition Tax Credit", shall be used by an individual taxpayer or taxpayers to claim a tuition tax credit on their individual Kentucky income tax return.

(35) Revenue Form 42A741, "Form 741, 2006 Kentucky Fiduciary Income Tax Return", shall be used by a fiduciary of an estate or trust to report income and tax liability of an estate or trust and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year.

(36) Revenue Form 42A741-D, "Schedule D, Form 741, 2006 Kentucky Capital Gains and Losses", shall be completed and attached to Form 741 by a fiduciary to report income from capital gains and losses.

(37) Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", shall be the instruction guide provided by the Department of Revenue for completing the 2006 Form 741.

(38) Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2006 Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", shall be filed by the fiduciary with Form 741 to report each beneficiary's share of income, deductions, and credits.

(39) Revenue Form 42A765, "Form 756-GP, 2006 Kentucky General Partnership Income Return", shall be completed and filed with the Department of Revenue within three (3) months and fifteen (15) days after the close of the taxable year by a general partnership to report income, deductions, and credits of a general partnership for 2006.

(40) Revenue Form 42A765-GP(I), "Instructions, 2006 Kentucky General Partnership Income Return", shall be provided to assist the general partnership in completing a general partnership income return.

(41) Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2006 Partner's Share of Income, Credits, Deductions, etc.", shall be filed by the general partnership with Form 765-GP to report each general partner's share of income, deductions, and credits.

(42) Revenue Form 765-GP(P), "2006 Kentucky General Partnership Income Return Forms and Instructions", shall provide in a single packet Form 765-GP, Kentucky General Partnership Tax Return, other forms commonly used by general partnerships in conjunction with Form 765-GP and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Investor".

(43) Revenue Form 42A765-S1, "2006 Kentucky Schedule K for General Partnerships with Economic Development Project(s)", shall be used by a general partnership which has one (1) or more economic development projects to determine the total general partners' share of income, credits, deductions, etc., excluding the amount of each item of income, credit, deduction, etc., attributable to the projects. Instructions shall be included on the back of the form.

(44) Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and taxes withheld for the filing period.

(45) Revenue Form 42A801(D), "Form K-1, Amended Kentucky Employer's Return of Income Tax Withheld", shall be used by employers to correct wages and taxes reported for the filing period.

(46) Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfers", shall be used by employers who remit taxes electronically to report wages and tax withheld for the filing period.

(47) Revenue Form 42A802, "W-2, 2006 Wage and Tax Statement", shall be used by an employer to report each of its employees' wages and Kentucky tax withheld for the calendar year 2006.

(48) Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", shall be used by employers to report wages and tax withheld for the filing period and annually reconcile wages and taxes reported.

(49) Revenue Form 42A803(D), "Form K-3, Employer's Return of Income Tax Withheld", shall be used by employers to amend wages and taxes reported for the filing period and the annual reconcile wages and taxes reported.

(50) Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet - Electronic Funds Transfers", shall be used by employers to report wages and tax withheld for the filing period and to annually reconcile wages and taxes reported.

(51) Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", shall be used by an employee to inform the employer of the number of exemptions claimed in order to determine the amount of Kentucky tax to withhold from wages each pay period.

(52) Revenue Form 42A804-A, "Form K-4A, Kentucky Revenue Cabinet Withholding Exemptions for Excess Imitated Deductions", shall be used by an employee to determine additional withholding exemptions.

(53) Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", shall be used by employees to inform employers of special tax exempt status.

(54) Revenue Form 42A806, "Transmitter Report for Filing
Kentucky Wage Statements*, shall be used by employers annually to submit Forms W-2/K-2 Wages and Tax Statements.

(55) Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", shall be completed by nonresident employees working at Fort Campbell, Kentucky to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(56) Revenue Form 42A808, "Authorization to Submit Employee's Annual Wage and Tax Statements Via Kentucky Department of Revenue Website", shall be used by employers to request authorization to annually submit wages and tax statements via Kentucky Department of Revenue website.

(57) Revenue Form 42A809, "Certificate of Nonresidence", shall be used by employers to inform employers of special tax exempt status as a result of being a resident of a reciprocal state.

(58) Revenue Form 42A810, "Nonresident's Affidavit - Kentuck Individual Income Tax", shall be used by individuals to submit sworn statement concerning residency status.

(59) Revenue Form 42A811, "KREDA Annual Report", shall be completed by employers to report KREDA employee wage assessment fee information to the Department of Revenue.

(60) Revenue Form 42A812, "KIDA Annual Report", shall be completed by employers to report KIDA employee wage assessment fee information to the Department of Revenue.

(61) Revenue Form 42A813, "KJDA Annual Report", shall be completed by employers to report KJDA employee wage assessment fee information to the Department of Revenue.

(62) Revenue Form 42A814, "KIRA Annual Report", shall be completed by employers to report KIRA employee wage assessment fee information to the Department of Revenue.

(63) Revenue Form 42A815, "Withholding Tax Refund Application", shall be completed by employers to request a refund of withholding tax paid.

(64) Revenue Form 42A816, "KEOZ Annual Report", shall be completed by employers to report KEOZ employee wage assessment fee information to the Department of Revenue.

(65) Revenue Form 42D003, "2006 Kentucky Wage and Tax Statements (W-2/K-2) Order Form", shall be used by employers to order wages and tax statements.

Section 3. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Corporation income taxes - referenced material:

1. Revenue Form 41A720, "Form 720, 2006 Kentucky Corporation Income Tax Return", 2006;


4. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax Credit Biodiesel", October, 2006;

5. Revenue Form 41A720BIO (K-1), "Schedule BIO (K-1), Distributive Share of Approved Biodiesel and/or Blended Biodiesel Tax Credit", October, 2006;

6. Revenue Form 41A720CC, "Schedule CC, Coal Conversion Tax Credit", October, 2006;

7. Revenue Form 41A720CI, "Schedule CI, Application for Coal Incentive Tax Credit", October, 2006;


11. Revenue Form 41A720EZC, "Schedule EZC, Enterprise Zone Tax Credit", October, 2006;

12. Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October, 2006;


14. Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule Continuation Sheet", October, 2006;

15. Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule Continuation Sheet", October, 2006;


18. Revenue Form 41A720QCR, "Schedule QCR, Qualified Research Facility Tax Credit", October, 2006;

19. Revenue Form 41A720QR (K-1), "Schedule QR (K-1), Pro Rata/Distributive Share of Approved Qualified Research Facility Tax Credit", October, 2006;

20. Revenue Form 41A720RC, "Schedule RC, Application for Income Tax Credit for Recycling and/or Composting Equipment or Mayor Recycling Project", October, 2006;


22. Revenue Form 41A720RC-I, "Instructions For Schedule RC", October, 2006;

23. Revenue Form 41A720-RC (K-1), "Schedule RC (K-1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", October, 2006;


25. Revenue Form 41A720RC-R (K-1), "Schedule RC-R (K-1), Pro Rata/Distributive Share of Disposition of Recycling and/or Composting Equipment Tax Credit/Recapture", October, 2006;


27. Revenue Form 41A720S, "Instructions 2006 Kentucky Corporation Income Tax Return", October, 2006;

28. Revenue Form 41A720S-K (K-1), "Schedule K-1 (Form 720S), 2006 Kentucky Shareholder's Share of Income, Credits, Deductions, Etc.", 2006;


30. Revenue Form 41A720S-P, "2006 Kentucky S Corporation Income Tax Forms and Instructions", October, 2006;

31. Revenue Form 41A720TGS, "Schedule TGS, Tax Credit Summary Schedule", October, 2006;

32. Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", October, 2006;

33. Revenue Form 41A720VERB-K (K-1), "Schedule VERB-K (K-1), Distributive Share of Approved Voluntary Environmental Remediation Tax Credit", October, 2006;

34. Revenue Form 41A720VERB-S, "Schedule VERB-S, Voluntary Environmental Remediation Tax Credit (Brownfield) Expenditure Summary Schedule", October, 2006;

35. Revenue Form 41A720AM, "Form 720-AMENDED, Amended Kentucky Corporation Income Tax Return", for periods beginning on or after January 1, 2005, November, 2006;

36. Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return" for periods beginning on or after January 1, 2005, November, 2006;

37. Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax return", for periods beginning on or after January 1, 2005, November, 2006;

38. Revenue Form 41A720S-1, "Form 2220-K, Underpayment of Estimated Tax by Corporations", October, 2006;


41. Revenue Form 41A720S-16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", October, 2006;

42. Revenue Form 41A720T17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October, 2006;

43. Revenue Form 41A720S-18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a General Partnership)", October, 2006;

44. Revenue Form 41A720S-20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of Corporations)", De-
30. Revenue Form 42A740-S18, "Form 8502-K, Kentucky Passive Activity Loss Limitations", 2006;
31. Revenue Form 42A740-S21, "Form 4972-K, Kentucky Tax on Lump-Sum Distributions", 2006;
32. Revenue Form 42A740-S22, "Form 8453-K, Kentucky Individual Income Tax Declaration for Electronic Filing", 2006;
33. Revenue Form 42A740-S23, "Form 740-V, Kentucky Electronic Payment Voucher", 2006;
34. Revenue Form 42A740-S24, "Form 8663-K, Kentucky Education Tuition Tax Credit", 2006;
35. Revenue Form 42A741, "Form 741, 2006 Kentucky Fiduciary Income Tax Return", 2006;
37. Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October, 2006;
38. Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2006 Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2006;
40. Revenue Form 42A765-GP(I), "Instructions, 2006 Kentucky General Partnership Income Return", October, 2006;
41. Revenue Form 765-GP (K-1), "Kentucky Schedule K-1 Form 765-GP, 2006 Partner's Share of Income, Credits, Deductions, etc.", 2006;
42. Revenue Form 765-GP(P) "2006 Kentucky General Partnership Income Return Forms and Instructions", 2006;
43. Revenue Form 42A765-S1, "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October, 2006;
44. Revenue Form 42A801, "Form K-1, Kentucky Employer's Return of Income Tax Withheld", February, 2004;
45. Revenue Form 42A801(D), "Form K-1, Amended Kentucky Employer's Return of Income Tax Withheld", August, 2006;
46. Revenue Form 42A801-E, "Form K-1E, Kentucky Employer's Income Tax Withheld Worksheet Electronic Funds Transfer", February, 2004;
47. Revenue Form 42A802, "Form W-2, 2006 Wage and Tax Statement", 2006;
49. Revenue Form 42A803(D), "Form K-3, Amended Kentucky Employer's Return of Income Tax Withheld", August, 2006;
50. Revenue Form 42A803-E, "Form K-3E, Kentucky Employer's Income Tax Withheld Worksheet Electronic Funds Transfer", February, 2004;
51. Revenue Form 42A804, "Form K-4, Kentucky Department of Revenue Employee's Withholding Exemption Certificate", April, 2005;
52. Revenue Form 42A804-A, "Form K-4A, Kentucky Department of Revenue Withholding Exemptions for Excess Itemized Deductions", August, 2006;
53. Revenue Form 42A804-E, "Form K-4E, Special Withholding Exemption Certificate", April, 2006;
54. Revenue Form 42A806, "Transmitter Report for Filing Kentucky Wage Statements", October, 2004;
55. Revenue Form 42A807, "Form K-4FC, Fort Campbell Exemption Certificate", August, 2006;
56. Revenue Form 42A808, "Authorization to Submit Employee's Annual Wage and Tax Statements Via Kentucky Department of Revenue Web Site", March, 2006;
57. Revenue Form 42A809, "Certificate of Nonresidence", August, 2006;
58. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April, 1989;
59. Revenue Form 42A811, "KREDA Annual Report", November, 2006;
60. Revenue Form 42A812, "KIDA Annual Report", November, 2006;
61. Revenue Form 42A813, "KJDA Annual Report", November, 2006;
62. Revenue Form 42A814, "KIRA Annual Report", November, 2006;
FINANCE AND ADMINISTRATION CABINET
Department of Revenue
(New Administrative Regulation)


Section 1. Alcoholic Beverage Tax. (1) Revenue Form 73A504, "Acknowledgment of Tax Liability on Imported Alcoholic Beverages", shall be used by persons importing distilled spirits, wine and malt beverages into Kentucky through the United States Bureau of Customs for personal consumption in this state to acknowledge liability for the alcoholic beverage excise tax.

(2) Revenue Form 73A525, "Monthly Report of Distillers, Rectifiers or Bottlers", shall be used by distillers, rectifiers, or bottlers of distilled spirits to report liability for distilled spirits excise tax and wholesale sales tax.

(3) Revenue Form 73A528, "Wholesaler's Monthly Distilled Spirits Tax Report", shall be used by wholesalers of distilled spirits to report liability for distilled spirits excise tax, wholesale sales tax, and case sales tax.

(4) Revenue Form 73A527, "Wholesaler's List of Individual Spirits Shipments Acquired", shall be used by wholesalers of distilled spirits to itemize monthly receipts of distilled spirits from all sources.

(5) Revenue Form 73A529, "Consignor's report of Alcoholic Beverages Shipped", shall be used by consignor's of distilled spirits and wine to report trafficking in alcoholic beverages during the previous month.

(6) Revenue Form 73A530, "Consignor's Report of Alcoholic Beverages Shipped", shall be used by consignor's of distilled sprin
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its and wine to report trafficking in alcoholic beverages during the previous month.

(7) Revenue Form 73A531, "Transporter's Report of Alcoholic Beverages Delivered", shall be used by transporters of distilled spirits, wine, and malt beverages to report shipments of alcoholic beverages delivered into the state during the previous month.

(8) Revenue Form 73A535, "Report on Destruction of Alcoholic Beverages", shall be used by governmental officials to certify quantities of tax-paid alcoholic beverages no longer suitable for consumption that are destroyed in the officials' presence.

(9) Revenue Form 73A575, "Wholesaler's Monthly Wine Tax Report", shall be used by wine wholesalers to report liability for wine excise tax and wine wholesale sales tax.

(10) Revenue Form 73A576, "Vintner's Wine Report", shall be used by vintners to report liability for wine excise tax and wine wholesale sales tax.

(11) Revenue Form 73A577, "Wholesaler's List of Individual Wine Shipments Acquired", shall be used by wine wholesalers to report shipments of wine received during the previous month.

(12) Revenue Form 73A626, "Brewer's Monthly Report Schedule", shall be used by brewers of malt beverages to report sales and distribution of malt beverages into Kentucky.

(13) Revenue Form 73A627, "Brewer Distributor's Monthly Report", shall be used by brewer distributors to report shipments of malt beverages received during the previous month.

(14) Revenue Form 73A628, "Distributor's Monthly Malt Beverage Excise Tax and Wholesale Sales Report", shall be used by distributors of malt beverages to report liability for malt beverage excise tax and malt beverage wholesale sales tax.

(15) Revenue Form 73A629, "Brewer Distributor's Sales to Federal Agencies", shall be used by brewer distributors to report shipments of malt beverages to federal military agencies.

Section 2. Bank Franchise Tax - Required Forms. (1) Revenue Form 73A800, "Kentucky Registration Application for Bank Franchise Tax", shall be used by financial institutions which are regularly engaged in business in Kentucky to register for the Kentucky Bank Franchise Tax.

(2) Revenue Form 73A801 (F), "2006 Kentucky Bank Franchise Tax Forms and Instructions Packet", shall be used by financial institutions to register for the Kentucky Bank Franchise Tax, to determine the net capital and annual tax due, and to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

(3) Revenue Form 73A801, "2006 Bank Franchise Tax Return", shall be used by financial institutions to determine the net capital and Kentucky Bank Franchise Tax due for the calendar year 2006.

(4) Revenue Form 73A802, "Application for Ninety (90) Day Extension of Time to File Kentucky Bank Franchise Tax Return", shall be used by financial institutions to request a ninety (90) day extension of time to file the Kentucky Bank Franchise Tax Return.

Section 3. Cigarette Tax - Required Forms. (1) Revenue Form 73A181, "Cigarette Licenses Application", shall be used by persons interested in acting as a cigarette wholesaler, subjobber, vending machine operator, transporter, or unclassified acquirer to apply for the necessary license.

(2) Revenue Form 73A190, "Cigarette License", shall be used by the Department of Revenue to give evidence to cigarette wholesalers, subjobbers, vending machine operators, transporters, and unclassified acquirers who have been granted the appropriate license.

(3) Revenue Form 73A404, "Cigarette Tax Stamps Order Form", shall be used by licensed cigarette wholesalers or unclassified acquirers to order cigarette tax stamps.

(4) Revenue Form 73A406, "Cigarette Tax Credit Certificate", shall be used by the Department of Revenue to give credit to a licensed cigarette wholesaler or unclassified acquirer for cigarette tax stamps returned or destroyed.

(5) Revenue Form 73A409, "Cigarette Evidence/Property Receipt", shall be used by compliance officers and the property owner to acknowledge custody of seized goods.

(6) Revenue Form 73A420, "Monthly Report of Cigarette Wholesaler", shall be used by a licensed cigarette wholesaler to report cigarette inventory, tax stamp reconciliation, and liability for cigarette administration and enforcement fee and to report cigarettes that were purchased from manufacturers and importers of cigarettes who did not sign the Master Settlement Agreement (non-participating manufacturers).

(7) Revenue Form 73A420(I), "Instructions for Monthly Report of Cigarette Wholesaler" shall be used by cigarette wholesalers and nonparticipating manufacturers to file Revenue Form 73A420.

(8) Revenue Form 73A421, "Cigarette Inventory Floor Tax", shall be used by cigarette retailers or licensees to report cigarette inventories and the one-time inventory floor tax.

(9) Revenue Form 73A422, "Monthly Report of Other Tobacco Products and Snuff", shall be used by cigarette licensees to report gross receipts from other tobacco products, total units of snuff sold, and tax liability.

(10) Revenue form 73A423, "Monthly Report of Cigarette Papers", shall be used by vendors or wholesalers to file the tax owed on new papers sold.

(11) Revenue Form 73B401, "Cigarette Tax Credit Claim Wholesaler's Affidavit", shall be signed by a licensed cigarette wholesaler attesting that the reported tax evidence did/did not have the twenty-seven (27) cents surtax paid on it.

Section 4. Health Care Provider Tax. (1) Revenue Form 73A060, "Health Care Provider Tax Return" shall be used by taxpayers to file the gross revenue and compute the tax for the health care provider tax.

(2) Revenue Form 73A060(I), "Instructions-Kentucky Health Care Provider Tax Return" shall be used by the taxpayers to determine if the service they provide is taxable, what tax rate is applicable, and which line to use for reporting.

(3) Revenue Form 73A061, "Kentucky Health Care Provider Application for Certificate of Registration" shall be completed by the taxpayer to register for the health care provider tax.

Section 5. Inheritance Tax - Required Forms. (1) Revenue Form 92A120-S, "Inheritance and Estate Tax-Short Form" shall be used by the personal representative or beneficiary of a resident estate to establish the appropriate inheritance and estate tax due the Commonwealth.

(2) Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", shall be used by the personal representative or beneficiary of a resident estate to establish there is no inheritance and estate tax due the Commonwealth.

(3) Revenue Form 92A121, "Acceptance of Inheritance and Estate Tax Return", shall be sent by the inheritance and estate tax section of the personal representative or beneficiary of an estate to certify that all death taxes due the Commonwealth have been paid.

(4) Revenue Form 92A200, "Kentucky Inheritance and Estate Tax Return", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the inheritance and estate tax due the Commonwealth.

(5) Revenue Form 92A201, "Kentucky Inheritance Tax Return - No Tax Due", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish that there is no inheritance and estate tax due the Commonwealth.

(6) Revenue Form 92A202, "Kentucky Estate Tax Return", shall be used by the personal representative or beneficiary of a resident or nonresident estate to establish the estate tax due the Commonwealth.

(7) Revenue Form 92A204, "Real Estate Valuation Information Form", shall be used by the personal representative or beneficiary of an estate to establish the taxable value of real estate for inheritance tax purposes.

(8) Revenue Form 92A205, "Kentucky Inheritance Tax Return (Simplified Format)" shall be used by the personal representative or beneficiary of a small or uncomplicated resident or nonresident estate to establish the inheritance and estate tax due the Commonwealth.

(9) Revenue Form 92A206, "Notice of Benefits Paid by Employer/Insurance Company", shall be used by insurance companies to notify the Department of Revenue when proceeds of a life insurance policy are paid following a death.

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(10) Revenue Form 92A282, "Elect to Defer the Payment of Inheritance Tax through Installments", shall be used by the beneficiary or beneficiaries of an estate to defer the payment of inheritance tax through installments.

(11) Revenue Form 92A292, "Notice of Agricultural and Horticultural Inheritance Tax Lien", shall be used to request the county clerk place a lien on a particular piece of real estate due to the personal representative, on behalf of an estate, electing the use of agricultural or horticultural value.

(12) Revenue Form 92A930, "Certificate of Release of Agricultural and Horticultural Inheritance Tax Lien", shall be used by the inheritance and estate tax section to request the county clerk to release the five (5) year lien that guaranteed collection of tax if terms of agreement are not met or if the five (5) years has expired.

(13) Revenue Form 92A331, "Certificate of Partial Discharge of the Agricultural and Horticultural Inheritance Tax Lien", shall be used by the inheritance and estate tax section to request the county clerk to do a partial release of the five (5) year lien that guaranteed collection of tax if the terms of the agreement are not met or if the five (5) years has expired.

(14) Revenue Form 92A932, "Receipt of Inheritance and Estate Taxes", shall be given to the taxpayer when tax payment is received in the office.

(15) Revenue Form 92A336, "Election to Qualify Terminus Property and/or Power of Appointment Property", shall be used by a personal representative or beneficiary to elect to qualify terminus properties or power of appointment properties if property criteria exists.

(16) Revenue Form 92F001, "Blanket Lien Release", notice shall be used to access lock boxes without requiring written consent or presence of the Department of Revenue or local PVA official and provides a blanket lien release on all property owned by any decedent.

(17) Revenue Form 92F101, "A Guide to Kentucky Inheritance and Estate Taxes", shall be used by the general public for information purposes concerning Kentucky inheritance and estate tax.

Section 6 Insurance Tax - Required Forms. (1) Revenue Form 74A100, "Insurance Premiums Tax Return", shall be used by domestic and foreign life insurance companies, stock insurance companies other than life, and foreign mutual companies other than life to report liability for domestic and foreign life insurance tax, other than life insurance tax, fire insurance tax and retaliatory taxes and fees.

(2) Revenue Form 74A101, "Insurance Tax Return - Domestic Mutual, Domestic Mutual Fire, or Cooperative and Assessment Fire Insurance Premiums Companies", shall be used by domestic mutual, domestic mutual fire or cooperative and assessment fire insurance companies to report liability for premiums tax on amounts paid to authorized and unauthorized reinsurance companies.

(3) Revenue Form 74A105, "Unauthorized Insurance Tax Return", shall be used by insurers not authorized to conduct business in the Commonwealth of Kentucky by the Department of Insurance to report liability for insurance premiums tax.

(4) Revenue Form 74A106, "Insurance Premiums Tax Return - Captive Insurer", shall be completed by domestic and foreign insurance companies to report captive insurance tax.

(5) Revenue Form 74A110, "2007 Kentucky Estimated Insurance Premiums Tax", shall be used by insurance companies to remit estimated premiums tax payments.

(6) Revenue Form 74A116, "Tax Election for Domestic Life Insurance Companies", shall be used by domestic life insurance companies to make an irrevocable election to pay state capital and reserves tax, premiums tax, and the county and city capital and reserves tax or to pay state premiums tax and local government premiums tax.

(7) Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", shall be used by domestic mutual, cooperative and assessment fire insurers to report liability for insurance premium surcharge.

(8) Revenue Form 74A118, "Monthly Insurance Surcharge Report", shall be used by domestic, foreign and alien insurers, other than life and health insurers, to report liability for insurance premium surcharge.

Section 7. Legal Process - Required Forms. (1) Revenue Form 73A200, "County Clerk's Monthly Report of Legal Process Tax Receipt", shall be used by the county clerks to report the county's liability for the legal process tax and spousal abuse shelter fund.

(2) Revenue form 73A201, "Quarterly report of Affordable Housing Trust Fund Fee", shall be used by the county clerks to report the county's liability for the affordable housing trust fund fee.

Section 8. Marijuana and Controlled Substance - Required Forms. (1) Revenue Form 73A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", shall be used by the Kentucky Department of Revenue to provide persons ordering marijuana and controlled substance tax stamps with the appropriate instructions on affixing the stamps.

(2) Revenue Form 73A702, "Notice of Tax Lien KRS 138 870 Marijuana and Controlled Substance Tax", shall be used by law enforcement officials to notify the Kentucky Department of Revenue and county clerk of the seizure of marijuana and other controlled substances.

(3) Revenue Form 73A703, "Marijuana or Controlled Substance Stamp Order Form", shall be used by taxpayers to order stamps for marijuana or controlled substances.

Section 9. Motor Fuels - Required Forms. (1) Revenue Form 72A004, "Motor Fuels Tax Watercraft Refund Bond", shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the public boat dock refund applicant was not entitled.

(2) Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", shall be used by a public boat dock to make application.

(3) Revenue Form 72A006, "Motor Fuel Tax Refund Application - Public Boat Dock", shall be used by a public boat dock refund applicant to make application for refund of liquid fuel tax on purchases of liquid fuel delivered directly to the fuel tanks attached to the watercraft and used exclusively in watercraft motors.

(4) Revenue Form 72A010, "Motor Fuel Tax Permit Holder's Bond", shall be used by an approved surety to establish surety obligation upon the payment of all taxes, penalties, and fines for which designated refund applicant may become liable under KRS 138.344 to 138.355.

(5) Revenue Form 72A011, "Petroleum Storage Tank Environmental Assurance Fee Monthly Report", shall be used by licensed gasoline or special fuels dealers to report and remit monthly petroleum storage tank environmental assurance fee amounts due.

(6) Revenue Form 72A052, "Kentucky Motor Fuel Taxes Tax Refund Permit", shall be used by the Department of Revenue to issue Kentucky Motor Fuel Taxes Tax Refund Permits.

(7) Revenue Form 72A053-A, "Application for Refund of Kentucky Motor Fuel Tax Paid on Nonhighway Motor Fuels", shall be used by Kentucky Motor Fuels Tax Refund Permit holders to apply for refund of Kentucky motor fuel tax paid on nonhighway motor fuel.

(8) Revenue Form 72A055, "Aviation Gasoline Tax Refund Bond", shall be used by an approved surety to establish surety obligation upon the payment to the Commonwealth of any refunds to which the aviation gasoline refund applicant was not entitled.

(9) Revenue Form 72A066, "Application for Refund of Kentucky Tax Paid on Gasoline Used in Operation of Aircraft", shall be used by an aviation gasoline refund applicant to make application for refund of Kentucky tax paid on gasoline used in operation of aircraft.

(10) Revenue Form 72A067, "Application for Approval to Receive a Refund of Aviation Motor Fuels", shall be used by aviation gasoline tax refund applicants seeking approval to receive a refund of aviation gasoline tax.

(11) Revenue Form 72A071, "Motor Fuels Tax Refund Bond (City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs)", shall be used by a surety company authorized to do business in Kentucky to establish surety obligation upon the
payment to the Commonwealth of any refunds to which a city and suburban bus, nonprofit bus, senior citizen transportation or taxicab refund applicant was not entitled.

(12) Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation and Taxicab Companies", shall be used by refund applicants to make application for refund of Kentucky tax paid on fuel used in the operation of city and suburban bus companies, nonprofit bus companies, senior citizen transportation, and taxicab companies.

(13) Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuels Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicab", shall be used by qualified applicants to make application for approval to receive a refund of tax on motor fuels consumed by city and suburban buses, nonprofit buses, senior citizen transportation, and taxicabs.

(14) Revenue Form 72A075, "Receipts of Unreported Alcohol or Other Additives", shall be used by licensed gasoline dealers to report receipt of unreported alcohol or other additives.


(16) Revenue Form 72A078, "Statement of Claim for Accountable Loss of Motor Fuel", shall be used by licensed gasoline or special fuels dealers to make claim for accountable loss of motor fuel.

(17) Revenue Form 72A080, "Report of Gasoline Received from Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report receipt of tax free gasoline from licensed Kentucky dealers on the gasoline dealer's monthly report.

(18) Revenue Form 72A081, "Report of Gasoline Imported from Other States" shall be used by licensed gasoline dealers to report gasoline imported from other states, on the gasoline dealer's monthly report.

(19) Revenue Form 72A081-P, "Purchaser's Report Gasoline Imported into Kentucky (Kentucky Tax Paid to Supplier)", shall be used by licensed gasoline dealers to report gasoline imported into Kentucky if the Kentucky tax was paid to the supplier, on the gasoline dealer's monthly report.

(20) Revenue Form 72A081-S, "Supplier's Report Gasoline Imported Into Kentucky (Kentucky Tax Paid by Supplier)", shall be used by licensed gasoline dealers to report gasoline imported into Kentucky if the Kentucky tax was paid by the supplier, on the gasoline dealer's monthly report.

(21) Revenue Form 72A082, "Report of Gasoline Imported", shall be used by licensed gasoline dealers to report gasoline imported on the gasoline dealer's monthly report.

(22) Revenue Form 72A083, "Report of Gasoline Received from Terminal or Refinery", shall be used by licensed gasoline dealers to report gasoline received from terminal or refinery, on the licensed gasoline dealer's monthly report.

(23) Revenue Form 72A084, "Report of Gasoline Exported", shall be used by licensed gasoline dealers to report gasoline exported, on the gasoline dealer's monthly report.

(24) Revenue Form 72A085, "Report of Gasoline Sold to Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report gasoline sold to licensed Kentucky dealers, on the gasoline dealer's monthly report.

(25) Revenue Form 72A086, "Report of Gasoline Withdrawals from Terminal Storage", shall be used by licensed gasoline dealers to report gasoline withdrawals from terminal storage, on the gasoline dealer's monthly report.

(26) Revenue Form 72A087, "Report of Gasoline Withdrawals to Licensed Kentucky Dealers", shall be used by licensed gasoline dealers to report withdrawals of gasoline to licensed Kentucky dealers, on the gasoline dealer's monthly report.

(27) Revenue Form 72A088, "Report of Gasoline Withdrawals Exported or Sold for Export", shall be used by licensed gasoline dealers to report withdrawals of gasoline exported or sold for export, on the gasoline dealer's monthly report.

(28) Revenue Form 72A099, "Licensed Gasoline Dealer's Monthly Report", shall be used by licensed gasoline dealers to report and remit monthly gasoline tax.

(29) Revenue Form 72A099, "Gasoline Dealer's Monthly Terminal Storage Report", shall be used by licensed gasoline dealers to report monthly terminal storage activity, on the gasoline dealer's monthly report.

(30) Revenue Form 72A091, "Gasoline Schedule of Sales Qualifying for Agricultural Tax Credit", shall be used by gasoline dealers to claim a credit for gasoline sold for agricultural purposes to holders of Kentucky motor fuels tax refund permits.

(31) Revenue Form 72A098, "Transporter's Report of Motor Fuel Delivered", shall be used by licensed transporters to report monthly motor fuel deliveries.

(32) Revenue Form 72A103, "Licensed Gasoline Dealer's Estimated Tax Payment", shall be used by licensed gasoline dealers to report and remit estimated gasoline tax monthly payments.

(33) Revenue Form 72A107, "Licensed Special Fuels Dealer's Monthly Report of Special Fuels Sales to U.S. Government", shall be used by licensed special fuels dealers to report special fuels sales to U.S. government, on the special fuels dealer's monthly report.

(34) Revenue Form 72A110, "Certification of Motor Fuels Nonhighway Use", shall be used by qualifying entities to certify the nonhighway use of special fuels. The certification shall be maintained by the licensed special fuels dealer.

(35) Revenue Form 72A124, "Report of Kerosene and Other Receipts Received and Blended", shall be used by licensed special fuels dealers to report kerosene received and blended, on the licensed special fuel dealer's monthly report.

(36) Revenue Form 72A127, "Special Fuels Dealer's Schedule of Sales Qualifying for State or Local Government Agency Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to state or local government agencies for nonhighway special fuels use for a specific monthly period.

(37) Revenue Form 72A129, "Special Fuels Dealer's Schedule of Sales Qualifying for Nonprofit Religious, Charitable or Educational Organization Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to nonprofit religious, charitable or education organizations for nonhighway special fuels use for a specific monthly period.

(38) Revenue Form 72A129, "Special Fuels Schedule of Sales Qualifying for Commercial Off-Road Use Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to motor fuels tax refund permit holders for agricultural special fuels use for a specific monthly period.

(39) Revenue Form 72A131, "Special Fuels Schedule of Sales Qualifying for Agricultural Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to motor fuels tax refund permit holders for agricultural special fuels use for a specific monthly period.

(40) Revenue Form 72A132, "Special Fuels Schedule of Sales Qualifying for Residential Heating Tax Credit", shall be used by a licensed special fuels dealer to list sales of special fuels to consumers for heating a personal residence for a specific monthly period.

(41) Revenue Form 72A135, "Application for Kentucky Motor Fuels Tax Refund Permit", shall be used by a person desiring to qualify for a refund of motor fuel excise tax paid for nonhighway use.

(42) Revenue Form 72A136, "Licensed Special Fuels Dealer's Monthly Report", shall be used by a licensed special fuels dealer to report the total special fuels gallons received and distributed for a specific monthly period.

(43) Revenue Form 72A153, "Report of Special Fuels Received from Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to list every special fuels shipment originating in Kentucky from another licensed special fuels dealer for a specific monthly period.

(44) Revenue Form 72A154, "Report of Special Fuels Imported from Other States", shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state sources on which the Kentucky special fuels excise tax was not precollected by the supplier for a specific monthly period.

(45) Revenue Form 72A154-P, "Purchaser's Report Special
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Fuels Imported (Kentucky Tax Paid to Supplier)*, shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state terminals on which the Kentucky special fuels excise tax was paid to the supplier for a specific monthly period.

(40) Revenue Form 72A154-S, "Supplier's Report Special Fuels Imported (Kentucky Tax Paid by Supplier)", shall be used by a licensed special fuels dealer to list every special fuels shipment imported into Kentucky from other state terminals on which the Kentucky special fuels excise tax was charged to the dealer's customer for a specific monthly period.

(47) Revenue Form 72A155, "Report of Special Fuels Exported or Sold for Export", shall be used by a licensed special fuels dealer to list every shipment exported to another state for a specific monthly period.

(48) Revenue Form 72A156, "Report of Special Fuels Sold to Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to report all special fuels shipments sold to other licensed special fuels dealers for a specific monthly period.

(49) Revenue Form 72A159, "Report of Special Fuels Sold for Exclusive Use by Railroad Companies for Nonhighway Purposes", shall be used by a licensed special fuels dealer to report all special fuels shipments sold to a valid Motor Fuels Tax Refund Permit holder for exclusive use by railroad companies for nonhighway purposes for a specific monthly period.

(50) Revenue Form 72A160, "Licensed Special Fuels Dealer's Estimated Tax Payment", shall be used by a licensed special fuels dealer to report the special fuels tax liability for a specific monthly period and calculate ninety-five (95) percent of the applicable tax due for remittance by the due date.

(51) Revenue Form 72A161, "Monthly Report Liquified Petroleum Gas Dealer", shall be used by a licensed liquified petroleum gas dealer to report all deliveries of liquified petroleum gas dispensed into the fuel tanks of licensed motor vehicles for a specific monthly period.

(52) Revenue Form 72A162, "Report of Liquified Petroleum Gas Motor Fuel", shall be used by a licensed liquified petroleum gas dealer to list every shipment of liquified petroleum gas placed into the fuel tank of a licensed motor vehicle for a specific monthly period.

(53) Revenue Form 72A170, "Special Fuels Dealer's Monthly Terminal Storage Report", shall be used by a licensed special fuels dealer to summarize all Kentucky terminal receipt and disbursement activity for a specific monthly period.

(54) Revenue Form 72A171, "Report of Special Fuels Imported", shall be used by a licensed special fuels dealer to list all shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(55) Revenue Form 72A172, "Report of Special Fuels Received from Terminal or Refinery", shall be used by a licensed special fuels dealer to list all shipments received from other Kentucky terminals and placed into Kentucky terminal storage for a specific monthly period.

(56) Revenue Form 72A173, "Report of Special Fuels Withdrawals to Licensed Kentucky Dealers", shall be used by a licensed special fuels dealer to list all withdrawals from other licensed special fuels dealers for a specific monthly period.

(57) Revenue Form 72A174, "Report of Special Fuels Withdrawals Exported or Sold for Export", shall be used by a licensed special fuels dealer to provide a list of every shipment withdrawn from terminal storage and exported to another state for a specific monthly period.

(58) Revenue Form 72A175, "Report of Special Fuels Withdrawals from Terminal Storage", shall be used by a licensed special fuels dealer to provide total gallon withdrawals from its terminal storage facility or facilities for a specific monthly period.

(59) Revenue Form 72A200, "Special Fuels Dealer's Schedule of Dyed Diesel Credits and Tax Due", shall be used by licensed special fuels dealers to report the total dyed diesel gallons received and distributed for a specific monthly period.

(60) Revenue Form 72A210, "Report of Dyed Diesel Received from Licensed Kentucky Dealers", shall be used by licensed special fuels dealer to list every dyed diesel shipment originating in Kentucky from another licensed special fuels dealer for a specific monthly period.

(61) Revenue Form 72A211, "Report of Dyed Diesel Imported from Other States", shall be used by licensed special fuels dealer to list all dyed diesel shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(62) Revenue Form 72A215, "Report of Kerosene and Other Receipts Received and/or Blended with Dyed Diesel", shall be used by licensed special fuels dealers to report all other receipts received or blended with dyed diesel.

(63) Revenue Form 72A220, "Dyed Diesel Monthly Terminal Storage Report", shall be used by licensed special fuels dealers to summarize all dyed diesel Kentucky terminal receipts and disbursements activity for a specific monthly period.

(64) Revenue Form 72A221, "Report of Dyed Diesel Imported", shall be used by licensed special fuels dealers to list all dyed diesel shipments imported into Kentucky from other states and placed into Kentucky terminal storage for a specific monthly period.

(65) Revenue Form 72A222, "Report of Dyed Diesel Received from Terminal or Refinery", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel received from a terminal or refinery located in Kentucky into terminal storage.

(66) Revenue Form 72A223, "Report of Dyed Diesel Withdrawals to Licensed Kentucky Dealers", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals from terminal storage going to licensed Kentucky dealers.

(67) Revenue Form 72A224, "Report of Dyed Diesel Withdrawals Exported or Sold for Export", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals either exported or sold for export from terminal storage.

(68) Revenue Form 72A225, "Report of Dyed Diesel Withdrawals from Terminal Storage", shall be used by licensed special fuels dealers with terminal storage to report dyed diesel withdrawals from terminal storage going to licensed Kentucky dealers.

(69) Revenue Form 72A230, "Report of Dyed Diesel Exported or Sold for Export", shall be used by licensed special fuels dealers to report dyed diesel gallons exported or sold for export into another state.

(70) Revenue Form 72A231, "Report of Dyed Diesel Sold to Licensed Kentucky Dealers", shall be used by licensed special fuels dealers to report dyed diesel sold to licensed Kentucky dealers.

(71) Revenue Form 72A232, "Statement of Claim for Accountable Loss of Dyed Diesel", shall be used by licensed special fuels dealers to report approved accountable loss of dyed diesel gallons.

(72) Revenue Form 72A233, "Report of Dyed Diesel Sold for Exclusive Use by Railroad Companies for Nonhighway Purposes", shall be used by licensed special fuels dealers to report dyed diesel sold for exclusive use by railroad companies for nonhighway purposes.


(74) Revenue Form 72A240, "Special Fuels Dealer's Schedule of Dyed Diesel Sales Qualifying for Nonhighway Use Tax Credit", shall be used by licensed special fuels dealers to report dyed diesel sold for nonhighway use.

(75) Revenue Form 72A300, "Tax Registration Application for Motor Fuels License", shall be used by an applicant to register for a gasoline dealer's, special fuels dealer's, liquified petroleum gas dealer's or motor fuel transporter's license.

(76) Revenue Form 72A301, "Motor Fuels License Bond", shall be issued by a corporation authorized to transact the business in Kentucky on behalf of a licensee to secure payment of taxes, penalties, and interest for which a dealer or transporter may become liable.

(77) Revenue Form 72A302, "Motor Fuels License", shall be used by the Department of Revenue to issue a license to the qualified applicant in gasoline, special fuels, motor fuels transporter, or liquified petroleum gas dealer.

(78) Revenue Form 72A303, "Election Application/Cancellation
Form*, shall be used by gasoline and special fuels dealers to elect to pledge a financial instrument other than a corporate surety bond.

Section 10. Motor Vehicle Usage Tax - Required Forms. (1) Revenue Form 71A010, "Motor Vehicle Usage Tax-Vehicle Condition and Application", shall be used by a taxpayer to apply for a refund of motor vehicle usage tax paid under KRS 136.150(16) based on the condition of the vehicle.

(2) Revenue Form 71A100, "Affidavit of Total Consideration Given for a Motor Vehicle", shall be presented to the county clerk to establish taxable value upon the first registration or transfer of a motor vehicle for motor vehicle usage tax purposes.

(3) Revenue Form 71A101, "Motor Vehicle Usage Tax Multi-purpose Form", shall be presented to the county clerk by a vehicle owner to:
   (a) Claim one (1) of several exemptions;
   (b) Establish "retail price" if prescribed by the department; or
   (c) Establish "retail price" of new vehicles with equipment or adaptive devices added to facilitate or accommodate handicapped persons.

(4) Revenue Form 71A102, "Questionnaire", shall be completed by selected motor vehicle buyers and sellers providing specific information regarding a vehicle transaction.

(5) Revenue Form 71A151, "Enterprise Zone Motor Vehicle Usage Tax Exemption Certification" shall be presented to the county clerk by a certified resident of an enterprise zone to claim exemption from the motor vehicle usage tax upon the first registration or transfer of a motor vehicle.

(6) Revenue Form 71A174, "County Clerk's Adjusted Recapitulation of Motor Vehicle Usage Tax - Weekly Report", shall be submitted to the Department of Revenue by a county clerk as a recapitulation form to list all motor vehicle usage tax receipts, adjusted for corrections and commissions for a given week.

(7) Revenue Form 71A174-A, "County Clerk's Recapitulation of Motor Vehicle Usage Tax - Interim Report", shall be submitted to the Department of Revenue by a county clerk to report motor vehicle usage tax collections if an extension of time to file the computer generated weekly recapitulation report is requested.

(8) Revenue Form 72A007, "Affidavit of Nonhighway Use", shall be used by taxpayers attesting that a motor vehicle will not be operated upon Kentucky's public highways.

(9) Revenue Form 72A054, "Kentucky Application for Dealer Loaner/Rental Vehicle Tax", shall be used by motor vehicle dealers to register to participate in the Loaner/Rental Vehicle program.

(10) Revenue Form 73A055, "Monthly Report for Dealer Loaner/Rental Vehicle Tax", shall be used by motor vehicle dealers to report tax due on vehicles dedicated for use in the Loaner/Rental Vehicle program.

(11) Revenue Form 73A070, "Motor Vehicle Usage Tax Request for Extension of Deposit/ACH Call-in", shall be used by county clerks for extension of ACH call-in deposits.

Section 11. Racing Taxes - Required Forms. Revenue Form 73A100, "Race Track Par-Mutuel and Admissions Report", shall be used by race tracks licensed by the Kentucky Racing Commission to report liability for the pari-mutuel tax and to report admissions to the race track.

Section 12. Transient Room Tax - Required Forms. Revenue Form 73A550, "Transient Room Tax Monthly Return", shall be used by all persons, companies, corporations, groups or organizations doing business as motor courts, motels, hotels, inns, tourist camps, or like or similar accommodations businesses (excluding campgrounds) to report the taxable rent amount and transient room tax liability.

Section 13. Utility Gross Receipts License Tax - Required Forms. (1) Revenue Form 73A900, "Utility Gross Receipts License Tax Application", shall be used by utility service providers, consumers, and Energy Direct Pay (EDP) account holders to apply for a utility gross receipts license tax account number.

(2) Revenue Form 73A901, "Utility Gross Receipts License Tax Return", shall be used by UGRL account number holders to report total gross receipts, school district allocation, and tax liability.

(3) Revenue Form 73A901(I), "Instructions for Utility Gross Receipts License Tax Return", shall be used by UGRL account number holders to complete the Utility Gross Receipts License Tax Return.

(4) Revenue Form 73A902, "Utility Gross Receipts License Tax (UGRLT) Energy Exemption Annual Return", shall be used by UGRL account number holders to apply for an exemption from the utility gross receipts license tax.

(5) Revenue Form 73A902-V, "Kentucky Utility Gross Receipts License Tax Payment Voucher", shall be used by UGRL account number holders to remit payment of the utility gross receipts license tax.

Section 14. Waste Tire Tax - Required Form. Revenue Form 73A051, "Motor Vehicle Tire Fee Report", shall be used by businesses making retail sales of new motor vehicle tires to report liability for motor vehicle tire fees and to report the number of waste tires received from customers.

Section 15. Incorporation by Reference. (1) The following material is incorporated by reference:
   (a) Alcoholic beverage tax - referenced material:
      1. Revenue Form 73A504, "Acknowledgment of Tax Liability on Imported Alcoholic Beverages", November, 2006;
      4. Revenue Form 73A527, "Wholesaler's List of Individual Spirits Shipments Acquired", November, 2006;
      5. Revenue Form 73A529, "Consignor's Report of Alcoholic Beverages Shipped-Short Form", November, 2006;
      8. Revenue Form 73A535, "Report on Destruction of Alcoholic Beverages", December, 2006;
      11. Revenue Form 73A577, "Wholesaler's List of Individual Wine Shipments Acquired", November, 2006;
      14. Revenue Form 73A628, "Distributor's Monthly Malt Beverage Excise Tax and Wholesale Sales Tax Report", November, 2006; and
      15. Revenue Form 73A629, "Beer Distributor's Sales to Federal Agencies", November, 2006;
   (b) Bank franchise tax - referenced material:
      1. Revenue Form 73A800, "Kentucky Registration Application for Bank Franchise Tax", January, 2007;
   (c) Cigarettes tax - referenced material:
      1. Revenue Form 73A181, "Cigarette Licenses and Other Tobacco Product Account Number Application", December, 2006;
      2. Revenue Form 73A199, "Cigarette License", April, 1998;
      3. Revenue Form 73A404, "Cigarette Tax Stamps Order Form", November, 2006;
      4. Revenue Form 73A406, "Cigarette Tax Credit Certificate", May, 2005;
      5. Revenue Form 73A409, "Cigarette Evidence/Property Receipt", November, 2003;
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Wholesaler*, August, 2006;
8. Revenue Form 73A421, "Cigarette Inventory Floor Tax", May, 2005;
10. Revenue Form 73A423, "Monthly Report of Cigarette Papers", June, 2006; and
11. Revenue Form 73B401, "Cigarette Tax Credit Claim Wholesaler's Affidavit", November, 2006;
(d) Health care provider tax - referenced material:
1. Revenue Form 73A060, "Health Care Provider Tax Return", July, 2005;
2. Revenue Form 73A060(1), "Instructions - Kentucky Health Care Provider Tax Return", July, 2005, and
3. Revenue Form 73A061, "Kentucky Health Care Provider Application for Certificate of Registration", December, 2006;
(e) Inheritance tax - referenced material:
1. Revenue Form 92A120-S, "Inheritance and Estate Tax Return-Short Form", May, 1985;
2. Revenue Form 92A120-X, "Kentucky Spousal Inheritance Tax Return", October, 1992;
5. Revenue Form 92A201, "Kentucky Inheritance Tax Return No Tax Due", July, 2003;
7. Revenue Form 92A204, "Real Estate Valuation Information Form", July, 2003;
8. Revenue Form 92A205, "Kentucky Inheritance Tax Return (Simplified Form)", July, 2003;
9. Revenue Form 92A928, "Election to Defer the Payment of Inheritance Tax Through Installments", July, 2003;
13. Revenue Form 92A932, "Receipt of Inheritance and Estate Taxes", December, 1984;
14. Revenue Form 92A936, "Election to Qualify Termination Interest Property and/or Power of Appointment Property", May, 1995;
15. Revenue Form 92F001, "Blanket Lien Release", July, 2003; and
(f) Insurance tax - referenced material:
1. Revenue Form 74A100, "Insurance Premiums Tax Return", November, 2005;
7. Revenue Form 74A117, "Monthly Insurance Surcharge Report - Domestic Mutual, Cooperative and Assessment Fire Insurer", July, 2000; and
(g) Legal process - referenced material:
1. Revenue Form 73A200, "County Clerk's Monthly Report of Legal Process Tax Receipts", November, 2006; and
2. Revenue Form 73A201, "Quarterly Report of Affordable Housing Trust Fund Fee", June, 2006;
(h) Marijuana and controlled substance - referenced material:
1. Revenue Form 73A701, "Instructions for Affixing Marijuana and Controlled Substance Tax Evidence (Stamp)", November, 2006;
2. Revenue Form 73A702, "Notice of Tax Lien KRS 138.870 Marijuana and Controlled Substance Tax", June, 2001; and
3. Revenue Form 73A703, "Marijuana or Controlled Substance Stamp Order Form", November, 2006;
(i) Motor fuels - referenced material:
1. Revenue Form 72A004, "Motor Fuels Tax Watercraft Refund Bond", August, 2006;
2. Revenue Form 72A005, "Application for Approval to Sell Watercraft Refund Motor Fuels - Public Boat Dock", August, 2006;
6. Revenue Form 72A052, "Kentucky Motor Fuels Tax Refund Permit", August, 2006;
8. Revenue Form 72A065, "Aviation Gasoline Tax Refund Bond", October, 2006;
10. Revenue Form 72A067, "Application for Approval to Receive a Refund of Aviation Motor Fuels", August, 2006;
11. Revenue Form 72A071, "Motor Fuels Tax Refund Bond-City and Suburban Bus, Nonprofit Bus, Senior Citizen Transportation, or Taxicabs", October, 2005;
12. Revenue Form 72A072, "Application for Motor Fuel Refund - City and Suburban Bus Companies, Nonprofit Bus Companies, Senior Citizen Transportation and Taxicab Companies", August, 2005;
13. Revenue Form 72A073, "Application for Approval to Receive a Refund of Tax on Motor Fuel's Consumed by City and Suburban Buses, Nonprofit Buses, Senior Citizen Transportation and Taxicabs", October, 2006;
14. Revenue Form 72A075, "Receipts of Unreported Alcohol or Other Additives", August, 2005;
17. Revenue Form 72A080, "Report of Gasoline Received From Licensed Kentucky Dealers", October, 2006;
18. Revenue Form 72A081, "Report of Gasoline Imported from Other States", October, 2006;
19. Revenue Form 72A081-P, "Purchaser's Report Gasoline Imported into Kentucky (Kentucky Tax Paid to Suppliers)", October, 2006;
22. Revenue Form 72A083, "Report of Gasoline Received from Terminal or Refinery", October, 2006;
25. Revenue Form 72A086, "Report of Gasoline Withdrawals from Terminal Storage", October, 2006;
27. Revenue Form 72A088, "Report of Gasoline Withdrawals Exported or Sold for Export", October, 2006;
6. Revenue Form 73F010, "Utility Gross Receipts License Tax", March, 2005, and (m) Waste tire tax - referenced material:  
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 200 Fair Oaks Lane, Frankfort, Kentucky 40620, or at any Kentucky Department of Revenue Taxpayer Service Center, Monday through Friday, 8 a.m. to 5 p.m.  

JOHN R. FARRIS, Secretary  
APPROVED BY AGENCY: January 23, 2007  
FILED WITH URC: February 1, 2007 at 10 a.m.  
PUBLIC HEARING AND PUBLIC COMMENT PERIOD. A public hearing on this proposed new administrative regulation shall be held on March 28, 2007 at 10 a.m. in Room 386, Capitol Annex Building, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing at least five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by the required date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through April 2, 2007. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person noted below.  

CONTACT PERSON: Richard Dobson, Executive Director, Office of Sales and Excise Taxes, Department of Revenue, Finance and Administration Cabinet, 200 Fair Oaks Lane, Frankfort, Kentucky 40601, phone (502) 584-5523, fax (502) 584-2906.  

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT.  
Contact Person: Richard Dobson, Executive Director  
(1) Provide a brief summary of:  
(a) What this administrative regulation does: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues, Severance Taxes and Property Taxes.  
(b) The necessity of this administrative regulation: This administrative regulation is necessary in order for the Department of Revenue to meet the requirements of KRS 13A.110 which requires that forms required to be submitted by a regulated entity shall be included in an administrative regulation.  
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 131.130(3) authorizes the Department of Revenue to prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation incorporating the forms by reference. This administrative regulation incorporates by reference the required revenue forms used in the administration of miscellaneous taxes by the Department of Revenue other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues, Severance Taxes and Property Taxes.  
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation incorporates by reference the required forms administered by the Department of Revenue used in the administration of miscellaneous taxes other than Income Taxes, Sales and Use Tax, Telecommunications Excise and Gross Revenues Tax, Severance Taxes and Property Taxes.  
(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. All Kentucky taxpayers and their representatives will be affected by the listing of forms administered by the Department of Revenue in an administrative regulation. Local government will be affected to the extent they utilize forms administered by the Department of Revenue. The Department of Revenue will be affected to the extent that it administers the referenced forms.  
(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:  
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. All entities identified in question (3) shall use the forms listed in this regulation for tax compliance purposes.  
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? None of the entities identified in question (3) will incur additional costs as the result of this regulation.  
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Consistency in compliance with the statutes.  
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:  
(a) Initially: The Department of Revenue will not incur additional costs as the result of this regulation.  
(b) On a continuing basis: The Department of Revenue will not incur additional costs as the result of this regulation.  
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Department of Revenue 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. This administrative regulation does not require an increase in fees or funding.  
(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish or increase any fees either directly or indirectly.  
(9) TIERING: Is tiering applied? Tiering was not applied because the requirements of this regulation apply to every taxpayer.  

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT  
1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes  
2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Finance and Administration Cabinet, Department of Revenue, Office of Sales and Excise Taxes, Division of Miscellaneous Taxes, Road Fund Branch, Miscellaneous Tax Branch, Motor Vehicle Usage Tax Section, Motor Fuels Tax Audit Section, Motor Fuels Tax Compliance, Finance Tax Section, and the Excise Tax Section. The section level shall be responsible for creation and updating of forms.  
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 131.130(1)  
4. Estimate the effect of this administrative regulation on the expenditures and revenues of the state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.  
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No change.
(b) How much revenue will the administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No change.

(c) How much will it cost to administer this program for the first year? The administrative cost will be absorbed in the normal operating cost of the Department.

(d) How much will it cost to administer this program for subsequent years? The same administrative cost will be absorbed in the normal operating budget of the Department.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

GENERAL GOVERNMENT CABINET
Department of Military Affairs
Kentucky Community Crisis Response Board
(New Administrative Regulation)

106 KAR 5:005. Definitions for 106 KAR Chapter 5.


- STATUTORY AUTHORITY: KRS 38.260(5), (8)
- NECESSITY, FUNCTION AND CONFORMITY: KRS 38.260(5) and (8) require the Kentucky Community Crisis Response Board to promulgate administrative regulations relating to the operation of crisis response services and as necessary to execute the duties of the board. This administrative regulation provides the definition of terms used in this chapter.

Section 1. Definitions. (1) "Approved" means reviewed and accepted by the KCCRB.

(2) "Community Crisis Response Board" or "KCCRB" means the administrative body established at KRS 36.255.

(3) "Community Crisis Response Team" or "KCCRT" is defined at KRS 38.250(2).

(4) "Continuing education hour" means at least fifty (50) contact minutes of participation in a course of education established in accordance with 106 KAR 5.020.

(5) "Core competency" means the skills acquired by successful completion of a board approved continuing course of education and training relating to the provision of crisis response, psychological first aid, child psychology, family education, and disaster behavioral health services.

(6) "Crisis" means an event that has the potential to create significant human distress.

(7) "Crisis response" means provision of support to a survivor, first responder, or other affected person in order to aid the individual to:

(a) Regain a sense of control over the immediate situation; and
(b) Reestablish problem-solving abilities.

(8) "Crisis response service" means the delivery of crisis response, psychological first aid, child psychology, family education, and disaster behavioral health services, including:

(a) Exploring the person's experience with the crisis or disaster;
(b) Identifying current priority needs;
(c) Assessing functioning and coping skills;
(d) Providing reassurance, normalization, child psychology, and other practical assistance; and
(e) Making appropriate referrals as needed.

(9) "Disaster" is defined at KRS 39A.020(7), and includes:

(a) A distressful event, as described at KRS 39A.010; or
(b) An occurrence of such severity and magnitude as to cause human distress sufficient to warrant disaster behavioral health services in order to supplement the resources of the Commonwealth, local governments, and disaster relief organizations.

(10) "Disaster behavioral health services" means the rapid mobilization of qualified disaster outreach personnel to provide crisis response and psychological first aid.

(11) "Disaster outreach personnel" means:

(a) Behavioral health professionals;
(b) Peer professionals or paraprofessionals;
(c) Adults with life experiences or cultural or multilingual skills necessary to identify and communicate with a survivor or other affected person, or
(d) Other support personnel, not licensed or credentialed as behavioral health professionals, necessary to provide disaster and crisis response services.

(12) "Executive administrative committee" means an advisory committee that makes policy recommendations to the full KCCRB, and is comprised of:

(a) Chair of the board;
(b) Chair of the membership committee;
(c) Chair of the education and training committee; and
(d) Executive director.

(13) "Lead agency" means the KCCRB in its role as coordinator of disaster behavioral health services in accordance with the Kentucky Emergency Operations Plan, designed as required by KRS 39A.050(2)(c).

(14) "Peer professional" means:

(a) A person licensed, certified, or otherwise credentialed, as required by his or her authorizing body, in emergency services, law enforcement, or rescue and recovery; or
(b) An unlicensed, uncertified, or otherwise noncredentialed person who has been trained and approved by the board as having core competency.

(15) "Provider" means an organization or individual recognized by a national, federal, or state human services organization as qualified to provide comprehensive crisis response training and continuing education.

(16) "Psychological first aid" means the alleviation of immediate psychological trauma suffered by a survivor, first responder, or other affected person.

(17) "Psychosocial distress" means a reaction to an event that is:

(a) Outside the person's usual realm of psychological and social experience; and
(b) Markedly distressing.

(18) "Qualified health professional" is defined at KRS 222.005(15).

(19) "Regional team coordinator" means an experienced team member delegated by the Executive Director to support KCCRT members in one of the fourteen (14) Division of Emergency Management regions of Kentucky, who may:

(a) Serve as a local and regional contact for planning, exercising, training, and responding to crisis or disaster in coordination with the Kentucky Division of Emergency Management, the Department for Public Health, or other organization designated by the executive director;
(b) Convene a regional team meeting;
(c) Conduct ongoing team training;
(d) Complete written reports on crisis services performed by KCCRT's in their respective region; and
(e) Serve as liaison for communicating needs of regional KCCRT members.

(20) "Survivor" means an individual who has experienced the impact of a crisis, disaster, or terrorist event.

(21) "Team leader" means a team member appointed by the Executive Director to direct other team members during a crisis response.

(22) "Team member" means an individual who has earned and possesses a valid current KCCRT membership photo identification badge.

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VOLUME 33, NUMBER 9 – MARCH 1, 2007

RENNELLE GRUBBS, Executive Director
APPROVED BY AGENCY: August 16, 2006
FILED WITH LRC: February 15, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2007 at 3 p.m. at the offices of the Kentucky Community Crisis Response Board, 1121 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 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. Written comments shall be accepted until April 2, 2007. 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: Renelle Grubbs, Executive Director, Kentucky Community Crisis Response Board, Pine Hill Plaza, 1121 Louisville Road, Suite 2, Frankfort, Kentucky 40601-6169, phone (502) 607-5781, fax (502) 607-5780.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Renelle B. Grubbs, Executive Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes definitions for administrative regulations promulgated pursuant to KRS 36.250(5) and (6).

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish definitions for administrative regulations promulgated pursuant to KRS 36.250(5) and (6).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by establishing definitions specific to the mission of Kentucky Community Crisis Response Board, established at KRS 36.255 and 36.260.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing standard definitions specific to the mission of Kentucky Community Crisis Response Board.

(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:

(a) Eighteen members of the KCCRB, and

(b) Approximately 270 volunteer members of the KC CRT.

(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:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation: No action is required of any entity.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost for any entity.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All members of the KCCRB and the KC CRT will share the same definitions, thereby enhancing communication before, during, and after a response.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: There are no costs associated with this definitional administrative regulation.

Total agency expenditures for 7/1/2005 to 6/30/2006 were $214,322.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: This is a definitional administrative regulation and requires no funding. Sources of funding for the agency as a whole are provided by the General Fund through allocation of appropriations to the Department of Military Affairs and miscellaneous annual grants. KCCR T expenses are reimbursed by the Kentucky Emergency Management Division.

(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 definitional administrative regulation. An increase in total agency funding will be necessary only if annual grant funds are not available.

(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 relate to fees.

(9) TIERING: Is tiering applied? Tiering is not applied, as all regulated persons are subject to equal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Military Affairs, Division of Emergency Management.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 36.250 to 36.270.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect. None

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? There is no cost to administer this definitional administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There is no cost to administer this definitional administrative regulation.

No: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): This definitional administrative regulation has no fiscal impact.

Expenditures (+/-): This definitional administrative regulation has no fiscal impact.

Other Explanation: This definitional administrative regulation has no fiscal impact.

GENERAL GOVERNMENT CABINET
Department of Military Affairs
Kentucky Community Crisis Response Board
(New Administrative Regulation)

105 KAR 5:010, Application and Renewal Requirements for Response Team Membership.

RELATES TO: KRS Chapter 13B, 17.167, 36.260(2), (3), Chapter 344

- 3114 -
STATUTORY AUTHORITY: KRS 36.260(8)
NECESSITY, FUNCTION AND CONFORMITY: KRS 36.260(8)
requires the board to promulgate administrative regulations as necessary to execute the duties of the Board. This administration regulation establishes requirements for membership in a crisis response team.

Section 1. Crisis Response Team Committee. (1) The Executive Director shall establish a standing crisis response team membership committee, appointed from among members of the board and the crisis response team, each to serve a four (4) year term.
(2) The committee shall:
(a) Assist the executive director regarding team membership, if requested;
(b) Act as a final reviewing body, if needed, for a rejected team application;
(c) Assist in review and resolution of a disciplinary action filed against a current team member;
(d) Review each team application within forty-five (45) working days after receipt of the required documentation;
(e) Notify the applicant, in writing, that:
1. The applicant shall not be discriminated against or the application refused, pursuant to KRS Chapter 344; and
2. The application was approved or rejected.
(a) If rejected, the application is subject to reconsideration on the applicant's request; or
(b) If approved the applicant shall, within thirty (30) working days, submit to the board:
(i) A personal digital photo to be used for printing a team membership photo-identification badge; and
(ii) A completed "KCCRT Team Membership Agreement" form, incorporated by reference,
(i) Reconsider each rejected application for which an applicant has requested reconsideration, and the reasons given for reconsideration; and
(g) Notify the applicant of the result of reconsideration, and, if rejected, the applicant's right to a formal appeal pursuant to KRS Chapter 13B.

Section 2. Crisis Response Team Membership. (1) The following persons are eligible for crisis response team membership:
(a) A behavioral qualified health professional;
(b) A peer professional;
(c) Disaster outreach personnel;
(d) Another related professional or paraprofessional meeting the requirements of subsection (2) of this section of this administrative regulation; and
(e) Administrative and other support personnel necessary to provide disaster and crisis response services.
(2) A person seeking membership on the crisis response team shall submit a completed form, "Application for Team Membership," incorporated by reference, to document proof of:
(a) At least five (5) years of experience in a specialized field, two (2) of which may be substituted by two (2) years of training, or highly exceptional experience for which the board has received credible written proof;
(b) Submission of Kentucky State Police form, "Request For Felony Conviction Record," incorporated by reference;
(c) Successful completion of at least thirteen (13) hours of crisis response training demonstrating core competency; and
(d) One of the following professional qualifications:
1. Current licensure or certification in a specialized field, issued by the Commonwealth or the United States Military Services;
2. Completion of a series of professional education courses from an accredited university, college, or religious institution, leading to a degree in:
   a. Psychology;
   b. Psychiatric nursing;
   c. Educational counseling;
   d. Social work;
   e. Psychiatry;
   f. Art therapy;
   g. Marriage and family therapy;
   h. Professional counseling;
   i. Pastoral counseling; or
   j. Another relevant professional or paraprofessional field, or
3. Ordination, licensure, or certification as a chaplain or minister who:
   a. Ministers to a group in the Commonwealth;
   b. Serves as a person in good standing with a religious body; and
   c. Provides proof of completion of at least twelve (12) hours of course work in pastoral or crisis counseling.
(3) An applicant currently licensed or certified in a professional field, but no longer actively employed in an emergency service or other professional field, may apply for team membership if team membership criteria were met previously.

Section 3 Modification and Renewal of Team Membership. (1) A team member seeking to modify membership status shall:
(a) If requesting extended membership, submit a completed "Team Membership Renewal Agreement," as required by 106 KAR 5:200, upon which the member shall provide evidence of successful completion of continuing education hours sufficient to maintain core competency;
(b) If unable to complete a term of membership, submit a written resignation to the executive director; or
(c) If requesting a temporary suspension of active team membership, submit a written request to the executive director.
(2) If modification is due to a reason stated in subsection (1) or (2) of this section, the member shall return to the executive director:
(a) The KCCRT identification badge;
(b) KCCRT uniform apparel; and
(c) KCCRT readiness equipment.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "KCCRT Team Membership Agreement", 01/2007;
(b) "Application for Team Membership", 01/2007; and
(c) "Request For Felony Conviction Record", 01/2007.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the offices of the Kentucky Community Crisis Board, Pine Hill Plaza, 1121 Louisville Road, Suite 2, Frankfort, Kentucky 40601-6169, Monday through Friday 8 a.m. to 4:30 p.m.
(3) This material may also be obtained at the Kentucky Community Crisis Board's Internet Web site, http://www.kccb.ky.gov/.

RENEILLE GRUBBS, Executive Director
APPROVED BY AGENCY: August 16, 2006
FILED WITH LRC: February 15, 2007 at 10 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2007 at 3 p.m. at the offices of the Kentucky Community Crisis Response Board, 1121 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notice of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the 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. Written comments shall be accepted until April 2, 2007. 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: Reneille Grubbs, Executive Director, Kentucky Community Crisis Response Board, Pine Hill Plaza, 1121 Louisville Road, Suite 2, Frankfort, Kentucky 40601-6169, phone (502) 607-5761, fax (502) 607-5780.
REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Renee B. Grubbs, Executive Director

(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes procedures for application and renewal of KCCR volunteer membership.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish procedures for application and renewal of KCCR volunteer membership.

(C) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 36.260(6) by providing guidelines for maintaining a team of volunteer workers, as designated a duty of the board at KRS 36.260(3).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of KRS 36.260(3) and (6) by establishing procedures for maintaining a team of volunteer workers for the KCCR.

(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:
(a) Eighteen (18) members of the board; and
(b) Approximately 270 individual volunteer statewide.

(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.
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation:

1. Volunteers will have to comply with procedural requirements for membership application; and
2. Board membership committee will review applications.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost for any entity.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All members of the KCCR and the KCCR will be informed of the procedures for application and renewal of membership.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: Initial cost has been met.
(b) On a continuing basis: Estimated annual cost is $90,300.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement is funded by the General Fund through allocation of appropriations to the Department of Military Affairs, and by miscellaneous annual grants.

(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: Implementation of this administrative regulation will require an increase in funding only if annual grant funds are unavailable.

(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 relate to fees.

(9) TIERING: Is tiering applied? Tiering is not applied because all regulated persons are subject to equal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Military Affairs, Division of Emergency Management.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 36.250 to 36.270.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year of the administrative regulation to be in effect. Expenditures will depend upon the number of volunteer KCCR members and the number of individuals seeking KCCR membership.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
(c) How much will it cost to administer this program for the first year? Approximately $90,300.
(d) How much will it cost to administer this program for subsequent years? Due to the nature of the program, future cost is indeterminate.

5. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation:

- Revenues (+/-): None
- Expenditures (+/-): Recurring staff and office maintenance cost attributed to this administrative regulation is approximately $90,300 annually.

Other Explanation: Due to the nature of the program, it is not possible to estimate the fiscal impact. Determining factors are:
1. Travel expenses incurred by members of the KCCR;
2. The number of individuals seeking team membership or renewal; and
3. Amount of funding available from annual grants.

GENERAL GOVERNMENT CABINET
Department of Military Affairs
Kentucky Community Crisis Response Board
(New Administrative Regulation)

106 KAR 5:220. KCCR educational and training requirements.

RELATES TO: KRS 36.250, 36.260(10), STATUTORY AUTHORITY: KRS 36.250 (3), (6).
NECESSITY, FUNCTION AND CONFORMITY: KRS 36.260(8) requires the Kentucky Community Crisis Response Board to promulgate administrative regulations as necessary to execute the duties of the board. KRS 36.260(3) requires the Board to maintain a team of volunteer members to provide crisis response services statewide. This administrative regulation establishes educational and training requirements for volunteer members.

Section 1. Crisis Response Team Training Committee. (1) The Executive Director shall establish a standing training committee, appointed from among members of the Board and the crisis response team, each to serve a four (4) year term.

(2) The training committee shall:
(a) Meet on a quarterly basis;
(b) Assist the executive director regarding criteria for providers of membership training and continuing education;
(c) Assist in promoting statewide training for members or potential members of the KCCR; and
(d) Review each contractual agreement with an individual or organizational provider, as recommended by the executive director.

Section 2. Continuing Education Providers. (1) The committee
may approve an existing KC CRT continuing education course or program.
(2) The committee shall review a proposed continuing education program in order to evaluate its relevance to core competency and crisis response services.
(3) A team member seeking approval of an unvalidated continuing education provider, program, or course shall submit a request to the training committee providing the following information:
(a) Learning objectives;
(b) Course outline;
(c) Course agenda denoting classroom hours, rest periods, and lunch breaks;
(d) The number of continuing education hours offered;
(e) The name and professional credentials of each program presenter; and
(f) A copy of an official certificate of successful completion, if the member has attended.

Section 3. Categories of continuing education hours. (1) Each KC CRT member shall complete at least thirty (30) continuing education hours for each four (4) year period of service
(2) Continuing educational hours shall include:
(a) At least six (6) hours utilizing the "KC CRT All Hazards Field Manual," incorporated by reference; and
(b) At least twenty-four (24) hours in core competency training.
(3) Approved hours earned in excess of the required thirty (30) hours shall be carried over into the next membership cycle.

Section 4. Documenting Continuing Education Hours. (1) Each KC CRT member requesting renewal shall
(a) Complete continuing education hours required by the "Team Membership Renewal Agreement," incorporated by reference;
(b) Submit a completed "Team Membership Renewal Continuing Education Form," incorporated by reference; and
(c) Submit one (1) of the following as documented proof of fulfillment of the continuing education requirement:
1. An official certificate of completion;
2. A statement of completion signed by the course instructor;
or
3. A written approval by the executive director stating that the member has fulfilled the educational requirement by other means resulting in training equivalent to the educational requirements of this administrative regulation.
(2) If continuing education hours are denied a team member for lack of relevant content, the committee shall notify the member, in writing:
(a) That the hours have been denied approval status;
(b) Of the reason for the denial;
(c) That the denial may be appealed to the training committee, in writing, within thirty (30) working days from the date of receipt of notification;
(d) That subsequent formal appeal may be had pursuant to KRS Chapter 138.

Section 5. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "KC CRT All Hazards Field Manual", 10/2005;
(b) "Team Membership Renewal Agreement", 1/2007; and
(c) "Team Membership Renewal Continuing Education Form", 1/2007.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the offices of the Kentucky Community Crisis Board, Pine Hill Plaza, 1211 Louisville Road, Suite 2, Frankfort, Kentucky 40601-5169, Monday through Friday, 8 a.m. to 4:30 p.m.
(3) This material may also be obtained at the Kentucky Community Crisis Response Board's Internet Web site, http://www.kccrb.ky.gov.

RENELLE GRUBBS, Executive Director
APPROVED BY AGENCY: August 16, 2006
FILED WITH LRC: February 15, 2007 at 10 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2007 at 3 p.m. at the offices of the Kentucky Community Crisis Response Board, 1211 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: Renelle Grubbs, Executive Director, Kentucky Community Crisis Response Board, Pine Hill Plaza, 1211 Louisville Road, Suite 2, Frankfort, Kentucky 40601-5169, phone (502) 607-5781, fax (502) 607-5780.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact Person: Renelle B. Grubbs, Executive Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes criteria for continuing education providers, and requirements for team members to meet training requirements.
(b) The necessity of this administrative regulation. This administrative regulation is necessary to maintain a team of volunteer members to provide psychological crisis response services, as required by KRS 36 260(2),(3) and (5)
(c) How this administrative regulation conforms to the content of the authorizing statute. This administrative regulation conforms to the authorizing statutes by establishing criteria for continuing education specific to the mission of Kentucky Community Crisis Response Board, established at KRS 36.255.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing continuing educational standards specific to the mission of Kentucky Community Crisis Response Board.
(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:
(a) Eighteen (18) KC CRT members;
(b) Approximately 270 volunteer KC CRT members.
(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:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation. The KC CRT will promote training and review providers. Potential KC CRT members will attend approved training and education courses. Current KC CRT members will maintain continuing education records.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no cost for the KC CRT. KC CRT members and potential members will bear their own costs of education.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The KC CRT will perform its statutory duties to recruit, train, and maintain a statewide crisis re-
sponse team. KCCRT members will be educated in signs of psychological distress and trained to respond to a declared crisis or disaster.

(5) Provide an estimate of how much it will cost the administrative body to implement the administrative regulation:
(a) Initially: Initial costs have been:
(b) On a continuing basis: Estimated annual cost is $37,300.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation of this administrative regulation is funded by admission fees charged for KCCRB educational courses, the General Fund through allocation of appropriations to the Department of Military, and by miscellaneous annual grants.

(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: Implementation of this administrative regulation will require no increase in 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 or relate to fees.

(9) TIERING: Is tiering applied? Tiering is not applied. As all regulated persons are subject to equal requirements

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Military Affairs, Division of Emergency Management.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Military Affairs, Division of Emergency Management.

3. Identify each state or federal statute or regulation that requires or authorizes the action taken by the administrative regulation. KRS 36.250 to 36.270.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will depend on the number of KCCRT volunteers and the number of individuals seeking KCCRT membership.

(a) What is the number of KCCRT membership?

(b) How much will revenue this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(c) How much will cost to administer this program for the first year? Approximately $37,300.

(d) How much will cost to administer this program for subsequent years? Due to the voluntary nature of program team members, future cost is indeterminate.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Due to the nature of the program, it is not possible to estimate the fiscal impact. Determining factors are:

1. Travel expenses incurred by members of the KCCRB;
2. The number of individuals seeking KCCRT membership;
3. The number of volunteers on the KCCRT; and
4. The amount of funding available from annual grants.

GENERAL GOVERNMENT CABINET
Department of Military Affairs
Kentucky Community Crisis Response Board
(New Administrative Regulation)

106 KAR 5:030. KCCRT member disciplinary actions.

RELATES TO: KRS Chapter 13B, 36.260, 36.265, 209.030(2),(3),(4), 209.050, 431.060, 620.030(1),(2)

STATUTORY AUTHORITY: KRS 36.260(6), (8)
NECESSITY, FUNCTION AND CONFORMITY: KRS 36.260(8) requires the Kentucky Community Crisis Response Board to promulgate administrative regulations as necessary to execute the duties of the Board. KRS 36.260(3) requires the Board to maintain a team of volunteer members to provide crisis response services statewide. This administrative regulation establishes procedures for evaluation of disciplinary complaints against KCCRT members and provides sanctions for confirmed violations.

Section 1. Actions Subject to Disciplinary Inquiry. A team member who engages in one of the following actions shall be subject to disciplinary inquiry by the KCCRT Membership Committee:
(1) Refuses to participate in a crisis or disaster response three (3) or more times when requested to assist, except when the member has a written exception from the designated response service due to illness, conflict of interest, or conflict of duty;
(2) When, after committing to participate in a designated response, fails to notify the crisis response team leader, in advance of the response starting time, of an inability to serve;
(3) Fails to report abuse or neglect of an adult, as required by KRS 209.030(2), (3), and (4);
(4) Fails to report dependence, abuse, or neglect of a child, as required by KRS 620.030(1) and (2);
(5) Fails to maintain strict confidentiality relating to a statement made by a participant during a crisis response, except for an exemption permitted or required by law;
(6) Fails to adhere to guidelines established during crisis response education and training;
(7) Fails to participate in an assigned team member role, as directed, during a crisis response;
(8) If arriving at a response site, fails to first report to the team leader, regional team coordinator, or other delegated KCCRB response coordinator;
(9) Is adjudged to be guilty of a class A misdemeanor or a felony, as described at KRS 431.060.
(10) Violates a provision of the KCCRT membership agreement.
(11) Is found to have violated the member's professional code of ethics;
(12) Solicits clients or conducts personal business while serving in the capacity of a crisis response team member; or
(13) Is the subject of a written complaint related to the team member role.

Section 2. Informal Inquiry process for a disciplinary action. (1) Upon receipt of a written complaint against a team member, the membership committee shall:
(a) Notify the subject of the complaint, in writing, within thirty (30) working days of receipt:
1. That he or she is the subject of a written complaint or membership violation;
2. Of the specific details of the allegation;
3. That a written explanation is requested of the member;
4. That a membership committee review is in process;
5. Of possible sanctions for the specific violation;
6. Of the timeline for the review process; and
7. If the member is or is not suspended from team membership during the process of investigation through final decision on appeal, if the decision is appealed;
(b) At the next scheduled committee meeting, review the complaint, the written explanation provided by the team member, and any investigative findings;
(c) Present findings and a recommendation to the board for final disposition;
(d) Notify the team member, in writing, within thirty (30) working days from the date of final disposition, of the board's decision, and, if negative, of the sanction imposed and the process for appeal.

(2) Appeal process for a disciplinary action.
(a) A team member aggrieved by a decision of the board regarding his or her disciplinary action may appeal the decision by submitting a written request to the membership committee, within thirty (30) working days of receipt of the written disposition, to ap-
pear in person for a hearing at the next scheduled meeting of the Executive Administrative Committee.
(b) The executive director shall inform the appealing party, in writing:
   1. That his or her request has been received;
   2. Of the time, date, and place of the hearing; and
   3. That a final decison of the Executive Administrative Committee may be formally appealed pursuant to KRS Chapter 13B.

Section 3. Membership Sanctions for Disciplinary Violations. (1) A penalty applied to a member shall be:
   (a) Considered by the full membership of the Executive Administrative Committee;
   (b) Based upon the severity of the violation, with due consideration to the circumstances of the crisis and the response services rendered; and
   (c) Submitted to the board with a recommendation for final disposition.
(2) A penalty shall be held in abeyance during an appeal.
(3) A member found to have spoken abusively or otherwise inappropriately while acting as a team member, or who has violated one of the provisions in Section 1(1) through (8) of this administrative regulation, is subject to a verbal reprimand or a period of suspension from membership, the sanction and length of time depending upon the severity of the violation.
(4) A member found to have
   (a) Behaved in a threatening, aggressive, sexual, or other highly inappropriate manner toward a fellow member or another person affected by the crisis or disaster;
   (b) Violated a provision of the team membership agreement; or
   (c) Been adjudged guilty of a Class A misdemeanor or felony, as defined in KRS 431.060, shall be subject to:
      1. Cancellation of membership in the KCCRT;
      2. Prohibition from future KCCRT membership; and
      3. Surrender of KCCRT credentials, supplies, and equipment.

Section 4. Civil Action Against Members. The Office of the Attorney General, in accordance with KRS 38.255, shall defend a member against whom a civil action has been filed for an act performed in the discharge of his or her KCCRT duties.

RENELLE GRUBBS, Executive Director
APPROVED BY AGENCY: August 16, 2006
FILED WITH LRC: February 15, 2007 at 10 a.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2007 at 3 p.m. at the offices of the Kentucky Community Crisis Response Board, 1121 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If you notify 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. Written comments shall be accepted until April 2, 2007. 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: Renelle Grubbs, Executive Director, Kentucky Community Crisis Response Board, Pine Hill Plaza, 1121 Louisville Road, Suite 2, Frankfort, Kentucky 40601-6169, phone (502) 607-5781, fax (502) 607-5780.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Renelle B. Grubbs, Executive Director
(1) Provide a brief summary of:
   (a) What this administrative regulation does: This administrative regulation establishes procedures for maintaining team discipline, by providing a process for review and hearing of disciplinary issues.
   (b) The necessity of this administrative regulation: This administrative regulation is necessary to maintain a team of volunteer members to provide crisis response services, as required by KRS 36.250(2), (3) and (6).
   (c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the authorizing statutes by supporting the maintenance of a team of volunteer members to provide crisis response services statewide, as required by KRS 36.250(3).
   (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the statutes by establishing procedures for maintaining team integrity.
   (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:
         (a) Eighteen (18) KCCRB members; and
         (b) Approximately 270 volunteer KCCRT members
      (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:
         (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation: Board membership committee will review complaints; Volunteer members will know disciplinary requirements and procedures
      (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question: There is no cost to any entity.
      (c) As a result of compliance, what benefits will accrue to the entities identified in question (3)? Compliance will maintain the integrity of the KCCRB and KCCRT.
      (5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
         (a) Initially: Initial costs have been met.
         (b) On a continuing basis: Estimated annual cost is $10,900.
      (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Implementation and enforcement is funded by the General Fund through allocation of appropriations to the Department of Military Affairs, and by miscellaneous annual grants obtained pursuant to KRS 36.260(10).
      (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. Implementation of this administrative regulation will require an indeterminate increase in funding if grant funds are not available.
      (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 relate to fees.
      (9) TIERING: Is twing applied? Tiering is not applied, as all regulated persons are subject to equal requirements.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Military Affairs, Division of Emergency Management.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative...
regulation, KRS 36 250 to 36 270.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will depend upon the number of volunteer members and the number and nature of crises or disasters occurring in the Commonwealth, or where Kentucky community crisis response behavioral services are deployed.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
(c) How much will it cost to administer this program for the first year? Approximately $10,900.
(d) How much will it cost to administer this program for subsequent years? Due to the nature of the program, future cost is indeterminate.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

GENERAL GOVERNMENT CABINET
Department of Military Affairs
Kentucky Community Crisis Response Board
(New Administrative Regulation)

105 KAR 5:040, Initiation of a crisis or disaster response.

RELATES TO. KRS 36 250, 36 255, 36 260, 36 270, 202A 000, 209 030, 335 600, 645 270

STATUTORY AUTHORITY: KRS 36 260(5)
NECESSITY, FUNCTION AND CONFORMITY: KRS 36 260(5)
requires the Board to promulgate administrative regulations relating to the operation of crisis response services. This administrative regulation establishes the mechanism for initiating a crisis response.

Section 1. Kentucky Community Crisis Response Board Services. The KCCRB shall be the lead agency for crisis or disaster response management. Crisis response services shall be initiated by:
(1) Actuation by the Kentucky Division of Emergency Management;
(2) Executive Order of the Governor;
(3) Declaration by the President of the United States; or
(4) Request of an individual designated by the highest authority within an agency, community, school, or other organization impacted by a crisis or disaster.

Section 2. Kentucky Community Crisis Response Team services.
(1) The KCCRT may support crisis response services for emergency services personnel, survivors, and other affected persons following a crisis or disaster if:
(a) A memorandum of understanding is in place with the requesting organization; or
(b) Requested by the Emergency Management Assistance Compact.
(2) A request for KCCRT services shall be made by contacting
(a) The Kentucky State Emergency Operations Center Duty Officer; or
(b) The 24-hour crisis line of the Office of the KCCR.

RENEELLE GRUBBS, Executive Director
APPROVED BY AGENCY: August 16, 2006
FILED WITH LRC: February 15, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on March 23, 2007 at 3 p.m. at the offices of the Kentucky Community Crisis Response Board, 1121 Louisville Road, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by 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. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until April 2, 2007. 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: Renelle Grubbs, Executive Director, Kentucky Community Crisis Response Board, Pine Hill Plaza, 1121 Louisville Road, Suite 2, Frankfort, Kentucky 40601-6169, phone (502) 607-5761, fax (502) 607-5780.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Renelle B. Grubbs, Executive Director
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes the mechanism for initiating disaster behavioral health services.
(b) The necessity of this administrative regulation: This regulation is necessary to establish the requirements for initiating disaster behavioral health services from the KCCRB and KCCRT.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to KRS 36 260(5) by establishing requirements relating to the operation of crisis response services.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of KRS Chapter 36 by identifying persons and procedures for the initiation of crisis or disaster behavioral response services by the KCCRB and the KCCRT.
(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.
(a) Eighteen (18) individuals who are statutorily designated or appointed by the Governor to constitute the Kentucky Community Crisis Response Board;
(b) Approximately 270 individuals who volunteer and are approved for membership in the Kentucky Community Crisis Response Team; and
(c) An indeterminate number of individuals, businesses, organizations, or state and local governments seeking to initiate a crisis response.
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(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:
   (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation:
      1. KCCRB will have to establish and monitor crisis and disaster response policies;
      2. KCCRT members will have to respond as trained; and
      3. Individuals requesting crisis or disaster response will be informed of the procedure for initiation of a response.
   (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3)? There is no cost to any named entity.
   (c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All entities will be informed of the procedures for initiating a response.
(5) Provide an estimate of how much it will cost to implement this administrative regulation:
   (a) Initially: Initial costs have been met.
   (b) On a continuing basis: $76,000.
   (c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The enforcement of this administrative regulation is funded by the General Fund through allocation of appropriations to the Department of Military Affairs, and by miscellaneous annual grants obtained pursuant to KRS 36.250(10).
(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: Ongoing implementation of this administrative regulation will require an increase in funding only if grant funds are not available.
(7) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not address fees in any way.
(8) TIERING: Is tiering applied? Tiering was not applied because all entities are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Military Affairs, Division of Emergency Management.
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 36.250 to 36.270.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Expenditures will depend upon the number of volunteer members and the number and nature of crises or disasters occurring in the Commonwealth, or where Kentucky community crisis response behavioral services are deployed.
   (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
   (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None
   (c) How much will it cost to administer this program for the first year? Approximately $76,000.
   (d) How much will it cost to administer this program for subsequent years? Due to the nature of the program, future cost is indeterminable.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: Due to the nature of the program, it is not possible to estimate the fiscal impact. Determining factors are:
1. The number and nature of crises and disasters occurring in the Commonwealth;
2. The number and nature of crises and disasters occurring out of the Commonwealth for which the program provides support services;
3. Travel expenses incurred by members of the KCCRB;
4. The number of KCCRT volunteers;
5. Travel expenses incurred by members of the KCCRT; and
6. Amount of funding available from annual grants.

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Vehicle Enforcement
(New Administrative Regulation)

500 KAR 14:010. Motor carrier safety requirements.

RELATES TO: KRS 281.600, 281.880, 281.883, 49 C.F.R. 385, 390
STATUTORY AUTHORITY: KRS 281.600, 281.880, 49 C.F.R. 385, EO 2008-805
NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 2008-805 transferred the authority to administer motor carrier safety laws and administrative regulations to the Department of Kentucky Vehicle Enforcement. This administrative regulation establishes safety requirements for motor carriers in Intrastate commerce.

Section 1. Intrastate Safety Rating System. (1) The department 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 Kentucky.
(2) The department shall use the safety standards and rating criteria in 49 C.F.R. 385 in issuing a safety rating.
(3)(a) A motor carrier may request the department to conduct an administrative review if it believes the department has committed an error in assigning its proposed or final safety rating.
(b) The request and administrative review shall comply with the procedures in 49 C.F.R. 385.16 except that the request shall be submitted to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.
(4)(a) A motor carrier that has taken action to correct deficiencies may request the department to change its proposed or final safety rating at any time.
(b) The request and determination shall comply with the procedures in 49 C.F.R. 385.17 except that the request shall be submitted to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.
(5) Safety Fitness Information.
(a) Final ratings shall be made available to other state and federal agencies in writing, telephonically, or by remote computer access.
(b) The final safety rating assigned to a motor carrier shall be made available to the public pursuant to the procedures in KRS Chapter 61. Any person requesting the rating shall provide the department with the motor carrier's name, principal office address, and if known, the Kentucky DOT number.
(c) Requests shall be addressed to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.

(2) A new entrant who receives a revocation notice of its operating authority resulting from the safety audit may request the department to conduct an administrative review if the entrant believes the revocation determination was in error.
(3) The request and administrative review shall comply with the procedures in 49 C.F.R. 385.327 except that the request shall be
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submitted to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.

GREGORY G. HOWARD, Commissioner
APPROVED BY AGENCY: February 14, 2007
FILED WITH LRC: February 15, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 21, 2007 at 10 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, 2nd Floor Conference Room, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 5 working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on this proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to be heard at the public hearing 5 working days prior to the hearing or send written comments on the proposed administrative regulation by close of business April 2, 2007 to:

CONTACT PERSON: Karen Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Karen Howard

(1) Provide a brief summary of:
(a) What this administrative regulation does: KRS 281.880 directs that the department shall establish a motor carrier safety management program. This has been completed with the exception of two items, one of them being an appeals process for motor carriers wishing to contest the outcome of a compliance review or a safety audit. This administrative regulation sets up that appeals process.
(b) The necessity of this administrative regulation: To ensure safe operation of motor carriers in the Commonwealth of Kentucky and to establish an appeals process for motor carriers wishing to contest the outcome of a compliance review or a safety audit
(c) How this administrative regulation conforms to the content of the enacting statutes: This administrative regulation follows the direction of KRS 281.880 by establishing an appeals process for the motor carrier safety management 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: N/A
(b) The necessity of the amendment to this administrative regulation: N/A
(c) How the amendment conforms to the content of the enacting 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: This will only affect intrastate motor carriers - carriers that are located in Kentucky and that operate exclusively within the Commonwealth of Kentucky. Motor Carriers that operate from within the Commonwealth of Kentucky that cross state lines are already subject to these rules at the federal level.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation; if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Motor carriers will not have to adopt any different or additional safety practices as a result of this regulation because all intrastate motor carrier are already required by 601 KAR 1.005 to comply with the safety standards in 49 C.F.R. part 385. However, if a motor carrier fails to meet those standards, the carrier will now be subject to a negative safety rating or audit. Additionally, if the carrier chooses to appeal the outcome of the compliance review or safety audit, the carrier will have to follow the appeals process established by this regulation.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3) This would be contingent upon where the deficiences are within the motor carrier. The largest portion of this program would fall into two categories which are drivers and vehicles. Each of these categories have specific federal safety standards that pertain to them and they all point back to safe drivers and safe trucks.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Safer qualified drivers, safer vehicles, safer environment on the highways of Kentucky. This would also ensure that the motor carriers are insured at the proper levels.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation: Initially: Because we are already conducting compliance reviews, we do not set any additional costs for starting up the program. This regulation merely finishes the program from what was started some years back.

(b) On a continuing basis: Because we are already conducting compliance reviews we do not see any additional funding costs to maintain the program. This regulation merely finishes the program from what was started some years back.

(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: We do not anticipate any additional funding.

(8) State whether or not this administrative regulation establishes any fees or increases fees and, if it does, provide a discussion of whether the fees are based on any costs that have increased due to the requirements of the regulation: There are no fees established with the regulation.

TIERING: Is tiering applied? No. The safety requirements apply to all intrastate motor carriers equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes
2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Kentucky Vehicle Enforcement
3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 281.600, 281.880, and 281.983; 49 C.F.R. Part 385; and 601 KAR 1.005, and 601 KAR 1.025.
4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect:
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None
(b) How much revenue will this administrative regulation gen-
erate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The cost to administer this program the first year will be funded through the current year appropriation and will not require an additional appropriation.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this program in subsequent years should not require additional funding.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Vehicle Enforcement
(New Administrative Regulation)


RELATES TO: KRS 281.600, 281.880, 281.883, 49 U.S.C. 521(b), 49 C.F.R. 385, 390


NECESSITY, FUNCTION, AND CONFORMITY: Executive Order 2006-805 transferred the authority to administer motor carrier safety laws and administrative regulations to the Department of Kentucky Vehicle Enforcement. This administrative regulation establishes administrative penalties and an appeals process for safety violations by motor carriers in intrastate commerce.

Section 1. Definitions. (1) "Compliance review" is defined by 49 C.F.R. 585.3.

(2) "Safety violation" means a violation of KRS 281.880, 500 KAR 14:010, or 601 KAR 1:005 as determined by the department during a compliance review.

(3) "Violator" means an owner or operator of a motor carrier against whom a civil penalty is assessed for a safety violation.

Section 2. Penalties. (1) For safety violations by motor carriers in intrastate commerce, the department shall apply the system of administrative penalties and procedures in 49 U.S.C. 521(b) and the U.S. Department of Transportation Uniform Fitness Assessment program, subject to the provisions of this administrative regulation.

(2) A violator shall be liable to the department for any civil penalty assessed.

(3) A violator who does not pay the penalty or fails to arrange and abide by an acceptable payment plan for the penalty shall not operate in intrastate commerce beginning on the 91st day after the specified payment date.

Section 3. Appeals process. (1) A violator may ask for review of the assessed penalty by the program coordinator. The request shall be:

(a) In writing; and

(b) Submitted within fifteen (15) days of receiving the penalty to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.

(2) Following a review pursuant to subsection (1) of this section, a violator may contest a penalty by requesting an administrative hearing under KRS Chapter 13B. The request shall be:

(a) In writing; and

(b) Submitted within fifteen (15) days of the review being finalized to: KVE Compliance Review Program Coordinator, 125 Holmes Street, 3rd Floor, Frankfort, Kentucky 40601.

(3) KRS 13B.010 through 13B.170 shall govern all hearings conducted under subsection (2) of this section.

(4) A violator may appeal the final order of the commissioner in accordance with KRS 13B.140 through 13B.160.

GREGORY G. HOWARD, Commissioner
Approved by agency: February 14, 2007
Filed with LRC: February 15, 2007 at 10 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 21, 2007 at 10 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, 2nd Floor Conference Room, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing 5 working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 5 working days prior to the hearing or send written comments on the proposed administrative regulation by close of business April 2, 2007 to: Karen Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, Second Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Karen Howard

(1) Provide a brief summary of:

(a) What this administrative regulation does: KRS 281.880 directs that the department shall establish a motor carrier safety management program. This has been completed with the exception of 2 items, one of them being an administrative penalties section. KRS 281.883 outlines the makeup of this administrative penalty system. This regulation will set up this process. This regulation will result in a monetary penalty for unsafe carriers and as a result of the monetary penalty, carriers will place emphasis on becoming a safe motor carrier to alleviate future penalties.

(b) The necessity of this administrative regulation: To ensure the safe operation of motor carriers in the Commonwealth of Kentucky and to put in place an administrative penalty when the motor carrier fails to comply.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation follows the direction of KRS 281.883 which requires the department to establish by administrative regulation a system of penalties for safety violations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: We are a department have been conducting compliance reviews on motor carriers that are listed as intrastate carriers for numerous years; however, without the completion of this penalty process, we have no leverage to force the carriers to improve their safety or to stop the unsafe carriers from operating.

(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: This will only affect Intrastate motor carriers - carriers that are located in Kentucky and that operate exclusively within the Commonwealth of Kentucky. Carriers that operate from the Commonwealth of Kentucky that cross state lines are already subject to these rules at the federal level.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Motor carriers will not have to adopt any different or additional safety practices as a result of this regulation because all Intrastate motor carrier are already required by 601 KAR 1 005 to comply with the safety standards in 49 C.F.R. part 390. However, if a motor carrier fails to meet those standards, the carrier will be subject to civil penalties. Additionally, if the carrier chooses to appeal a penalty, the carrier will have to follow the appeals process established by this regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). This would be contingent upon where the deficiencies are with the motor carrier. The largest portion of this program would fall into two categories which are drivers and vehicles. Each of these categories has specific federal safety standards that pertain to them and all regulations point back to safe drivers and safe trucks.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Safer qualified drivers, safer vehicles, safer environment on the highways of Kentucky. This would also ensure that the motor carriers are insured at the proper levels.

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

(a) Initially: Because we are already conducting compliance reviews, we do not see any additional funding costs for starting up the program. This regulation merely finishes the program from where we started some years back.

(b) On a continuing basis: Because we are already conducting compliance reviews, we do not see any additional funding costs for maintaining the program. This regulation merely finishes the program from where it was started some years back.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Personnel assigned to this program are funded through a reporting grant from the Federal Motor Carrier Safety Administration. This grant has been renewed every year since the mid 1980s and is a top priority grant for the U.S. Department of Transportation and the federal legislature. This grant pays 80% of all eligible costs with the state picking up the remaining 20%.

(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: We do not anticipate any additional funding.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: There are no fees established with the regulation but it does adopt the penalty structure for safety violations that is already in place at the federal level for Intrastate carriers.

(9) TIERING: Is tiering applied? No. All motor carriers are subject to the same penalty and appeal process.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Department of Kentucky Vehicle Enforcement.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 281.600, 281.880, and 281.883; 49 C.F.R. Part 385; 601 KAR 1 005, and 601 KAR 1 025.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amount of each administrative penalty will be calculated according to the federal formula which takes into account several factors specific to the motor carrier such as size, revenue generated in a specific time frame, and the seriousness of the offenses. Since this federal formula is based upon variable factors, the amount of revenue that will be generated by the department is inconclusive. The administrative penalty is set forth in KRS 281.883.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? The amount of each administrative penalty will be calculated according to the federal formula which takes into account several factors specific to the motor carrier such as size, revenue generated in a specific time frame, and the seriousness of the offenses. Since this federal formula is based upon variable factors, the amount of revenue that will be generated by the department is inconclusive. It is possible that subsequent years will generate less revenue due to the fact that carriers will become compliant. The administrative penalty is set forth in KRS 281.883.

(c) How much will it cost to administer this program for the first year? The cost to administer this program the first year will be funded through the current year appropriation and will not require an additional appropriation.

(d) How much will it cost to administer this program for subsequent years? The cost to administer this program in subsequent years should not require additional funding.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

- Revenues (+/-):
- Expenditures (+/-):
- Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Natural Resources
Office of Mine Safety and Licensing
(New Administrative Regulation)

805 KAR 7:100. Requirements for Belt Examiner.

RELATES TO: KRS 352.340, 351.106
STATUTORY AUTHORITY: KRS 351.106
NECESSITY, FUNCTION, AND CONFORMITY: KRS 352.340 provides for examinators of belts to be conducted by a certified belt examiner or a certified mine foreman. KRS 351.106 requires the Commissioner of the Department for Natural Resources to promulgate administrative regulations necessary to establish a program to implement the conduct of examinations to test each applicant's knowledge and understanding of the instruction.

Section 1. Belt Examiner Certification Requirements. (1) Each applicant for certification as a belt examiner shall:

(a) Hold a Kentucky underground miner's certification;

(b) Have a total of three (3) years practical underground mining experience;

(c) Successfully complete a written and practical skills examination prescribed by the office; and

(d) Understand and be able to read, speak and write the English language.

Section 2. Training Course Requirements. (1) The training course for certification as a belt examiner shall include instruction in the following topics:

(a) Roof control practices;

(b) Mine ventilation;

(c) Mine gases and instruments;

(d) Fire hazards;

(e) Inspection and reporting procedures; and

(f) Use of an anemometer, methane detector, and oxygen detecting device.

(2) The training course shall also be:

(a) Not less than eight (8) hours in duration;

(b) Taught by a Kentucky certified Instructor; and

(c) Limited to thirty (30) students per instructor.
Section 3. Belt Examiner Certification Examination. (1) At the
time of taking the belt examiner certification examination, the appli-
cant shall provide proof of drug and alcohol-free status as set forth
in KRS Chapter 351.

(2) The belt examiner certification examination shall be pre-
scribed and administered by the office and shall consist of the
following two (2) parts:
(a) Written, an overall grade of eighty (80) percent shall be
required to pass; and
(b) Practical, demonstrating proficiency with an anemometer,
methane detector, and oxygen detecting devices.
(3) If the applicant fails either to pass the written test or to
demonstrate proficiency during the practical portion of the test, he
shall be permitted one (1) opportunity to retake the portion or por-
tions failed. The reexamination shall be conducted within thirty (30)
days of the initial exam date.

(4) If the applicant for certification fails to pass the written or
practical portion after reexamination, he shall complete the belt
examiner training course before being eligible for subsequent ex-
amination.

LLOYD R. CRESS, Deputy Secretary
For Teresa J. Hill, Secretary
Approved by agency: February 14, 2007
Filed with LRC: February 14, 2007 at 3 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A
public hearing and public comment period will be
held on March 22, 2007 at 1 p.m. ET in Conference Room D-16 of
the Department for Natural Resources at 2 Hudson Hollow, Frank-
fort, Kentucky. Individuals who intend to be heard at this hearing
shall notify this agency in writing by March 15, 2007, 5 workdays
prior to the hearing, of their intent to attend. If no notification
of intent to attend is received by that date, the hearing may be can-
celled. This hearing is open to the public. Any person who wishes
to be heard will be given an opportunity to comment on the pro-
posed administrative regulation. A transcript of the hearing will not
be made unless a written request for a transcript is made. If you
request a transcript, you may be required to pay for it. If you do not
wish to be heard at the hearing, you may submit written comments
on the proposed administrative regulation. Written comments shall
be accepted until 4:30 p.m. on April 2, 2007. Send written notifica-
tion of your intent to be heard at the hearing, or your written com-
ments on the proposed administrative regulation, to the contact
person listed below. The hearing facility is accessible to persons
with disabilities. Requests for reasonable accommodations, includ-
ing auxiliary aids and services necessary to participate in the hear-
ing, may be made to the contact person at least 5 workdays prior
to the hearing.

CONTACT PERSON: Holly McCoy, Executive Staff Advisor,
Office of Technical and Administrative Support, Department for
Natural Resources, P.O. Box 2244, Frankfort, Kentucky 40602-
2244, phone (502) 573-0140, fax (502) 573-0152.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT
Contact person: Holly McCoy
(1) Provide a brief summary of:
(a) What this administrative regulation does: This adminis-
trative regulation establishes the requirements for the belt examiner
certification, the training course curriculum and the belt examiner
certification examination components.
(b) The necessity of this administrative regulation: This adminis-
trative regulation is necessary to implement an effective training
program in accordance with KRS 352.340, 352.350 and 351.106.
(c) How this administrative regulation conforms to the content of
the authorizing statutes: The authorizing statutes call for the
establishment of a belt examiner certification, and set forth the
examination criteria and the standards for a program of training
and education for those wishing to become certified as a belt ex-
aminer.
(d) How this administrative regulation currently assists or will
assist in the effective administration of the statutes: This adminis-
trative regulation establishes specific requirements for a belt exam-
iner certification in accordance with KRS 352.340.

(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 proposed regulation is a new administrative regula-
tion.
(b) The necessity of the amendment to this administrative
regulation: The proposed regulation is a new administrative regula-
tion.
(c) How the amendment conforms to the content of the author-
izing statutes: The proposed regulation is a new administrative
regulation.
(d) How the amendment will assist in the effective administra-
tion of the statutes: The proposed regulation is a new administra-
tive regulation.
(3) List the type and number of individuals, businesses, organi-
zations, or state and local governments affected by this administra-
tive regulation: Regulated entities including coal mines and indi-
viduals seeking a belt examiner certification.
(4) Provide an analysis of how the entities identified in question
(3) will be impacted by either the implementation of this administra-
tive regulation, if new, or by the change, if it is an amendment, in-
cluding:
(a) List the actions that each of the regulated entities identified
in question (3) will have to take to comply with this administrative
regulation or amendment: No action required if regulated entities
wish to continue to utilize a certified mine foreman to perform con-
veyor belt examinations. Those wishing to obtain belt examiner
certification must meet experience requirements and successfully
complete an examination.
(b) In complying with this administrative regulation or amend-
ment, how much will it cost each of the entities identified in ques-
tion (3): The minimal fees charged for belt examiner training will
mirror the costs in administering the program. Training personnel
will be provided by the agency without an increase in resources.
(c) As a result of compliance, what benefits will accrue to the
entities identified in question (3): Individual miners will attain new
skills and become more valuable to the mine operation. Mine fore-
men, currently tasked with belt examination, will be able to concen-
trate their duties on other aspects of the operation.
(5) Provide an estimate of how much it will cost to implement
this administrative regulation:
(a) Initially: No significant change in workload is expected to
result from this proposal and; therefore, no significant cost is ex-
pected.
(b) On a continuing basis: No significant cost is expected.
(6) What is the source of the funding to be used for the imple-
mentation and enforcement of this administrative regulation: The
source of funding is the General Fund as budgeted to the Office of
Mine Safety and Licensing.
(7) Provide an assessment of whether an increase in fees or
funding will be necessary to implement this administrative regula-
tion, if new, or the change in an amendment. No increase in
funding will be necessary to implement this administrative regula-
tion.
(8) State whether or not this administrative regulation estab-
ishes any fees or directly or indirectly increases any fees: This
administrative regulation does not directly or indirectly establish or
increase fees.
(9) TIERING: Is tiering applied? Tiering is not appropriate be-
cause there are no classes of regulated entities subject to this
administrative regulation that could be identified for tiering. The
entities subject to this administrative regulation contribute similarly
to the safety concerns addressed by this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program,
   service, or requirements of a state or local government (including
cities, counties, fire departments, or school districts)? Yes
   __ or No ___.

2. What units, parts or divisions of state or local government
   (including cities, counties, fire departments, or school districts) will
   be impacted by this administrative regulation? The Office of Mine
   Safety and Licensing.

3. Identify each state or federal statute or federal regulation
that requires or authorizes the action taken by the administrative regulation. This administrative regulation is necessary to implement an effective training program in accordance with KRS 352.340, 352.350 and 351.106. Authorizing statutes call for the establishment of a belt examiner certification and set forth examination criteria.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? Not applicable; proposed regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Not applicable; proposed regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? Not applicable; proposed regulation will not incur costs.

(d) How much will it cost to administer this program for subsequent years? Not applicable; proposed regulation will not incur costs.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Natural Resources
Office of Mine Safety and Licensing
(New Administrative Regulation)

805 KAR 11:001. Definitions for 805 KAR Chapter 11.

RELATES TO: KRS 351.186
STATUTORY AUTHORITY: KRS 351.070, KRS 351.186
NECESSITY, FUNCTION AND CONFORMITY: KRS 351.070
(13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. KRS 351.186 authorizes the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for licensees to be eligible to obtain a credit on its premium for workers’ compensation insurance. This administrative regulation defines terms used in 805 KAR Chapter 11.

Section 1. Definitions. (1) "Alcohol" means ethyl alcohol, hydrated oxides of ethyl, or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Consortium" means any entity established to provide cost-effective services to employers to help the employers meet drug-free workplace program requirements and which may involve varied pools of employers and their employees wherein employer education, supervisor training, and drug and alcohol testing may be offered at a reduced cost to the employers who choose to participate.

(3) "Drug" means a controlled substance as defined in KRS 218A.010(6) and In 502 KAR Chapter 55, including those substances listed in KRS 351.182 (6), illicit substances, and volatile substances as defined in KRS 217.900(1).

(4) "Drug or alcohol rehabilitation program" means a service provider that provides confidential, timely and expert identification, assessment, treatment and resolution of employee drug or alcohol abuse.

(5) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols set forth by the U.S. Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA) for the collection and testing required by KRS 351.182.

(6) "Employee" means any person who works for a salary, wages, or other remuneration for an employer, licensee, operator or independent contractor.

(7) "Employee Assistance Program" means an established program providing professional assessment of employee personal concerns; confidential and timely identification services with regard to employee alcohol or substance abuse; referrals of employees for appropriate diagnosis, treatment and assistance with regard to employee alcohol or substance abuse; and follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.

If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by the program, regardless of race, color, religion, national origin, disability, sex, or age.

(8) "Employer" means any corporation, partnership, sole proprietorship, or other business entity doing business in Kentucky which is mandatorily subject to and required to comply with the provisions of KRS Chapter 342 or voluntarily covers excluded employees pursuant to KRS 342.660, and is also a licensee as defined by KRS 351.010 (c).

(9) "Executive director" is defined by KRS 351.010(aa).

(10) "Independent contractor" means any person, business firm, partnership, or corporation with whom an employer, licensee, or operator may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of a coal mine.

(11) "Illicit substance" is defined by KRS 351.010(m).

(12) "Licensee" is defined by KRS 351.010(c).

(13) "Medical review officer" or "MRO" is defined by KRS 351.013(p).

(14) "Office" is defined by KRS 351.010(ad).

(15) "Operator" is defined by KRS 351.010(u).

(16) "Qualified laboratory" means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services’ Substance Abuse and Mental Health Services Administration (SAMHSA).

(17) "Reasonable suspicion drug testing" means drug or alcohol testing based on a belief that an employee is using or has used drugs or alcohol in violation of the employer's policy, drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, training, or education. Among other things, such facts and inferences may be based upon:

(a) Observable phenomena while at work such as direct observation of drug or alcohol abuse or of the physical symptoms or manifestations of being under the influence of a drug or alcohol;

(b) Abnormal conduct or erratic behavior while at work or a significant deterioration in work performance;

(c) A report of drug or alcohol use provided by a reliable and credible source;

(d) Evidence that an individual has tampered with a drug or alcohol test during employment with the current covered employer;

(e) Information that an employee has caused, contributed to or been involved in an accident while at work; or

(f) Evidence that an employee has used, possessed, sold, solicited, or transferred illegal or illicit drugs or used alcohol while on the covered employer’s premises or while operating the covered employer’s vehicle, machinery, or equipment.

(18) "Serious physical injury" is defined by KRS 351.010(y).

(19) "Supervisory personnel" is defined by KRS 351.010(ac).

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
Approved by agency: February 14, 2007
Filed with LRC: February 14, 2007 at 3 p.m.
PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 22, 2007 at 2 p.m. in Conference Room D-16 of the Department for Natural Resources at 2 Hudson Hollow, Frankfort,
Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by March 15, 2007, 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 4:30 p.m. on April 2, 2007. Send written notification of your intent to be heard at the hearing, or your written comments on the proposed administrative regulation, to the contact person listed below. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least 5 workdays prior to the hearing.

CONTACT PERSON: Holly McCoy, Executive Staff Advisor, Office of Technical and Administrative Support, Department for Natural Resources, P.O. Box 2244, Frankfort, Kentucky 40622-2244, phone (502) 573-0140, fax (502) 573-0152.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Holly McCoy

1) Provide a brief summary of:
(a) What this administrative regulation does: Defines terms used in 805 KAR Chapter 11, which addresses the Office of Mine Safety and Licensing's certification of drug-free workplace programs implemented by an employer who is also a licensee.

(b) The necessity of this administrative regulation: Certain terms used in 805 KAR Chapter 11 should be defined so that their meaning is clear to licensees wishing to apply for certification of a drug-free workplace program.

(c) How this administrative regulation conforms to the content of the authorizing statutes. KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sect. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation defines terms used in 805 KAR Chapter 11 for informing all licensees regulated by the Office of Mine Safety and Licensing of the procedures and requirements for the certification of drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

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 regulation is a new regulation.

(b) The necessity of the amendment to this administrative regulations; The proposed regulation is a new regulation.

(c) How the amendment conforms to the content of the authorizing statute. The proposed regulation is a new regulation.

(d) How the amendment will assist in the effective administration of statutes. The proposed regulation is a new regulation.

3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. All employers who are licensees engaged in the mining of coal in the Commonwealth and who wish to have a drug-free workplace program certified in order to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance will be affected by this administrative regulation.

4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: As this regulation addresses definitions for other regulations under 805 KAR Chapter 11 exclusively, there will be no impact resulting from this regulation to the entities listed in question (3).

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): As this regulation addresses definitions for other regulations under 805 KAR Chapter 11 exclusively, there will be no impact resulting from this regulation to the entities listed in question (3).

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As this regulation addresses definitions for other regulations under 805 KAR Chapter 11 exclusively, there will be no impact resulting from this regulation to the entities listed in question (3).

5) Provide an estimate of how much it will cost to implement this administrative regulation.
(a) Initial: As this is a definition-only regulation, there will be no cost involved in the implementation.

(b) On a continuing basis: As this is a definition-only regulation, there will be no cost involved in the implementation.

6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funds will be needed for the implementation and enforcement of this regulation.

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: Fees are not necessary to implement this administrative regulation.

8) State whether this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly establish or increase any fee.

9) TIERING: Is tiering applied? Tiering was not applied to this administrative regulation. All individuals or entities who operate coal mines in Kentucky are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Mine Safety and Licensing and the Mine Safety Review Commission.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sect. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation, that provides definitions only, will not generate revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Un-
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changed from the first year.
(c) How much will it cost to administer this program for the first year? This regulation, that provides definitions only and will not generate revenue.
(d) How much will it cost to administer this program for subsequent years? Unchanged from the first year.
Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.
Revenues (+/-)
Expenditures (+/-)
Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Natural Resources
Office of Mine Safety and Licensing
(New Administrative Regulation)

805 KAR 11:010. Requirements for application for certification of drug-free workplace.

RELATES TO: KRS 351.186
STATUTORY AUTHORITY: KRS 351.070, KRS 351.186
NECESSITY, FUNCTION AND CONFORMITY: KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. KRS 351.186 authorizes the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer licensee to be eligible to obtain a credit on its premium for workers' compensation insurance. This regulation establishes the requirements for applications submitted to the Office of Mine Safety and Licensing for certification of a drug-free workplace program.

Section 1. Applicability. This regulation shall apply to all applications for certification of a drug-free workplace program implemented by an employer who is also a licensee

Section 2. Application Requirements. Employers who are also licensees and who desire a drug-free workplace certification pursuant to KRS 351.186 shall submit to the office with the initial and annual application for license to operate a coal mine an application in the form of an affidavit executed by the owner or chief executive officer of the licensee setting forth that it provides a drug-free workplace by:
1. Providing a copy of a statement to each employee at the mine and posting the statement in a prominent place at the mine which:
   (a) notifies employees that the unlawful manufacture, distribution, dispensation, possession, or use of alcohol or a controlled or illicit substance is prohibited in the mine; and
   (b) specifies the actions that will be taken against employees for violations of such prohibition.
2. Establishing an alcohol substance abuse education and awareness training program which meets the minimum requirements of 805 KAR 11:020, Section 2(1) to inform employees and supervisory personnel about the dangers of drug abuse in the workplace, the role of co-workers and supervisors in addressing alcohol or drug abuse, the licensee's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for violations of the drug-free workplace policy
3. Establishing a program that includes breath alcohol and urine drug testing performed in accordance with the provisions of 805 KAR 11:020, Section 2(2) through (5).
4. Providing an Employee Assistance Program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug or alcohol abuse; referrals of employees for appropriate diagnosis, treatment, and assistance with regard to employee alcohol or substance abuse; and follow-up services for employees who participate in a drug or alcohol rehabilitation program.
5. Verifying that the frequency and duration of each employee and supervisor training session meets the requirements of 805 KAR 11.020, Section 2(1)
6. Verifying that all employees have participated in the required alcohol and substance abuse education and awareness training sessions;
7. Maintaining a drug-free workplace throughout its workers' compensation insurance policy period.
8. Maintaining the drug-free workplace program in compliance with all applicable federal and state laws and regulations.
9. Certifying to the office that it shall hold the Commonwealth of Kentucky, the Department for Natural Resources, and the Office harmless for responsibility or liability under the drug-free workplace program.

Section 3. Documents to be attached. The affidavit shall be accompanied by copies of the following documents:
1. The licensee's written drug-free workplace policy;
2. A statement identifying each alcohol and drug test that will be conducted;
3. A statement describing the licensee's, and if applicable, independent contractor's Employee Assistance Program;
4. A description of the alcohol and substance abuse education and awareness training program for employees and supervisory personnel; and
5. A statement describing the confidentiality of the licensee's drug-free workplace program.

Section 4. Application completeness. The office may reject any application for certification of a drug-free workplace program which fails to meet any of the criteria listed in Section 2 of this administrative regulation. The office shall notify the licensee of rejection of the application in writing, stating the specific reasons for the rejection. The notification shall be mailed certified mail, return receipt requested, to the address listed on the licensee's most recent mine license or mine license application. Service by certified mail is complete upon delivery of the notification, upon acceptance by any person eighteen years or older at the licensee address, upon refusal to accept by any person at the licensee address, upon the U.S. Postal Service's inability to deliver the notification if properly addressed, or upon failure to claim the notification prior to its return to the Office by the U.S. Postal Service. The return receipt shall be proof of acceptance, refusal, inability to deliver or failure to claim the envelope. The licensee may contest the rejection as set forth in 625 KAR 1:020 Section 4.

Section 5. General provisions. (1) Nothing contained in this chapter shall affect any laws, administrative regulations, ordinances, resolutions, or local regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery, or other hazardous equipment.
(2) Nothing in this chapter is intended to authorize any employer or licensee to test any applicant or employee for alcohol or drugs in any manner inconsistent with federal or state constitutional or statutory requirements.
(3) Nothing in this chapter shall be construed to require an employer or licensee to test, or create a legal obligation upon an employer to request an employee or job applicant to undergo drug or alcohol testing, except as part of a drug-free workplace program certified in accordance with this chapter.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Office of Mine Safety and Licensing, 1025 Capitol Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
VOLUME 33, NUMBER 9 – MARCH 1, 2007

Approved by agency: February 14, 2007
Filed with LRC: February 14, 2007 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 22, 2007 at 2 p.m. in Conference Room D-16 of the Department for Natural Resources at 2 Hudson Hollow, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by March 15, 2007, 5 workdays prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing will not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 4:30 p.m. on April 2, 2007. Send written notification of your intent to be heard at the hearing, or your written comments on the proposed administrative regulation, to the contact person listed below. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least 5 workdays prior to the hearing.

CONTACT PERSON: Holly McCoy, Executive Staff Advisor, Office of Technical and Administrative Support, Department for Natural Resources, P.O. Box 2244, Frankfort, KY 40602-2244, phone (502) 573-0140, fax (502) 573-0152.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Holly McCoy

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation sets forth the application requirements for the Office of Mine Safety and Licensing’s certification of drug-free workplace programs implemented by an employer who is also a licensee.

(b) The necessity of this administrative regulation: Kentucky does not currently have procedures for submission of an application for certification of drug-free workplace programs implemented by an employer who is also a licensee.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sec. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee’s premium for workers’ compensation insurance.

(2) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs all licensees regulated by the Office of Mine Safety and Licensing of the procedures for submission of an application for certification of drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee’s premium for workers’ compensation insurance.

(3) 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 regulation is a new regulation.

(b) The necessity of the amendment to this administrative regulation; The proposed regulation is a new regulation.

(c) How the amendment conforms to the content of the authorizing statute; The proposed regulation is a new regulation.

(d) How the amendment will assist in the effective administration of statutes. The proposed regulation is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation. All employers who are licensees engaged in the mining of coal in the Commonwealth and who wish to have a drug-free workplace program certified in order to be eligible to obtain a credit on the licensee’s premium for workers’ compensation insurance will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Licensees will be required to submit documentation of, and records related to, the drug-free workplace program in order to obtain certification. The program will have to meet certain minimum requirements in order for the Office of Mine Safety and Licensing to grant certification.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Participation in the certified drug-free workplace program is voluntary. The administrative costs incurred by the entities identified in question (3) is not known; however, those costs may be offset by the reduced premiums for workers’ compensation insurance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities listed in question (3) who wish to have a drug-free workplace will be eligible for a credit on the licensees premium for workers’ compensation insurance.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:
(a) Initially: The cost of printing the Mine License Applicant’s Affidavit will be minimal and will be absorbed by the agency budget.
(b) On a continuing basis: The cost on a continuing basis will remain unchanged after the first year.
(c) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: 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: Fees are not necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly establish or increase any fee.

(9) TIERING: Is tiering applied? Tiering was not applied to this administrative regulation. All individuals or entities who operate coal mines in Kentucky are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Mine Safety and Licensing and the Mine Safety Review Commission.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sec. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee’s premium for workers’ compensation insurance.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect:
(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties,
fire departments, or school districts) for the first year?
Revenue for the state or local government will not be generated as a result of this administrative regulation.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Unchanged from the first year.

(c) How much will it cost to administer this program for the first year? The cost of printing the Mine License Applicant’s Affidavit and associated administrative expenses will be minimal and will be absorbed by the agency budget.

(d) How much will it cost to administer this program for subsequent years? Unchanged from the first year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):
Expenditures (+/-):
Other Explanation:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Natural Resources
Office of Mine Safety and Licensing
(New Administrative Regulation)

805 KAR 11:020. Requirements for certification of drug-free workplace.

RELATES TO: KRS 351.186
STATUTORY AUTHORITY: KRS 351.070, KRS 351.185
NECESSITY, FUNCTION AND COMFORMITY: KRS 351.070
(13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. KRS 351.186 authorizes the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee’s premium for workers’ compensation insurance. This regulation establishes the minimum requirements for certification of a drug-free workplace program.

Section 1. Review of applications for certification of a drug-free workplace program. The office shall review the application for certification of a drug-free workplace program and make a written decision concerning approval or denial of the application. If the application has been denied, the notification of decision shall include specific reasons for the denial. The notification of decision to approve or deny the application shall be mailed to the licensee or license applicant by certified mail, return receipt requested, to the address listed on the licensee’s most recent mine license or mine license application. Service by certified mail is complete upon delivery of the envelope, upon acceptance by any person eighteen (18) years or older at the licensee or application address, upon refusal to accept by any person at the licensee address, upon the U.S. Postal Service’s inability to deliver the assessment if properly addressed, or upon failure to claim the envelope prior to its return to the Office by the U.S. Postal Service. The return receipt shall be a proof of acceptance, refusal, inability to deliver or failure to claim the envelope. The licensee may contest the rejection as set forth in 829 KAR 1:020, Section 4.

Section 2. Approval and Certification of Drug-Free Workplace Program. The office may approve an application for, and issue a certification of, a drug-free workplace program to an employer who is also a licensee, if the drug-free workplace program meets all the following minimum requirements:
(1) The program includes alcohol and substance abuse education and awareness training for employees and supervisors which:
(a) Provides to all employees written materials explaining the licensee’s policies and procedures with respect to the drug-free workplace program.
(b) Provides each employee at least one (1) hour of initial, and at least thirty (30) minutes refresher training each year thereafter, of alcohol and substance abuse education and awareness training which may include, at a minimum: information concerning alcohol and drug testing; the effects of alcohol and drug use on an individual’s health, work, and personal life; the risks of disease or drug addiction; signs and symptoms of an alcohol or drug problem; the role of co-workers and supervisors in addressing alcohol or substance abuse; and referrals to an employee assistance program. The alcohol and substance abuse awareness and education training provided by the office pursuant to KRS 351.102, 351.106 and 351.1291 as part of certification or refresher training may satisfy this requirement if the license provides verification of attendance at the training program.
(c) Provides all supervisory personnel, in addition to the training specified in paragraph 2 above, with thirty (30) minutes each year of alcohol and substance abuse education and awareness training which includes, at a minimum: recognizing the signs of alcohol and substance abuse in the workplace; how to document signs of employee alcohol or substance abuse; how to refer employees to an employee assistance program or other alcohol and substance abuse treatment; and legal and practical aspects of reasonable suspicion testing for the presence of drugs and alcohol. The alcohol and substance abuse education and awareness training provided by the office pursuant to KRS 351.106(3) and 351.1291(4) as part of certification or refresher training may satisfy this requirement if the license provides verification of attendance of all supervisory personnel at the training program.
(2) The program includes breath alcohol and urine drug testing to which job applicants or employees are required to submit at the following times:
(a) For urine drug testing:
1. After conditional offer of employment;
2. After being selected using a statistically valid, unannounced random method;
3. Reasonable suspicion drug testing;
4. Follow-up testing at least once per quarter for one (1) year after the employee’s successful completion of an employee assistance program for drug or alcohol-related problems, or a drug or alcohol rehabilitation program or as recommended by the person administering the drug or alcohol rehabilitation program; and
5. Following any mine accident on the licensed premises which requires off-site medical attention to be given to a person.
(b) For breath alcohol testing:
1. After conditional offer of employment;
2. Reasonable suspicion drug testing; and
3. Following any mine accident on the licensed premises which requires off-site medical attention to be given to a person.
(3) The program includes the minimum testing protocol as set forth in KRS 351.182(7) and (8).
(4) The program provides that the collection of samples and administration of drug and alcohol tests shall follow all standards, procedures and protocols set forth by the U.S. Dept. of Health and Human Services’ Substance Abuse and Mental Health Administration (SAMHSA).
(5) The program provides that the test results have been performed by a qualified laboratory.
(6) The program includes medical review of test results as follows:
(a) All test results are submitted for medical review by the medical review officer (“MRO”), who shall consider the medical history of the employee or applicant, as well as other relevant biomedial information. If there is a positive test result, the employee or applicant shall be given an opportunity to report to the MRO the use of any prescription or over-the-counter medication.
(b) If the MRO determines that there is a legitimate medical explanation for a positive test result, the MRO may certify that the test results do not meet the conditions for a determination of the unlawful use of alcohol or a controlled substance. If the MRO determines, after appropriate review, that there is no legitimate medical explanation for the positive test result other than the unauthorized use of alcohol or a prohibited drug, the MRO shall refer the individual tested to an employee assistance program, or to a personnel or administrative officer for further proceedings in accordance with the licensee’s drug-free workplace program.
(c) Determinations concerning the use of alcohol or a con-
trolled or illicit substance shall comply with all procedures outlined in the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) Medical Review Officer Manual.

(7) The program includes an employee assistance program (EAP) for its employees and supervisory personnel. The licensee may establish the EAP as a part of its internal personnel services or may contract with an entity that provides EAP services. Employer licensees' participation in a consortium may satisfy this requirement.

(8) The program includes controlled-access maintenance at the coal mine of records including: the names and position titles of all employees and supervisory personnel trained under the program, and the names of all persons who presented alcohol and substance abuse training, for review by the office.

Section 3. Revocation of certification. The office shall revoke a certification issued pursuant to Section 2 of this administrative regulation should the licensee continue or fail to maintain its drug-free workplace program in compliance with the requirements of this chapter. The notification of revocation shall include specific reasons for the revocation and shall be mailed to the licensee by certified mail, return receipt requested, to the address listed on the licensee’s most recent mine license. Service by certified mail is complete upon delivery of the envelope, upon acceptance by any person eighteen years or older at the licensee's address, upon refusal of delivery by an adult person at the licensee's address, upon the U.S. Postal Service's inability to deliver the assessment if properly addressed, or upon failure to return the envelope to the office by the U.S. Postal Service. The return receipt shall be proof of acceptance, refusal, inability to deliver or failure to claim the envelope. The licensee may contest the rejection as set forth in 825 KAR 1:020, Section 4.

Section 4. Confidentiality of records. Records of drug or alcohol test results, written or otherwise, received by the licensee are confidential communications and shall not be disclosed by the licensee, except under the circumstances listed in KRS 351.185 (1) (a) through (e).

Section 5. Denial or revocation of certification. Any licensee whose application for certification has been denied or revoked may file a petition of appeal in accordance with the provisions of 825 KAR 1:020, Section 4.

Section 6. Incorporation by reference. (1) The "Medical Review Officer Manual" issued by the Department of Health and Human Services, November 1, 2004 Edition (DHHS Publication No. ADM 88-1528) is incorporated by reference. (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Mine Safety and Licensing, 1025 Capitol Center Drive, Frankfort, Kentucky 40601, 8:00 a.m. to 4:30 p.m.

LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
Approved by agency: February 14, 2007
Filed with LRC: February 14, 2007 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on March 22, 2007 at 2 p.m. in Conference Room D-18 of the Department for Natural Resources at 2 Hudson Hollow, Frankfort, Kentucky. Individuals who intend to be heard at this hearing shall notify this agency in writing by March 15, 2007, 5 working days prior to the hearing, of their intent to attend. If no notification of intent to attend is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard shall be given an opportunity to comment on the proposed administrative regulation. A transcript of the hearing shall not be made unless a written request for a transcript is made. If you request a transcript, you may be required to pay for it. If you do not wish to be heard at the hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until 4:30 p.m. on April 2, 2007. Send written notification of your intent to be heard at the hearing, or your written comments on the proposed administrative regulation, to the contact person listed below. The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the hearing, may be made to the contact person at least 5 workdays prior to the hearing.

CONTACT PERSON: Holly McCoy, Executive Staff Advisor, Office of Technical and Administrative Support, Department for Natural Resources, P.O. Box 2244, Frankfort, KY 40622-2244, phone (502) 573-0140, fax (502) 573-0152.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Holly McCoy

(1) Provide a brief summary of:
(a) What this administrative regulation does: This regulation establishes the criteria for the Office of Mine Safety and Licensing's certification of drug-free workplace programs implemented by an employer who is also a licensee.
(b) The necessity of this administrative regulation: Kentucky does not currently have a program for Office of Mine Safety and Licensing's certification of drug-free workplace programs implemented by an employer who is also a licensee.
(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 351.070 (13) authorizes the Secretary of the Environment and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sec. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation informs all licensees regulated by the Office of Mine Safety and Licensing of the minimum requirements and criteria for certification of drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance.

(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 regulation is a new regulation.
(b) The necessity of the amendment to this administrative regulation: The proposed regulation is a new regulation.
(c) How the amendment conforms to the content of the authorizing statute: The proposed regulation is a new regulation.
(d) How the amendment will assist in the effective administration of statutes: The proposed regulation is a new regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local government agencies affected by this administrative regulation: All employers who are licensees engaged in the mining of coal in the Commonwealth and who wish to have a drug-free workplace program certified in order to be eligible to obtain a credit on the licensees' premium for workers' compensation insurance will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:
(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Licensees will be required to submit documentation of, and records related to, the drug-free workplace program in order to obtain certification. The program will have to meet certain minimum requirements in order for the Office of Mine Safety and Licensing to grant certification.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Participation in the drug-free workplace program is voluntary. The administrative costs incurred by the entities identified in question (3) will not be significant.

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question (3) is not known; however, those costs may be offset by the reduced premiums for workers’ compensation insurance.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The entities listed in question (3) who wish to have a drug-free workplace will be eligible for a credit on the licensee’s premium for workers’ compensation insurance.

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

(a) Initially: Administrative costs involved with the application for certification review are expected to be low and will be absorbed by the agency.

(b) On a continuing basis: The cost on a continuing basis will remain unchanged after the first year.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation. 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: Fees are not necessary to implement this administrative regulation.

(8) Whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not directly or indirectly establish or increase any fee.

(9) TIERING: Is tiering applied? Tiering was not applied to this administrative regulation. All individuals or entities who operate coal mines in Kentucky are treated equally.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Mine Safety and Licensing and the Mine Safety Review Commission.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070 (13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. 2006 Acts Ch. 241, Sec. 1 and 6 authorize the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the employer and licensee to be eligible to obtain a credit on the licensees’s premium for workers’ compensation insurance.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This regulation will not generate revenue for state or local government.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? Unchanged from the first year.

(c) How much will it cost to administer this program for the first year? Administrative costs involved with the application for certification review will be absorbed by the agency.

(d) How much will it cost to administer this program for subsequent years? Unchanged from the first year.

Note: 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 February meeting of the Administrative Regulation Review Subcommittee was held on Monday, February 12, 2007 at 1:30 p.m., in Room 149 of the Capitol Annex. Senator Richard "Dick" Roeding called the meeting to order, and the roll call was taken. The minutes of the January 9, 2007 meeting were approved.

Present were:

Members: Senator Richard "Dick" Roeding, Co-Chair; Senators Joey Pendleton and Gary Tapp; and Representatives Robert Damron, Jimmie Lee, and Ron Weston.

Staff: Doug Mals, Emily Caudill, Donna Little, Mark Klotz, Emily Harkenwinder, Jennifer Beeler, and Ellen Steinberg.

Guests: Representative Tanya Pullin; Catherine Ball, Kylee Smith, Governor's Office of Agricultural Policy; Becky Gilpatrick, Diana Barber, Kentucky Higher Education Assistance Authority; Andy Crocker, Cynthia Perkins, Personnel Board; William Hanes, Eric Wampler, Lamar and Administration Cabinet; Claude Wagner, Pam Jenkins, Board of Licensure for Massage Therapy; Peggy Guler, Becky Sharp, David Pollack, Scott Walters, Betty Kinman, Morgan M. Sprague, Karen Alexy, Dann Moore, Commerce Cabinet; Amy Barker, Steve Lynn, Justse and Public Safety Cabinet; Tom Cannady, Nyle P. Mullins, Lee Renky, Department of Labor; Greg Jennings, Office of Financial Institutions; John Forgy, Marc A. Guillod, Patricia Cooksey, Kentucky Horse Racing Authority; Jeff Jagrow, Donna Mullins, Zach Ramsey, Elizabeth Capwood, David Gayle, Cabinet for Health and Family Services; Mike Sarkovich, Bryce McCowan, Communications Workers of America 3372.

The Administrative Regulation Review Subcommittee met on Monday, February 12, 2007 and submits this report:

Other Business:

Subcommittee staff introduced and welcomed Representative Ron Weston to the Subcommittee. Pursuant to KRS Chapter 13A.020(1), the Speaker of the House appointed Representative Weston to replace Representative Tanya Pullin. As Representative Tanya Pullin had served as the House Subcommittee Co-Chair, the House members needed to elect a new Co-Chair.

Representative Lee made a motion, seconded by Representative Weston, to nominate Representative Bob Damron as the House Subcommittee Co-Chair. Representative Lee made a motion, seconded by Representative Weston, to elect the new Co-Chair.

Co-Chair Roeding stated that the Subcommittee had drafted a resolution honoring Representative Pullin for her service to the Subcommittee. After the resolution was read in its entirety, Co-Chair Roeding made a motion, seconded by Representative Lee, that the resolution be adopted. Without objection, the resolution was adopted.

Subcommittee staff also introduced and welcomed Jennifer Beeler to the staff of the Subcommittee.

Administrative Regulations Reviewed by the Subcommittee:

GOVERNOR'S OFFICE OF AGRICULTURAL POLICY: Agricultural Development Board

10 KAR 2.020. Disbursement of monies from the Kentucky Agricultural Development Fund. Catherine Ball, general counsel, and Kylee Smith, compliance specialist, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3, 5, 7, 8, and 10 to comply with the drafting and format requirements of KRS Chapter 13A; (3) to amend Section 6 to: (a) specify the form of the required annual report; and (b) require successful applicants to provide quarterly or monthly progress reports, financial reports, or both to the board; and (4) to amend Section 7 to incorporate by reference the required annual report. Without objection, and with agreement of the agency, the amendments were approved.

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY: Kentucky Higher Education Assistance Authority Grant Programs

11 KAR 5.200. Go Higher Grant Program. Diana Barber, assistant general counsel, and Becky Gilpatrick, student aid branch manager, represented the authority.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct statutory citations; and (2) to amend Sections 1, 3, 4, 6, and 7 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Teacher Scholarship Loan Program

11 KAR 6.040. Deterioration of teacher scholarship repayment. A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Osteopathic Medicine Scholarship Program

11 KAR 14.090. Deterioration of Osteopathic Medicine Scholarship Program repayment. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations, and (2) to amend Sections 2 and 4 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

PERSONNEL BOARD: Board

101 KAR 1.325. Probationary periods. Andy Crocker, general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph and Section 2 to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation, as required by KRS 13A.220; and (3) to amend Sections 1 and 2 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

FINANCE AND ADMINISTRATION CABINET: Kentucky Retirement Systems: General Rules

105 KAR 1.330. Purchase of service credit. Bill Hanes, executive director, and Eric Wampler, general counsel, represented the systems.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (2) to amend Section 4 to correct a typographical error; and (3) to amend Section 7 to update the title of a document incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

105 KAR 1.370. Kentucky Retirement Systems personnel policies.

In response to questions by Senator Tapp, Mr. Hanes stated that this administrative regulation did not change the financial stability of the retirement systems and only established the personnel policies for staff of the retirement systems, not all state employees.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 1 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection,
and with agreement of the agency, the amendments were approved.

GENERAL GOVERNMENT CABINET: Board of Licensure for Massage Therapy: Board

201 KAR 42:020. Fees. Claude Wagner, director, and Pam Jenkins, American Massage Therapy Association, represented the board.

In response to questions by Representative Lee, Ms. Jenkins stated that this administrative regulation was promulgated to specify that certain fees were nonrefundable, as authorized by the appropriate statutes. The board was not responding to actual problems that had occurred.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (3) to amend Section 1 to make only those fees specified by statute nonrefundable; (4) to amend Sections 1 and 2 to comply with the formatting and drafting requirements of KRS Chapter 13A; and (5) to amend Section 2 to reduce the fee for returning to active status from $100 to $50 in accordance with KRS 309.357(1). Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42.035. Application process and curriculum requirements. A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Sections 1 and 2 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42.070. Uniform record retention procedures. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a minor drafting error; and (2) to amend Section 6 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 42.110. Continuing education requirements. Ms. Jenkins stated that this administrative regulation allowed waivers of continuing education requirements in order to address hardships, including terminal illness, that prevented a licensee from completing the required continuing education requirements.

COMMERCE CABINET: Kentucky Heritage Council: Council

300 KAR 6 010 Historic rehabilitation tax credit certifications. David Pollack, interim executive director; Becky Shipp, program administrator; Scot Walters, administrator, and Peggy Guier, staff attorney, represented the council.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a citation and clearly state the necessity for and function served by this administrative regulation; (3) to delete a definition in Section 1 for a term that does not appear in the administrative regulation; (4) to amend Sections 2 and 5 to use the correct titles of forms incorporated by reference; (5) to reorganize Section 3 to clarify the requirements that apply for different types of applications; (6) to amend Section 3 and 4, material incorporated by reference to correct typographical errors; (7) to amend Sections 3, 4, and 5 to clarify how an applicant will be notified if there is a problem with the application; (8) to amend Sections 4 and 5 to use terms consistent with the definitions; (9) to amend Section 4 to delete language duplicating statutory definitions; (10) to amend Section 8 to reduce application fees

and create separate application fee structures for owner-occupied residences and commercial buildings; and (11) to amend the TITLE, the RELATES TO section, and Sections 1, 2, 3, 4, 5, 6, and 9 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Department of Fish and Wildlife Resources: Fish

301 KAR 1:410. Taking of fish by other than traditional fishing methods. Morgain Sprague, counsel, Dr. Karen Aleyx, acting wildlife director, and Benji Kinman, fisheries director, represented the department.

In response to a question by Senator Pendleton, Mr. Kinman stated that this administrative regulation did not address noodling

301 KAR 2:142. Spring wild turkey hunting.

In response to a question by Senator Tapp, Dr. Aleyx stated that the Livingston County WMA was not previously open for spring turkey hunting. This administrative regulation opened the area for the youth-only spring turkey season.

Licensing

301 KAR 5:030. Purchasing licenses and obtaining replacement licenses.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Office of the Secretary

501 KAR 6:999. Corrections secured policies and procedures. This administrative regulation was reviewed and amended, with agreement of the agency, by the Subcommittee in closed session pursuant to KRS 61.810(1)(k), KRS 61.815(2), and KRS 197.025(6).

Department of Criminal Justice Training: Kentucky Law Enforcement Council

503 KAR 1:110. Department of Criminal Justice Training; basic training; graduation requirements records. Steve Lynn, assistant general counsel, represented the department.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a statutory citation; and (2) to amend Sections 9 and 10 to correct the titles and numbers of forms incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

General Training Provision

503 KAR 3 010. Basic law enforcement training course recruit conduct requirements; procedures and penalties. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (2) to correct a cross-reference to another section of this administrative regulation; (3) to amend Sections 5 and 6 to correct typographical errors; and (4) to amend Section 6 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET: Department of Labor: Collective Bargaining and Arbitration

808 KAR 3:060. Procedures for electing and certifying exclusive representatives of police officers employed by urban-county or consolidated local governments and firefighter personnel, firefighters, or corrections personnel employed by urban-county governments. Les Renkey, general counsel; Tom Cannady, executive director; and Nyle Mullins, chief mediator, represented the department. Mike Garkovich, president, Communications Workers of America 3372, appeared in support of this administrative regulation.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to use statutory language; and (2) to amend Section 1 to correct statutory citations. Without objection, and with agreement of the agency, the amendments were approved.

Department of Public Protection: Office of Financial Institutions: Administration

808 KAR 1:100. Information to be furnished and maintained by

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banks. Greg Jennings, general counsel, represented the office.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a statutory citation; and (2) to amend Section 4 to clarify that the information that banks and financial institutions are required to furnish is to be satisfied by other publications if the executive director determines that the substituted publication contains the same information as a required publication. Without objection, and with agreement of the agency, the amendments were approved.

808 KAR 1:150. Establishment of a new chapter of bank branches or offices and establishment of loan production offices. A motion was made and seconded to approve the following amendment: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct statutory citations; and (2) to amend Sections 1 and 3 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Securities

808 KAR 10:170. Exempted claims from securities registration fees. A motion was made and seconded to approve the following amendments: to amend Sections 1 and 3 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Horse Racing Authority: Harness Racing

811 KAR 1:025. Farm or stable name. John Forgy, counsel, Marc Guillot, director of standardbred racing, and Patricia Cooksley, assistant counsel, represented the authority.

In response to a question by Senator Tapp, Mr. Guillot stated that none of these administrative regulations addressed the saddled brood industry.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE of the administrative regulation to clearly describe its contents; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Section 2 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:030. Eligibility and classification. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (2) to amend Sections 1, 2, 7, 8, 9, 13 to 16, 18, 23, and 25 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:050. Entries and starters; split races. A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (2) to amend Sections 1, 3, 5, and 6 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:060. Post time; entry number. A motion was made and seconded to approve the following amendments: (1) to amend the TITLE of the administrative regulation to clearly describe its contents; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (3) to amend Section 1 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:145 and 1:155 allowing those administrative regulations to be repealed. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:140. Post time; entry number. A motion was made and seconded to approve the following amendments: (1) to amend the TITLE of the administrative regulation to clearly describe its contents; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; (3) to amend Section 1 to comply with the formatting and drafting requirements of KRS Chapter 13A; and (4) to incorporate the provisions of 811 KAR 1:135, 1:160, and 1:175 allowing those administrative regulations to be repealed. Without objection, and with agreement of the agency, the amendments were approved.

811 KAR 1:225. Substance abuse by Authority employees and licensees. A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct statutory citations; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to clearly state the necessity for and function served by this administrative regulation; and (2) to amend Sections 1 and 3 to 7 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

CABINET FOR HEALTH AND FAMILY SERVICES: Department for Public Health: Health Services and Facilities

902 KAR 20 330. Psychiatric residential treatment facilities. Jeff Jagnow, regulation coordinator, and Zach Ramsey, division director, represented the department.

In response to a question by Co-Chair Roeding, Mr. Jagnow stated that the residents of psychiatric residential treatment facilities had requested that the department increase the maximum hot water temperature from 110 degrees to 120 degrees Fahrenheit because the water had not been warm enough. The Kentucky Children's Alliance agreed that the request made sense for the comfort of the residents. Therefore, the department had promulgated this administrative regulation to meet those requests.

A motion was made and seconded to approve the following amendments: (1) to amend Sections 5 and 15 to use terms consistent with the rest of the administrative regulation; (2) to amend Sections 6, 10, 12, and 14 to correct punctuation and typographical errors; and (3) to amend Sections 2, 5, 12, and 15 to comply with the formatting and drafting requirements of KRS Chapter 13A.
Without objection, and with agreement of the agency, the amendments were approved.

Controlled Substances
902 KAR 55:070. Storage of controlled substances in an emergency medication kit in certain long-term care facilities. A motion was made and seconded to approve the following amendment: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend Sections 1 to correct a typographical error; and (3) to amend Sections 4, 6 and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department for Community Based Services: Food Stamp Program
921 KAR 3:050. Claims and additional administrative provisions. Elizabeth Caywood, commissioner’s office, and David Gayle, regulation coordinator, represented the department.
A motion was made and seconded to approve the following amendments: (1) to amend Section 6 to correct a cross-reference; (2) to amend Section 10 to correct a typographical error; and (3) to amend Sections 4, 6, and 10 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Division of Protection and Permanency: Child Welfare
922 KAR 1:400 & E. Supportive services. A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to add a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to correct a citation; (3) to amend Section 1 to add text of definitions; (4) to amend Sections 1, 4, 5, 7, 9, and 10 to comply with drafting and formatting requirements of KRS Chapter 13A; and (5) to delete Section 11, because the document that was incorporated by reference is no longer used. Without objection, and with agreement of the agency, the amendments were approved.

The following administrative regulations were deferred to the next meeting of the Subcommittee:

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET: Department for Environmental Protection: Division of Water: Public Water Supply
401 KAR 8:150. Disinfectant, filtration, and recycling.
401 KAR 8:162. Enhanced filtration and disinfection for small systems serving less than 10,000 people.

EDUCATION CABINET: Office of Vocational Rehabilitation: Administration
781 KAR 1:040. Rehabilitation technology services.

Office for the Blind: Department for the Blind
782 KAR 1:010. Federal vocational rehabilitation program.
782 KAR 1:220. Definition of terms for 782 KAR Chapter 1.
782 KAR 1:030. Scope and nature of services.
782 KAR 1 051. Repeal of 782 KAR 1:050.

Department for Workforce Investment: Unemployment Insurance
787 KAR 1:020. Change of status; discontinuance of business.
787 KAR 1:030. Employer contributions.
787 KAR 1:050. Social Security number required for employees.
787 KAR 1:060. Separation for cause; reports.
787 KAR 1:070. Reasonable time for protesting claim.
787 KAR 1:080. Labor dispute or strike; notification.
787 KAR 1:090. Unemployed worker's reporting requirements.
787 KAR 1:110. Appeals.
787 KAR 1:140. Unemployment insurance fund payments.
787 KAR 1:150. Interstate claims.
787 KAR 1:170. Cash value of board and lodging, board and lodging provided for convenience of employing unit.
787 KAR 1:180. Employer's records.
787 KAR 1:190. Recoupment and recovery.
CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates

The Locator Index lists all administrative regulations published in VOLUME 32 of the Administrative Register from July, 2005 through June, 2006. 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 31 are those administrative regulations that were originally published in VOLUME 31 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2005 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 32 of the Administrative Register.

Subject Index

The Subject Index is a general index of administrative regulations published in VOLUME 32 of the Administrative Register, and is mainly broken down by agency.
EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations filed on or after 6/20/05 expire 180 days from the date filed, or 180 days from the date filed plus number of days of requested extension, or upon replacement or repeal, whichever occurs first.)

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* Statement of Consideration not filed by deadline
** Withdrawn, not in effect within 1 year of publication
*** Withdrawn before being printed in Register

(†) Repealer regulation: KRS 13A.310-on the effective date of an administrative regulation that repeals another, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation.
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