ADMINISTRATIVE REGISTER OF KENTUCKY

LEGISLATIVE RESEARCH COMMISSION
Frankfort, Kentucky

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The **Administrative Regulation Review Subcommittee** is **tentatively** scheduled to meet February 11, 2008 at 1:30 p.m. in room 149 Capitol Annex. See **tentative agenda** on pages **1921-1923** of this Administrative Register.

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

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

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

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 tiering 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.

EMERGENCY ADMINISTRATIVE REGULATIONS FILED AS OF NOON, JANUARY 15, 2008

(NOTE: Emergency administrative regulations expire 180 days for the date of filing or upon replacement, repeal, or withdrawal)

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.

STEVE BESHEAR, Governor
JONATHAN MILLER, Secretary

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation
(Emergency Amendment)

103 KAR 3:040E. Income Tax Forms manual.

RELATES TO: KRS 131.041-131.081, 131.081(2), 131.081(9), 131.081(15), 131.110, 131.130, 131.130(3), 131.155, 131.170, 131.180, 131.190, 131.190(1), 131.340, 131.500, 131.500(1), 131.500(2), 131.500(3), 131.500(10), 131.510(1), 131.510(2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.390, 141.395, 141.400, 141.401, 141.403, 141.405, 141.407, 141.412, 141.418, 141.420, 141.423, 141.424, 141.428, 141.430, 141.990, 151B.127, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.26-090, 154.028-090, 154.34-080, 154.45-090, 154.48-025, 155.170

STATUTORY AUTHORITY: KRS 131.130(3)

EFFECTIVE: January 15, 2008

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, 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine corporation income tax due in accordance with KRS 141.040 and the limited liability tax due in accordance with KRS 141.0401 for years beginning in 2007[~~2006~~].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation", shall be used by a corporation or a pass-through entity taxable both [~~doing business~~] within and without [~~of~~] Kentucky to apportion and allocate net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation – Continuation Sheet (For corporations and pass-through entities taxable in Kentucky and taxable in another state)", shall be used by a corporation or a pass-through entity that is a partner, member, or shareholder in another pass-through entity and taxable both within and without Kentucky. [~~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/LLET 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).

(6)[~~(7)~~] Revenue Form 41A720-CI, "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.

(7)[~~(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.

(8)[~~(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.

(9)[~~(10)~~] Revenue Form 41A720ES, "Form 720ES, 2008[~~2007~~] Kentucky Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(10)[~~(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.

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

(12)[~~(13)~~] Revenue Form 41A720(I), "Instructions, 2007[~~2006~~] Kentucky Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", shall be used by a corporation to file its 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return and related schedules.

(13)[~~(14)~~] Revenue Form 41A720KCR, "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.

(14)[~~(15)~~] Revenue Form 41A720KCR-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 41A720KCR.

(15) Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

(16) Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner, member, or shareholder in another limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006.

(17) Revenue Form 41A720LLET(K), "Schedule LLET(K),

Limited Liability Entity Tax", shall be used by limited liability pass-through entities with Economic Development Projects to determine the limited liability entity tax.

(18) Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by limited liability pass-through entities that are partners, members, or shareholders in another limited liability pass-through entity or general partnership organized or formed as a general partnership after January 1, 2006.

(19)[~~(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.

(20) Revenue Form 41A720NOL-CF, "Schedule NOL CF, Kentucky KNOL Carryforward Schedule", shall be used by a corporation filing a consolidated income tax return (Form 720) to show the Kentucky net operating loss (KNOL) carryforward balance for each member of the affiliated group.

(21)[~~(17) Revenue Form 41A720(P), "2006 Kentucky Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720, Kentucky Corporation Income Tax Return, other forms commonly used by a C corporation in conjunction with Form 720 and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".~~

~~(18)~~] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity [~~partnership~~] to determine the credit against income tax liability or LLET liability allowed by KRS 141.395.

(22)[~~(19) Revenue Form 41A720QR (K-1), "Schedule QR (K-1), 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/LLET 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 pass-through entity [~~partnership~~] to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(23)[~~(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.

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

(25)[~~(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 to compute tax credit recaptured to be reported on the 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, 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return", shall be used by and limited liability entity tax an S corporation to determine the amount of corporation income tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2007[~~2006~~].

(27) Revenue Form 41A720S(I), "Instructions 2007[~~2006~~] Kentucky S Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", shall be used by an S corporation to file its 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return and related schedules.

(28) Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Projects", shall be used by S Corporations with Economic Development Projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the Economic Development Projects.

(29) Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2007[~~2006~~] 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 shall 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.

(30)[~~(29)~~] Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation or Limited Liability Pass-Through Entity [~~Income Tax~~] Return", shall be used by a corporation or a limited liability entity to request a six (6) month extension of time to file a corporation return or an income and LLET return [~~its Kentucky Corporation Income Tax Return~~]. Instructions shall be included on the back of the form.

[~~(30) Revenue Form 41A720S(P), "2006 Kentucky S Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720S, Kentucky S 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 or a limited liability pass-through entity 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 Remediati4n Tax Credit (Brownfield) Expenditure Summary Schedule", shall be used by a taxpayer to list the expenditures incurred at a 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 and before January 1, 2007, as previously filed.

(34) Revenue Form 41A720-AMENDED (2007), "Form 720-AMENDED (2007), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007.

(35)[~~(36)~~] Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", 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.

(36)[~~(37) Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax Return", 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 41A720-S1, "Form 2220-K, Underpayment of Estimated Income 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 141.990.

(37)[~~(39)~~] Revenue Form 41A720-S4, "Instructions for Filing Corporation Income/Limited Liability Entity Estimated [~~Income~~] Tax Voucher", shall include instructions used by a corporation or a limited liability pass-through entity to determine the amount of estimated corporation income tax or limited liability entity tax that is required to be paid in accordance with KRS 141.044.

(38)[~~(40)~~] Revenue Form 41A720-S5, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

(39)[~~(41)~~] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", 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 and the limited liability entity tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(40)[~~(42)~~] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company[~~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.

(41)[~~(43)~~] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity[~~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 and limited liability entity tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(42)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(43)[~~(45)~~] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company[~~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.

(44)[~~(46)~~] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity[~~General Partnership~~])", shall be used by a pass-through entity [~~general partnership~~] which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(45)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(46)[~~(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.

(47)[~~(49)~~] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity[~~General Partnership~~])", shall be used by a pass-through entity[~~general partnership~~] which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(48)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(49)[~~(51)~~] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking 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. Instructions shall be included on the back of the form.

(50)[~~(52)~~] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity[~~General Partnership~~])" shall be used by a pass-through entity [~~general partnership~~] which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(51)[~~(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 Act (KRA) project to compute the allowable KRA credit allowed against the Kentucky corporation income tax liability and the limited liability entity tax liability.

(52)[~~(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 Act (KRA) project to main a record of the balance of approved costs and [~~income~~] tax credits for the duration of the agreement.

(53)[~~(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 and the limited liability entity tax liability.

(54)[~~(56)~~] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity[~~General Partnership~~])," shall be used by any pass-through entity[~~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 and the limited liability entity tax liability.

(55)[~~(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.

(56) Revenue Form 41A720-S43, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of Corporations)", shall be used by a corporation which has entered into a Kentucky Environmental Stewardship Act project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability.

(57) Revenue Form 41A720-S44, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

(58) Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of Corporations)", shall be used by a company which has entered into a Kentucky Jobs Retention Act project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability.

(59) Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which

has entered into an agreement for a Kentucky Jobs Retention Act project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

(60)[~~(58)~~] Revenue Form 41A725, "Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", shall be used by a single member individually-owned LLC to file a LLET [~~corporation tax~~] return in accordance with KRS 141.0401 [~~141.040~~].

(61)[~~(59)~~] Revenue Form 41A725CP, "Schedule CP, Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET [~~corporation tax~~] returns in accordance with KRS 141.0401 [~~141.040~~].

(62)[~~(60)~~] Revenue Form 41A725(I), "Instructions, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", shall be used by a single member LLC individually owned to file a 2007[~~2006~~] Kentucky LLET [~~corporation income tax~~] return and related schedules.

(63)[~~(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 computation of each entity included in the nexus consolidated return.~~

~~(62) Revenue Form 41A725KCR-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 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), "2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return Forms and Instructions", shall provide, in a single packet Form 725, Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return, other forms commonly used by limited liability entities [~~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".

(64)[~~(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.

(65)[~~(66)~~] Revenue Form 41A765, "Form 765, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~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 Kentucky income and LLET [~~corporation tax~~] return in accordance with KRS 141.0401 [~~141.040~~].

(66)[~~(67)~~] Revenue Form 41A765(I), "Instructions, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~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 2007[~~2006~~] Kentucky income and LLET [~~corporation income tax~~] return and related schedules.

(67) Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Projects", shall be used by partnerships with Economic Development Projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(68) Revenue Form 41A765 (K-1), "Schedule K-1 (Form 765), 2007[~~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 41A765KCR, "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 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 Continuation Sheet", shall be used as needed by an S corporation or partnership organized as a LLC, LLP, or LP filing a nexus consolidated return and Revenue Form 41A765KCR.~~

~~(71) Revenue Form 41A765(P), "2006 Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax 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".~~

~~(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.

(70)[~~(73) 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.~~

~~(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.

(71)[~~(75)~~] 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, "2007[~~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) month [~~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 pass-through entity [~~general partnership~~] doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity [~~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 pass-through entity [~~general partnership~~] doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate 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 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(8) Revenue Form 42A003(T), "2008[~~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, "2007[~~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 2007[~~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, 2007[~~2006~~] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2007[~~2006~~].

(11) Revenue Form 42A740ES, "2008[~~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, "2007[~~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 2007[~~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), "2007[~~2006~~] Kentucky Individual Income Tax Instructions for Form 740 and 740EZ", shall be used by resident individuals to file the 2007[~~2006~~] Kentucky Individual Tax Return and related schedules.

(14) Revenue Form 42A740-J, "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, 2007[~~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, 2007[~~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, "2007[~~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 2007[~~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, 2007[~~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 2007[~~2006~~].

(19) Revenue Form 42A740-NP-ME, "Schedule ME, 2007[~~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 2007[~~2006~~].

(20) Revenue Form 42A740-NP(I), "Instructions for 2007[~~2006~~] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2007[~~2006~~] Kentucky Form 740-NP and related schedules.

(21) Revenue Form 42A740-NP-R [~~42A740-S9-R~~], "740-NP-R, 2007[~~2006~~] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2007[~~2006~~].

(22) Revenue Form 42A740-NP(P), "2007[~~2006~~] Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2007[~~2006~~].

(23) Revenue Form 42A740(PKT) [~~41A740(PKT)~~], "2007[~~2006~~] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2007[~~2006~~].

(24) Revenue Form 42A740-P, "Schedule P, Form 740, 2007[~~2006~~] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2007[~~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 Year 2005, [~~or~~] 2006, 2007", 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, and 2007.

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

(28) Revenue Form 42A740-S1, "[~~Form~~]2210-K, 2007[~~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 a tax year beginning in 2007[~~2006~~].

(29) Revenue Form 42A740-S4, "2008[~~2007~~] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2008[~~2007~~].

(30) Revenue Form 42A740-S18, "8582-K, 2007[~~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, 2007[~~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, 2007[~~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, 2007[~~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, "8863-K, 2007[~~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, 2007[~~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, 2007[~~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 2007[~~2006~~] Form 741.

(38) Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2007[~~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-GP, "Form 765-GP, 2007[~~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 2007[~~2006~~].

(40) Revenue Form 42A765-GP(I), "Instructions, 2007[~~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, 2007[~~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), "2007[~~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 Taxpayer".

(43) Revenue Form 42A765-GP(K) [~~42A765-S1~~], "Form 765-GP(K) 2007[~~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 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, 2007[~~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 2007[~~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, Amended 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 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 Department of Revenue 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 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.

(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 the Kentucky Department of Revenue Web site.

(57) Revenue Form 42A809, "Certificate of Nonresidence", shall be used 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 a 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, "2007[~~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, 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return", 2007[~~2006~~];

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation", October, 2007[~~2006~~];

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet", October, 2007. [~~Revenue Form 41A720AMC, "Schedule AMC, Alternative Minimum Calculation", October, 2006;~~]

4. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET 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, 2007[~~2006~~];

6.[~~7.~~] Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October, 2007[~~2006~~];

7.[~~8.~~] Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October, 2007[~~2006~~];

8.[~~9.~~] Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October, 2007[~~2006~~];

9.[~~10.~~] Revenue Form 41A720ES, "Form 720ES, 2008[~~2007~~] Kentucky Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June, 2007[~~August,2006~~];

10.[~~11.~~] Revenue Form 41A720EZC, "Schedule EZC, Enterprise Zone Tax Credit", October, 2007[~~2006~~];

11.[~~12.~~] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October, 2007[~~2006~~];

12.[~~13.~~] Revenue Form 41A720(I), "Instructions, 2007[~~2006~~] Kentucky Corporation Income Tax and Limited Liability Tax (LLET) Return", October, 2007[~~2006~~];

13.[~~14.~~] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October, 2007[~~2006~~];

14.[~~15.~~] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule Continuation Sheet", October, 2007[~~2005~~];

15. Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October, 2007;

16. Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October, 2007;

17. Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax", October, 2007;

18. Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet", October, 2007;

19.[~~16.~~] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October, 2007[~~2006~~];

20. Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky KNOL Carryforward Schedule", October, 2007;

21.[~~17. Revenue Form 41A720(P), "2006 Kentucky Corporation Income Tax Forms and Instructions", October, 2006;~~

~~18.~~] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October, 2007[~~2006~~];

22.[~~19. Revenue Form 41A720QR (K-1), "Schedule QR (K-1), 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, 2007[~~2006~~];

23.[~~21.~~] Revenue Form 41A720RC(C), "Schedule RC - Part I Continuation", October, 2007[~~2006~~];

24.[~~22.~~] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October, 2007[~~2006~~];

25.[~~23. Revenue Form 41A720-RC (K-1), "Schedule RC (K-1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", October, 2006;~~

~~24.~~] Revenue Form 41A720RC-R, "Schedule RC-R, Kentucky Disposition of Recycling or Composting Equipment Schedule", October, 2007[~~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;~~]

26. Revenue Form 41A720S, "Form 720S, 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return", 2007[~~2006~~];

27. Revenue Form 41A720S(I), "Instructions 2007[~~2006~~] Kentucky S Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", October, 2007[~~2006~~];

28. Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With economic Development Projects", October, 2007;

29. Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2007[~~2006~~] Shareholder's Share of Income, Credits, Deductions, Etc.", 2007[~~2006~~];

30.[~~29.~~] Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation or Limited Liability Pass-Through Entity [~~Income Tax~~] Return", October, 2007[~~2006~~];

[~~30. Revenue Form 41A720S(P), "2006 Kentucky S Corporation Income Tax Forms and Instructions", October, 2006;~~]

31. Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October, 2007[~~2006~~];

32. Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", October, 2007[~~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", November, 2007[~~2006~~];

34. Revenue Form 41A720-AMENDED, "Form 720-AMENDED (2007), Amended Kentucky Corporation Income Tax and LLET Return", 2007;

35.[~~36.~~] Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return" November, 2007[~~2006~~];

36.[~~37. Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax return", November, 2006;~~

~~38.~~] Revenue Form 41A720-S1, "Form 2220-K, Underpayment of Estimated Tax by Corporations", October, 2007[~~2006~~];

37.[~~39.~~] Revenue Form 41A720-S4, "Instructions for Filing Corporation Income/Limited Liability Entity Estimated [~~Income~~] Tax Voucher", October, 2007[~~2006~~];

38.[~~40.~~] Revenue Form 41A720-S5, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October, 2007[~~2006~~];

39.[~~41.~~] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", December, 2007[~~2006~~];

40.[~~42.~~] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October, 2007[~~2006~~];

41.[~~43.~~] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~2006~~];

42.[~~44.~~] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of Corporations)", December, 2007[~~2006~~];

43.[~~45.~~] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", October, 2007[~~2006~~];

44.[~~46.~~] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2006;

45.[~~47.~~] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of Corporations)", December, 2007[~~2006~~];

46.[~~48.~~] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October, 2007[~~2006~~];

47.[~~49.~~] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~2006~~];

48.[~~50.~~] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of Corporations)", October, 2007[~~December, 2006~~];

49.[~~51.~~] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October, 2007[~~2006~~];

50.[~~52.~~] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~January, 2006~~];

51.[~~53.~~] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of Corporations)", October, 2007[~~December, 2006~~];

52.[~~54.~~] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October, 2007[~~2006~~];

53.[~~55.~~] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of Corporations)", October, 2007[~~December, 2006~~];

54.[~~56.~~] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ project of a Pass-Through Entity[~~General Partnership~~]), October, 2007[~~2006~~];

55.[~~57.~~] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October, 2007[~~2006~~];

56. Revenue Form 41A720-S43, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of Corporations)", October, 2007;

57. Revenue Firm 41A720-S44, "Schedule KESA-T, Tracking Schedule for a KESA Project", October, 2007;

58. Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of Corporations)", October, 2007;

59. Revenue Form 41A720-S46, Schedule KJRA-T, Tracking Schedule for a KJRA Project", October, 2007;

60.[~~58.~~] Revenue Form 41A725, "Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", 2007[~~2006~~];

61.[~~59.~~] Revenue Form 41A725CP, "Schedule CP, Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2007[~~2006~~];

62.[~~60.~~] Revenue Form 41A725(I), "Instructions, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", October, 2007[~~2006~~];

63.[~~61. Revenue Form 41A725KCR, "Schedule KCR (Form 725), Kentucky Nexus Consolidated Return Schedule", October, 2006;~~

~~62. Revenue Form 41A725KCR-C, "Schedule KCR-C (Form 725), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", October, 2006;~~

~~63. Revenue Form 41A725NOL, "Schedule NOL (Form 720S, 725 or 765), Net Operating Loss Schedule", October, 2006;~~

~~64.~~] Revenue Form 41A725(P), "2007[~~2006~~] Kentucky Single

Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return Forms and Instructions", October, 2007[~~2006~~];

64.[~~65.~~] Revenue Form 41A750, "Business Development Corporation Tax Return", August, 1975;

65.[~~66.~~] Revenue Form 41A765, "Form 765, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~Tax~~] Return[~~(LLC, LLP, and LP Taxed as a Corporation)~~]", 2007[~~2006~~];

66.[~~67.~~] Revenue Form 41A765(I), "Instructions, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~Tax~~] Return[~~(LLC, LLP, and LP taxed as a Corporation)~~]", October, 2007[~~2006~~];

67. Revenue Form 41A765(K), "Form 720S(K), Kentucky Schedule K For Partnerships With Economic Development Projects", October, 2007.

68. Revenue Form 41A765 (K-1), "Schedule K-1 (Form 765), 2007[~~2006~~]Partner's Share of Income, Credits, Deductions, Etc.", 2007[~~2006~~];

69. [~~Revenue Form 41A765KCR, "Schedule KCR (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule", October, 2006;~~

~~70. Revenue Form 41A765KCR-C, "Schedule KCR-C (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", October, 2006;~~

~~71. Revenue Form 41A765(P), "2006 Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax Forms and Instructions", October, 2006;~~

~~72.~~] Revenue Form 41A851-K, "Form 851-K, Kentucky Affiliations and Payment Schedule", October, 2007[~~2006~~];

70.[~~73. Revenue Form 41A851-N, "Form 851-N, Kentucky Affiliations and Payment Schedule (Form 720S, 725 or 765)", October, 2006;~~

~~74.~~] Revenue Form 42A799, "Kentucky Information Return", February, 1985; and

71.[~~75.~~] Revenue Form 42A799-S1, "Form 796, Annual Income Information Return", June, 1984; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", November, 2007[~~2006~~];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October, 2007[~~2006~~];

3. Revenue Form 40A102, "2007[~~2006~~] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", November, 2007[~~2006~~];

4. Revenue Form 40A200 (PTE-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income", October, 2007[~~2006~~];

5. Revenue Form 40A201 (740NP-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report", October, 2007[~~2006~~];

6. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October, 2007[~~2006~~];

7. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", July, 2006;

8. Revenue Form 42A003(T), "2008[~~2007~~] Withholding Tax Tables Computer Formula", November, 2007[~~2006~~];

9. Revenue Form 42A740, "2007[~~2006~~] Kentucky Individual Income Tax Return, Full-Year Residents Only", 2007[~~2006~~];

10. Revenue Form 42A740-A, "Schedule A, Form 740, 2007[~~2006~~] Kentucky Itemized Deductions", 2007[~~2006~~];

11. Revenue Form 42A740ES, "2008[~~2007~~] Individual Income Tax Kentucky Estimated Tax Voucher", August, 2007[~~2006~~];

12. Revenue Form 42A740-EZ, "2007[~~2006~~] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2007[~~2006~~];

13. Revenue Form 42A740(I), "2007[~~2006~~] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October, 2007[~~2006~~];

14. Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October, 2007[~~2006~~];

15. Revenue Form 42A740-KNOL, "Schedule KNOL, 2007[~~2006~~] Kentucky Net Operating Loss Schedule", 2007[~~2006~~];

16. Revenue Form 42A740-M, "Schedule M, 2207 Kentucky Federal Adjusted Gross Income Modifications", 2007[~~2006~~];

17. Revenue Form 42A740-NP [~~42A70-NP~~], "2007[~~2006~~] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2007[~~2006~~];

18. Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2007[~~2006~~] Kentucky Schedule A Itemized Deductions", 2007[~~2006~~];

19. Revenue Form 42A740-NP-ME, "Schedule ME, Moving Expense and Reimbursement", 2007[~~2006~~];

20. Revenue Form 42A740-NP(I), "Instructions for 2007[~~2006~~] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", 2007[~~2006~~];

21. Revenue Form 42A740-NP-R [~~42A740-S9-R~~], "740-NP-R, 2007[~~2006~~] Kentucky Income Tax Return Nonresident - Reciprocal State", 2007[~~, 2006~~];

22. Revenue Form 42A740-NP(P), "2007[~~2006~~] Kentucky Income Tax Return Nonresident or Part-Year Resident", October, 2007[~~2006~~];

23. Revenue Form 42A740(PKT), "2007[~~2006~~] Kentucky Individual Income Tax Forms", October, 2007[~~2006~~];

24. Revenue Form 42A740-P, "Schedule P, Form 740, 2007[~~2006~~] Kentucky Pension Income Exclusion", 2007[~~2006~~];

25. Revenue Form 42A740-UTC, "Schedule UTC, Form 740, Unemployment Tax Credit", October, 2007[~~2006~~];

26. Revenue Form 42A740-X, "Amended Kentucky Individual Income Tax Return for Tax Year 2005, [~~or~~] 2006, 2007", November, 2007[~~2006~~];

27. Revenue Form 42A740-XP, "Amended Kentucky Individual Income Tax Return for Tax Year [~~2003 or~~] 2004 and Prior Years", November 2007[~~2006~~];

28. Revenue Form 42A740-S1, "Form 2210-K, 2007[~~2006~~] Underpayment of Estimated Tax by Individuals", 2007[~~2006~~];

29. Revenue Form 42A740-S4, "2008[~~2007~~] Instructions for Filing Estimated Tax Vouchers", October, 2007[~~2006~~];

30. Revenue Form 42A740-S18, "Form 8582-K, 2007[~~2006~~] Kentucky Passive Activity Loss Limitations", 2007[~~2006~~];

31. Revenue Form 42A740-S21, "Form 4972-K, 2007[~~2006~~] Kentucky Tax on Lump-Sum Distributions", 2007[~~2006~~];

32. Revenue Form 42A740-S22, "Form 8453-K, 2007[~~2006~~] Kentucky Individual Income Tax Declaration for Electronic Filing", 2007[~~2006~~];

33. Revenue Form 42A740-S23, "Form 740-V, 2007[~~2006~~] Kentucky Electronic Payment Voucher", 2007[~~2006~~];

34. Revenue Form 42A740-S24, "Form 8863-K, 2007[~~2006~~]Kentucky Education Tuition Tax Credit", 2007[~~2006~~];

35. Revenue Form 42A741, "Form 741, 2007[~~2006~~] Kentucky Fiduciary Income Tax Return", 2007[~~2006~~];

36. Revenue Form 42A741-D, "Schedule D, Form 741, 2007[~~2006~~] Kentucky Capital Gains and Losses", 2007[~~2006~~];

37. Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October, 2007[~~2006~~];

38. Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2007[~~2006~~] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2007[~~2006~~];

39. Revenue Form 42A765-GP, "Form 765-GP, 2007[~~2006~~] Kentucky General Partnership Income Return", 2007[~~2006~~];

40. Revenue Form 42A765-GP(I), "Instructions, 2007[~~2006~~] Kentucky General Partnership Income Return", October, 2007[~~2006~~];

41. Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2007[~~2006~~] Partner's Share of Income, Credits, Deductions, etc.", 2007[~~2006~~];

42. Revenue Form 765-GP(P), "2007[~~2006~~] Kentucky General Partnership Income Return Forms and Instructions", 2007[~~2006~~];

43. Revenue Form 42A765-GP(K) [~~42A765-S1~~], "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October, 2007[~~2006~~];

44. Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", March, 2007 [~~February, 2004~~];

45. Revenue Form 42A801(D), "Form K-1, Amended 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", March, 2007 [~~February, 2004~~];

47. Revenue Form 42A802, "Form W-2, 2007[~~2006~~] Wage and Tax Statement", 2007[~~2006~~];

48. Revenue Form 42A803, "Form K-3, Kentucky Employer's Income Tax Withheld Worksheet", March, 2007 [~~June, 2004~~];

49. Revenue Form 42A803(D), "Form K-3, Amended 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", March, 2007 [~~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", February, 2007 [~~April, 2006~~];

54. Revenue Form 42A806, "Transmitter Report for Filing Kentucky Wage Statements", October, 2007[~~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", March, 2007 [~~August, 2006~~];

58. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April, 1989;

59. Revenue Form 42A811, "KREDA Annual Report", December, 2007 [~~November, 2006~~];

60. Revenue Form 42A812, "KIDA Annual Report", December, 2007 [~~November, 2006~~];

61. Revenue Form 42A813, "KJDA Annual Report", December, 2007 [~~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", December, 2007 [~~November, 2006~~]; and

65. Revenue Form 42D003, "2007[~~2006~~] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July, 2007[~~2006~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street [~~200 Fair Oaks Lane~~], Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 5 p.m.

JONATHAN MILLER, Secretary

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2008 at noon

CONTACT PERSON: Angela Robinson, Staff Assistant, Finance and Administration Cabinet, Room 093 Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-8649, fax (502) 564-3894.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Angela Robinson

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting or estimating corporation tax, reporting or estimating limited liability entity tax, reporting or estimating individual tax, or withholding individual income tax for tax years beginning in 2007.

(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, limited liability entity, individual, and withholding taxes for tax years beginning in 2007.

(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, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

(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 contains tax forms to be used for tax years beginning in 2007.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2007.

(c) How the amendment 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 the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2007.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity, and corporate tax filers are 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: Individual, pass-through entity, and corporate tax filers 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 2007.

(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 administrative 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 for the Commonwealth, 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.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATIONS AS AMENDED BY PROMULGATING AGENCY AND REVIEWING SUBCOMMITTEE

ARRS = Administrative Regulation Review Subcommittee
IJC = Interim Joint Committee

GENERAL GOVERNMENT CABINET
Kentucky Board of Optometric Examiners
(As Amended at ARRS, January 7, 2008)

201 KAR 5:040. Unprofessional conduct.

RELATES TO: KRS [~~320.240(4), (7), (8),~~]320.310(1)(n)
STATUTORY AUTHORITY: KRS 320.240(4), (7), (8)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.240**(4), (7), and (8)** [~~(7) and (8) provides~~] that the board shall have the power to promulgate an administrative regulation about what acts constitute unprofessional conduct. KRS 320.310(1)(n) **authorizes**[~~empowers~~] the board to discipline a licensee who violates an administrative regulation promulgated by the board. This administrative regulation establishes the acts that constitute unprofessional conduct.

Section 1. An optometrist shall not practice optometry in **an office if**[~~any office where~~] the instruments and equipment, including office furniture, fixtures and furnishings, contained therein are not maintained in a clean and sanitary manner.

Section 2. (1) An optometrist shall not give or receive a fee, salary, commission, or other remuneration or thing of value, in any manner, or under any pretext, to or from any person, firm**,** or corporation:
(a) In return for the referral of optometric patients; or
(b) In order to secure optometric patients.
(2) An optometrist shall not enter into a contract, agreement, or arrangement, for the hire or leasing of his professional services**,** except that upon the**:**
(a) Death [~~or permanent disability~~] of a Kentucky licensed optometrist, the surviving spouse or estate of the deceased optometrist may contract optometric services or employ a Kentucky licensed optometrist for a period not to exceed eighteen (18) months from the time of death**; or**
(b) Permanent disability of a Kentucky licensed optometrist, the spouse, legal guardian, or disabled optometrist may contract optometric services or employ a Kentucky licensed optometrist for a period not to exceed eighteen (18) months from the time of [~~or~~] disability.
(3) An optometrist shall not be employed by an unlicensed optometrist, firm**,** or corporation as an optometrist**,** except to the extent permitted by subsection **(2)**[2] of this section.
(4) Optometric decision-making shall be determined by the optometrist and not determined by outside influences or third parties.
(5) The provisions of subsections (1), (2)**,** and (3) of this section shall not prohibit employment of an optometrist by a:
(a) Licensed hospital;
(b) Licensed multidisciplinary health clinic;
(c) Professional service corporation; or
(d) Governmental entity.

Section 3. (1) An optometrist shall not practice in premises where others engage in any unlawful, grossly unprofessional, or incompetent practice, if that practice is known to **the optometrist**[~~him~~], or would have been known to a person of reasonable intelligence.
(2) An optometrist shall not be associated with or share an office or fees with a person who is engaged in the unauthorized practice of optometry.

Section 4. An optometrist shall keep the visual welfare of **the**[~~his~~] patient uppermost at all times[~~,~~] and shall strive to see that **a**[~~no~~] person calling as a patient shall **not** lack visual care, regardless of **the person's**[~~his~~] financial status.

Section 5. An optometrist shall treat with **confidentiality**[~~confidence~~] the professional information obtained from **the**[~~his~~] patient, except as otherwise required by law.

Section 6. (1) Instruments and equipment necessary to perform the minimum examination specified in Section 7 of this administrative regulation shall be maintained in an office where optometry is practiced.
(2) It shall be unprofessional conduct for an optometrist to fail to maintain in good working order, or to be unable to operate, **instruments and equipment necessary to perform the minimum examination specified in Section 7 of this administrative regulation**[~~those instruments and equipment~~].

Section 7. (1) The procedures performed in a patient's case shall be left to the professional **judgment**[~~judgement~~] of the optometrist and determined by the standard of care in optometry. If a complete eye examination is warranted by profession standards**,** it shall be unprofessional conduct and incompetence for an optometrist to fail to perform the following as part of a minimum examination and keep a permanent record thereof:
(a) Complete case history (ocular, physical, occupational, medical, generic**,** and other pertinent information);
(b) Chief ocular complaint;
(c) Aided and unaided visual acuity;
(d) External examination (eye and adnexa);
(e) Internal ophthalmoscopic examination (media, lens, fundus, etc.);
(f) Neurological integrity;
(g) Static retinoscopy or auto refractor;
(h) Far and near point subjective;
(i) Test of accommodation and convergence and binocular coordination at far and near;
(j) For patients over twenty-five (25)**,** tonometry; **and**
(k) Biomicroscopic examination.
(2) In addition to the above, the minimum examination for contact lenses shall include the following:
(a) Use of Fluorescein or Rose Bengal dyes, **if**[~~when~~] indicated;
(b) Diagnostic evaluation with lenses on eye; **and**
(c) Corneal curvature measurements dioptral.

Section 8. An act constituting a violation of KRS Chapter 320 shall be unprofessional conduct.

ROBERT BROOKS, President
APPROVED BY AGENCY: November 14, 2007
FILED WITH LRC: November 14, 2007 at 3 p.m.
CONTACT PERSON: Connie Calvert, Executive Director, Kentucky Board of Optometric Examiners, Spindletop Administrative Building, Suite 305, 2624 Research Park Drive, Lexington, Kentucky 40511, phone (859)246-2744, fax (859) 246-2746.

GENERAL GOVERNMENT CABINET
Kentucky Board of Medical Licensure
(As Amended at ARRS, January 7, 2008)

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees.

RELATES TO: KRS 311.271, 311.550, 311.560, 311.571
STATUTORY AUTHORITY: KRS 311.565(1)(b), 311.571(1)(d), (2)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS **311.565(1)(b) authorizes** [~~311.571(1)(c)~~][~~(d)~~][~~and (2)(c)~~][~~(f)~~] require the board to promulgate administrative regulations to establish requirements for a regular license to practice medicine in the Commonwealth of Kentucky. This **administrative regulation** [~~amendment~~] establishes the requirements for **board approval of** [~~internet-based~~] **medical school.** [~~postgraduate training for applicants for medical and osteopathic licenses. This administrative regulation establishes the required duration of prescribed courses of postgraduate training for those applicants.~~]

Section 1. (1) Except as provided by subsection (2) of this section:

(a) A license or permit shall not be issued by the board or retained by a licensee if an applicant or licensee has failed to provide the board proof that he is a graduate of a medical or osteopathic school, college, or university that has been approved by the board; and

(b) The requirement for board approval of an educational institution shall not be waived.

(2) An applicant for limited licensure-institutional practice pursuant to KRS 311.571(4) shall be granted a license without prior approval by the board of the medical or osteopathic school, college, or university from which he graduated if he has submitted proof:

(a) Of the educational institution's existence; and

(b) That he is a graduate thereof.

Section 2. Except as provided by Section 4 of this administrative regulation:

(1) A medical or osteopathic school, college, or university located in the United States, its territories or protectorates, or Canada shall be considered approved by the board; and

(2) A license or permit granted by a medical or osteopathic school, college, or university located in the United States, its territories or protectorates, or Canada shall be recognized if written proof is submitted that the educational institution is located in:

(a) The United States, its territories or protectorates, and accredited by the:

1. Liaison Committee on Medical Education; or

2. American Osteopathic Association; or

(b) Canada[~~,~~] and approved or accredited by the Canadian Medical Association.

Section 3. Except as provided by Section 4 of this administrative regulation, a medical or osteopathic school, college, or university located outside the United States, its territories or protectorates, or Canada in which an applicant originally enrolled in any academic year through and **concluding**[~~including~~] with academic year 2008-2009 shall be considered approved by the board, and a license or permit issued by a medical or osteopathic school, college, or university located outside the United States, its territories or protectorates, or Canada shall be recognized, if the educational institution:

(1) Is officially recognized in good standing by the country in which it is located;

(2) Is registered as a medical school, college, or university in the:

(a) World Health Organization directory; or

(b) World Directory of Medical Schools; and

(3) Possesses a basic course of clinical and classroom medical instruction that is:

(a) Not less than thirty-two (32) months in length; and

(b) Under **the educational institution's**[~~its~~] direct authority.

Section 4. Except as provided by Section 5 of this administrative regulation, a medical or osteopathic school, college, or university located outside the United States, its territories, or Canada in which an applicant originally enrolled in academic year 2009-2010 or any academic year thereafter shall be considered approved by the board, and a license or permit issued by a medical osteopathic school, college, or university located outside the United States, its territories or protectorates, or Canada shall be recognized, if the educational institution:

(1) Is officially recognized in good standing by the country in which it is located;

(2) Is registered as a medical school, college, or university in the International Medical Educational Directory;

(3) Requires that all courses be completed by physical on-site attendance in the country in which the school is chartered; and

(4) Possesses a basic course of clinical and classroom medical instruction that is:

(a) Not less than thirty-two (32) months in length; and

(b) Under **the educational institution's**[~~its~~] direct authority.

Section 5.[~~4.~~] (1) The board shall deny or revoke its approval of a medical or osteopathic school, college, or university that has failed to meet the requirements for approval established by this administrative regulation.

(2) If the board denies or withdraws its approval of a medical or osteopathic school, college, or university, it shall issue an order stating the grounds upon which the denial or approval was based.

Section 6.[~~5.~~] (1)**(a)** Except as provided by subsection (2) of this section, the degree of an applicant shall not be recognized unless an applicant has met the requirements established by this section.

(b) Except as provided by subsection (2) of this section, clinical clerkships that a medical school located outside the United States, its territories or protectorates, or Canada permits a student to perform in order to satisfy its curriculum's clinical requirements shall be approved if an applicant has established that:

1.[~~(a)~~] The clinical clerkships he performed were equal in quality and character to the clinical training performed in the United States by students in American medical and osteopathic schools; and

2.[~~(b)~~] The clinical clerkships he performed had been evaluated and approved by the foreign medical school:

a.[~~1.~~] Prior to commencement; and

b.[~~2.~~] As required by the foreign school's established standards for approval of clerkships performed in the United States.

(2) The board shall waive the requirements established by subsection (1) of this section, if an applicant:

(a) Commenced a clerkship prior to February 12, 1985; and

(b) Has verified that he has:

1. Satisfactorily completed an approved three (3) year post graduate training program at one (1) hospital or institution; or

2. Been accepted into, or is currently enrolled, in the second or third year of a postgraduate training program approved by the board.

Section 7.[~~6.~~] The executive director shall recommend for approval by the board the equivalency of premedical or preosteopathic units of study credited by a college or university located outside the United States or Canada on an individual basis.

Section 8.[~~7.~~] Amount of Postgraduate Training Required. An applicant for licensure shall provide written proof of having completed the postgraduate training required by this administrative regulation.

(1) Pursuant to KRS 311.571(1)(d), an applicant for a regular license shall have satisfactorily completed:

(a) At least two (2) years of prescribed courses of postgraduate training in accordance with this administrative regulation; or

(b) At least one (1) year of prescribed courses of postgraduate training in accordance with this administrative regulation and an Oral and Maxillofacial Surgery program approved by the Commission on Dental Accreditation.

(2) Resident training license.

(a) Except as provided in paragraph (c) of this subsection, a resident in a Kentucky postgraduate training program accredited by the American College of Graduate Medical Education shall receive a resident training license if the applicant has:

1. Completed one (1) year of postgraduate training in accordance with this administrative regulation;

2. Successfully completed:

a. One (1) of the examinations approved under 201 KAR 9:031, Section 2; or

b. One (1) of the combinations of examinations approved under 201 KAR 9:031, Section 1; and

3. Paid to the board a seventy-five (75) dollar fee.

(b) The resident training license shall permit its holder to practice medicine within the institution or in a setting approved by the postgraduate training program.

(c) The resident training license shall not be issued to a second-year resident without a recommendation by the director of the postgraduate training program and the approval of the board.

Section 9.[~~8.~~] Postgraduate Training Programs Approved by the Board. The following postgraduate training programs shall meet the postgraduate training requirement for licensure:

(1) All postgraduate training programs in hospitals and institutions located in the United States and approved by the Accreditation Council for Graduate Medical Education;

(2) All postgraduate training programs in hospitals and institutions located in Canada; and

(3) All postgraduate training programs in hospitals and institutions located in the United States or Canada and approved by the American Osteopathic Association.

Section 10.[~~9.~~] Fellowship Training in the United States or Canada. The board shall consider on an individual basis written proof of satisfactory completion of fellowship training recognized by the board to be of satisfactory quality as substitution for the second year of required postgraduate training approved by the board pursuant to this administrative regulation.

DANNY M. CLARK, M.D., President

APPROVED BY AGENCY: October 26,2007

FILED WITH LRC: October 26, 2007 at 3 p.m.

CONTACT PERSON: C. Lloyd Vest, II, General Counsel, Kentucky Board of Medical Licensure, 310 Whittington Parkway, Suite 1B, Louisville, Kentucky 40222, phone (502) 429-7150, fax (502) 429-7158.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, January 7, 2008)

201 KAR 11:170. Private school and course approval.

RELATES TO: KRS 324.010(7), 324.046(1), (2)

STATUTORY AUTHORITY: KRS 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the commission to promulgate administrative regulations necessary to implement KRS Chapter 324. KRS 324.010(7) and (8) authorizes the commission to approve a real estate school. KRS 324.046(1) and (2) [~~KRS 342.046(1) and (2)~~] require an applicant for initial licensure as a broker or sales associate to have completed the specified number of courses from an approved or accredited real estate school. This administrative regulation establishes the requirements and application procedures for an approved real estate school seeking approval of courses for license credit.

Section 1. (1) To apply for certification as an approved real estate school or to renew certification, a real estate school shall submit a:

(a) Completed Application for an Approved Real Estate School, including the information required concerning curriculum, instructors, required textbooks, and educational materials and policies of the school;

(b) Copy of the Certificate of Approval from the **Kentucky** State Board for Proprietary Education or Kentucky Department of Education, if applicable;

(c) Sample schedule to outline how a course will be presented;

(d) Completed detailed course outline broken into four (4) hour increments to include teaching, learning for the course, auxiliary aids and materials for each course, which shall include:

1. A Real Estate Instructor Application and any additional documents required to explain a response on the application for each instructor who will teach this course, as required by 201 KAR 11:175; and

2. [~~A copy of a contract or agreement signed by the student which outlines the class schedule, grading system, and attendance requirements; and~~

~~3.~~] A copy of the written material, other than the textbook or real estate license law manual, which the instructor will use in the classroom;

(e) Sample copy of a school brochure or information sheet promoting the school;

(f) Copy of legal documentation required to support an answer, if applicable;[~~and~~]

(g) A sample copy of an official transcript that will be issued by [~~from~~] the school.

(h) A copy of contract or agreement signed by the student which outlines the class schedule, assignments or projects, examination requirements, grading system, and attendance requirements; and

(i) Other documents as outlined in Section 2 of this administrative regulation.

(2) An approved real estate school shall include a statement in the school application that a criminal conviction may prevent an applicant from qualifying for licensure under KRS 324.045. Failure to do so may result in suspension of an approved school's certification until the information is included in the application.

(3) An approved **real estate** school shall notify the commission within ten (10) days of a material change in the information originally furnished on the application or in an attachment to the application.

(4) A renewal application shall be submitted by October [~~November~~] 1 of each even numbered year. The approval shall be for a two (2) year period, beginning November 1.

Section 2. **(1) The curriculum for a course at an approved real estate school shall:**

(a) Include a minimum of:

1.Three (3) academic hours per course; or

2. Fifteen (15) hours for a course related to the appraisal of property;

(b) Be conducted for a maximum of seven (7) academic hours during a twenty-four (24) hour period;

(c)1. Consist of a course containing the topics listed in the Topics Prescribed by the Real Estate Commission.

2. A real estate course shall be one which is designated specifically as a real estate course by an approved or accredited real estate school which offers the course.

3. The academic content for the course shall specifically focus on real estate.

4. The course shall be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing.

5. A candidate shall not submit completion of the same course or essentially the same course twice for licensure credit;

(d)1. Include a closed-book monitored final examination of at least:

a. Seventy-five (75) multiple choice questions for a three (3) academic hour course; or

b. 100 multiple choice questions for a six (6) academic hour course.

2. The passing score shall be seventy-five (75) percent in order to pass the course.

3. Examination questions shall cover all aspects of material covered in the course, including applicable license laws and administrative regulations.

4. One (1) retake of the examination shall be permitted; and

(e) Include in all real estate prelicense courses, a practicum or project applicable to the topic, that shall be completed with a passing score and averaged with the final examination and other components or assignments required in the course, as part of the student's final grade.

(2) The application for course approval shall include a copy of the final examination and answer key, an explanation

and copies of the project or practicum that shall be required of students, when that assignment shall be due, and how the final grade for the course shall be calculated.

(3)(a) All primary and secondary providers offering online prelicense or other distance education courses shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program.

(b) The commission shall review the content to ensure that it meets the requirements outlined in this administrative regulation and in 201 KAR 11:240.

(4)(a) The application and all required attachments shall be submitted to the commission for consideration at its next regularly-scheduled meeting.

(b) The provider shall be notified in writing of the commission's approval or denial of the course for academic credit.[~~The Curriculum for an Approved [Approval] Real Estate Course [School] shall: (1) Include a minimum of three (3) academic hours per course;~~

~~(2) Be conducted for a maximum of no more than seven (7) academic hours during a twenty-four (24) hour period; and~~

~~(3) Consist of a course containing the topics listed in the Topics Prescribed by the Real Estate Commission. A real estate course shall be one which is designated specifically as a real estate course by an approved or accredited real estate school which offers the course. The academic content for the course shall specifically focus on real estate. The course shall be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing. Candidates shall not submit completion of the same course or essentially the same course twice for licensure credit.~~

~~(4) Include a closed-book monitored final examination of at least seventy-five (75) multiple choice questions for a three academic hour course or 100 multiple choice questions for a six (6) academic hour course. Students must pass the examination with at least a seventy-five 75 percent in order to successfully pass the course. Examination questions must cover all aspects of material covered in the course, including applicable license laws and administrative regulations. One (1) retake of the examination shall be permitted.~~

~~(5) Include in all real estate prelicense courses, a practicum or project applicable to the topic, that must be completed with a passing score and averaged with the final examination and other components or assignments required in the course, as part of the student's final grade.~~

~~(6) The application for course approval shall include a copy of the final examination and answer key, an explanation and copies of the project or practicum that will be required of students, when that assignment will be due, and how the final grade for the course will be calculated.~~

~~(7) All primary and secondary providers offering online prelicense or other distance education courses must be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program. The commission shall review the content to ensure that it meets the requirements outlined in this administrative regulation and in 201 KAR 11:240.~~

~~(8) The application and all required attachments will be submitted to the commission for consideration at its next regularly-scheduled meeting. The provider will be notified in writing of the commission's approval or denial of the course for academic credit.~~]

Section 3. Each real estate prelicense course completed at an out-of-state accredited institution, for which credit may be granted under this section shall be approved or rejected under the following procedure:

(1) A course description from the school catalog, course syllabus, table of contents from text used in the course, or other summary of the course shall be provided to the commission by the applicant[~~prior to approval~~];

(2) The commission education director shall review the material submitted by the applicant and recommend the commission either grant or reject credit under this section at the commission's regular monthly meeting;

(3) The commission education director shall record:

(a) The name of the course;

(b) Whether approval was granted or rejected; and

(c) The date of approval or rejection.

(4) If a course has been previously approved by the commission under this section or if a course is substantially similar to a previously-approved course, the commission education director shall be authorized to determine course approval;

(5) In determining whether a course is substantially similar to a previously-approved course, one (1) or more of the following items shall be considered:

(a) The table of contents from text used in the course;

(b) The course syllabus;

(c) Course description from the school catalog; or

(d) Other summary of the course.

(6) The commission's education director shall notify an applicant if a course is rejected for credit under this section;

(7)**(a)** If an applicant disagrees with the education director's decision under this section, he or she shall, within ten (10) days from the date of the education director's notification of rejection, file with the commission a written request for a commission review of its education director's decision.

(b) The request shall ~~to~~ specifically indicate the applicant's disagreement.

(c) Failure to indicate disagreement within the ten (10) day period shall constitute waiver by the applicant and the education director's decision shall become final;

(8)**(a)** In addition to the indication to the education director of disagreement with his or her decision, the applicant shall provide a written summary to the education director detailing why credit under this section is merited.

(b) The commission education director shall forward this summary to the commission along with his or her response to the commission for a final decision at the commission's regular monthly meeting.

(c) Failure to provide within ten (10) days a specific summary detailing why credit is merited under this section shall constitute waiver by the applicant and the education director's decision shall become final at that point;

(9)**(a)** If the applicant indicates disagreement with the education director's decision within ten (10) days of notification and provides a written summary detailing the disagreement within ten (10) days of notification, the commission shall consider the submissions from the applicant and the education director and reject or approve the course for credit under this section.

(b) The commission shall notify the applicant of its decision in writing.

Section 4. [~~3.~~] An approved real estate course school shall not:

(1) Advertise in conjunction with the business of a broker or a brokerage firm; or

(2) Discuss, induce, or promote affiliation with a broker or brokerage firm.

Section 5. [~~4.~~] (1) An approved real estate school shall maintain accurate and permanent records on each student enrolled in a course.

(a) A permanent record shall include each student's record of courses completed or attempted, academic hours awarded, and final grades.

(b) A Certificate of Completion shall be:

1. Included in the permanent records of each student; and

2. Mailed to each student upon completion of a course.

(2) Records [~~A temporary record~~] shall:

(a) Be maintained for three (3) years; and

(b) Include student attendance records, final grade, and test scores.

(3) An approved real estate school shall notify the commission, in writing, within five (5) days of the beginning of a prelicense course. Notice shall include the name of course, class location scheduled dates and times the class will be offered.

(4) Schools and instructors shall take appropriate steps to maintain the confidentiality of the final examinations at all times.

These steps shall include:

(a) Maintaining examinations and answer keys in a secure place accessible only to the school administrator and the instructor;

(b) Prohibiting students from retaining copies of the final examination and answer sheets; and

(c) Monitoring students at all times when examinations are being conducted.

Section 6. (1)[~~5.~~] An approved real estate school shall permit an inspection and monitoring by the commission or its designee to evaluate an aspect of the administration or operation of the school or to evaluate the performance of the instructor.

(2) Monitoring may include a periodic mailing by the commission to students seeking an evaluation of his or her prelicense course and instructor.

Section 7.[~~6.~~] Private school approval shall be withdrawn if the commission determines that:

(1) Information contained on the application or renewal is inaccurate or misleading; or

(2) The establishment or conduct of the school is not in compliance with this administrative regulation or the instruction is so deficient as to impair the value of the course. If a school has been given notice of a deficiency under this section, the commission shall give the school an opportunity to correct the deficiency within thirty (30) days. If the deficiency has been corrected, the commission may, after reviewing the steps taken to correct the problem, recertify the school or course.

(3) The school is not certified by the Kentucky State Board for Proprietary Education.

Section 8. [~~7.~~] An Effort Made Directly or Indirectly by a School, Official or Employee, or a Person on Their Behalf to Reconstruct the Real Estate Licensing Examination or Portion of the Examination Shall Result in Immediate Revocation of School Approval.

Section 9. [~~8.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Application for Certification of [~~an~~] Approved Real Estate School", 09/07 [~~10/97~~] edition, Kentucky Real Estate Commission;

(b) "Course Outline", 09/07 [~~10/97~~] edition, Kentucky Real Estate Commission;

(c) "Certificate of Completion", 09/07 10/97 edition, Kentucky Real Estate Commission; [~~and~~]

(d) "Topics Prescribed by the Real Estate Commission", 2007 [~~2000~~] edition, Kentucky Real Estate Commission;[~~.~~]

(e) "Real Estate Instructor Application", 09/07 edition, Kentucky Real Estate Commission.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

ARVEL J. MCMAHAN, Chairperson

APPROVED BY AGENCY: September 14, 2007

FILED WITH LRC: September 14, 2007 at 10 a.m.

CONTACT PERSON: Y. Denise Payne Wade, Staff Attorney, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, January 7, 2008)

201 KAR 11:210. Licensing, education, and testing requirements.

RELATES TO: KRS 324.010, 324.040, 324.045(1), (2), (3), 324.046

STATUTORY AUTHORITY: KRS 324.281(5), [~~(8),~~] 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the Real Estate Commission to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS Chapter 324 [~~KRS Chapter 342~~]. This administrative regulation establishes standards relative to education, [~~testing,~~] and licensure application requirements.

Section 1. In lieu of proof of high school graduation or a GED diploma, an applicant may submit an official transcript from a United States institution, or from an institution outside of the United States as indicated in Section 2 of this administrative regulation, which indicates completion of a degree program at a post secondary institution, or a transcript from a United States institution, or from an institution outside of the United States as indicated in Section 2 of this administrative regulation, which indicates successful completion of twenty-eight (28) academic semester hours or equivalent from a post secondary institution.

Section 2. (1) If an applicant submits documentation of qualifying education in a language other than English, the diploma or transcript shall be translated by a disinterested third party.

(2) The entity shall provide:

(a) A translation of the documents; and

(b) A certification stating that the translation is true, accurate, and complete.

(3) The applicant shall provide a letter to the commission indicating that the curriculum of the proffered education is equivalent to a high school diploma or GED. The comparison shall be made by:

(a) International Education Research Foundation, www.ierf.org;

(b) International Education Evaluations, www.iee1981.com; or

(c) World Education Services, www.wes.org/fees/evaltypes.asp.

(4) If the applicant is unable to comply with the requirements of this section, the applicant shall furnish proof of the receipt of a GED granted by an agency or institution within the United States.[~~If an applicant submits information from a non-United States institution, the diploma or transcript shall be translated by a disinterested third party who has the necessary qualifications to perform this service. The individual shall provide a notarized document which provides the translations and a certification that it is a true and accurate translation [the applicant or the applicant's representative if the Real Estate Commission requests translation]. The applicant shall also submit a notarized letter from the reviewing institution's or evaluation service's representative indicating the school curriculum is equivalent to a GED or high school diploma. If the applicant cannot meet the requirements of this section, he or she shall be required to submit proof of a GED granted by a United States agency or institution.~~]

Section 3. An official transcript is a document imprinted with the institution's seal, signed by the registrar, and sent directly from the institution to the commission.

[~~Section 4. A real estate course shall be one which is designated specifically as a real estate course by an approved or accredited real estate school which offers the course. The academic content for the course shall specifically focus on real estate. The course shall be for academic credit and not a continuing education unit, examination preparation or review, experiential education, or competency testing. Candidates shall not submit completion of the same course or essentially same course twice for licensure credit.~~]

[~~Section 4.~~][~~5.~~][~~Any broker applicant who applies for a license using the one (1) year experience exemption outlined in KRS 324.046(4), and submitting a degree from an out-of-state institution, must provide written documentation from the institution to outline the requirements for obtaining the degree so the commission can determine whether the real estate degree is comparable to one offered at a Kentucky institution with regard to the number of real estate specific courses and total hours that are required to obtain the associate degree or the baccalaureate degree with a~~

~~major or minor in real estate.][Each course completed, for which credit is granted under this section shall be approved or rejected under the following procedure:~~

~~(1) A course description from the school catalog, course syllabus, table of contents from text used in the course, or other summary of the course shall be provided to the Real Estate Commission by the applicant prior to approval;~~

~~(2) The commission education director shall review the material submitted by the applicant and recommend the commission either grant or reject credit under this section at the Real Estate Commission's regular monthly meeting;~~

~~(3) The commission education director shall record:~~

~~(a) The name of the course;~~

~~(b) Whether approval was granted or rejected; and~~

~~(c) The date of approval or rejection.~~

~~(4) If a course has been previously approved by the Real Estate Commission under this section or if a course is substantially similar to a previously-approved course, the commission education director shall be authorized to determine course approval;~~

~~(5) In determining whether a course is substantially similar to a previously-approved course, one (1) or more of the following items shall be considered:~~

~~(a) The table of contents from text used in the course;~~

~~(b) The course syllabus;~~

~~(c) Course description form the school catalog; or~~

~~(d) Summary of the course other than the table of contents or syllabus.~~

~~(6) The commission education director shall notify an applicant if a course is rejected for credit under this section;~~

~~(7) If an applicant disagrees with the education director's decision under this section, he or she shall have ten (10) days from the notification of rejection to specifically indicate in writing to the Real Estate Commission Education Director disagreement and request review by the entire Real Estate Commission. Failure to indicate disagreement within ten (10) days shall constitute waiver by the applicant and the education director's decision shall become final;~~

~~(8) In addition to the indication to the education director of disagreement with his or her decision, the applicant shall provide a written summary to the education director detailing why credit under this section is merited. The commission education director shall forward this summary to the commission along with his or her response to the Real Estate Commission for a final decision at the Real Estate Commission's regular monthly meeting. Failure to provide within ten (10) days a specific summary detailing why credit is merited under this section shall constitute waiver by the applicant and the education director's decision shall become final at that point;~~

~~(9) If the applicant indicates disagreement with the education director's decision within ten (10) days of notification and provides a written summary detailing the disagreement within ten (10) days of notification, the Real Estate Commission shall consider the submissions from the applicant and the education director and reject or approve the course for credit under this section. The Real Estate Commission shall notify the applicant of its decision in writing.~~]

Section **4.**[~~5.~~][~~6.~~] An applicant who successfully passes the real estate examination shall apply for a license within sixty (60) days after the examination. A candidate who fails to apply for a license within this period shall be reexamined.

ARVEL J. MCMAHAN, Chairperson

APPROVED BY AGENCY: September 14, 2007

FILED WITH LRC: September 14, 2007 at 10 a.m.

CONTACT PERSON: Y. Denise Payne Wade, Staff Attorney, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, January 7, 2008)

201 KAR 11:230. Continuing education requirements.[~~Mandatory continuing education, instructor requirements; out-of-state requirements; maintaining records; and actions for failure to comply.~~]

RELATES TO: KRS 324.010(7), (8), 324.046(5), 324.085(1), (2), 324.090, 324.160(1)(c), 324.160(4)(u) 324.281(7)

STATUTORY AUTHORITY: KRS 324.085(1), 324.160(1)(c), 324.160(4)(u) 324.281(5), (7), (8), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.085(1) requires an actively-licensed agent, except an agent licensed prior to June 19, 1976, to successfully complete six (6) hours of mandatory continuing education each year as a condition of license renewal and requires that three (3) of the six (6) hours pertain to the study of real estate law. This administrative regulation establishes the requirements relating to continuing education and sets the amount of the fine for failure to comply with the requirements.

Section 1. Mandatory Continuing Education. (1) The provisions of this administrative regulation shall not apply to any person licensed by the commission prior to June 19, 1976.

(2) Except as provided in Section 1(1), an active licensee shall meet the requirements of KRS 324.085(1) by attending a continuing education course sponsored or approved by the commission that meets the requirements established in this administrative regulation. A licensee shall complete the courses by December 31 of each calendar year. An active license shall not be renewed unless the licensee has complied with the provisions of this administrative regulation.

(3) An active licensee shall attend a commission-approved core course once every four (4) years. The core course shall:

(a) Satisfy the licensee's mandatory continuing education requirement for the year in which the course is taken; and

(b) Be a six (6) hour comprehensive review of the requirements of KRS Chapter 324, 201 KAR Chapter 11, common and federal law relating to real estate, and the standards of practice for a real estate licensee**.**

(4) A new license applicant shall be assigned his or her [~~; (c) New license applicants will be assigned their~~] year of compliance by the commission based upon the following schedule:

(a)[~~1.~~] If the licensee's birth month is January, February, or March, the licensee shall take the core course in the first year of a four (4) year cycle.

(b)[~~2.~~] If the licensee's birth month is April, May, or June, the licensee shall take the core course in the second year of a four (4) year cycle.

(c)[~~3.~~] If the licensee's birth month is July, August, or September, the licensee shall take the core course in the third year of a four (4) year cycle.

(d)[~~4.~~] If the licensee's birth month is October, November, or December, the licensee shall take the core course in the fourth year of a four (4) year cycle.

(5)[~~(4)~~] Continuing education hours exceeding the amount required shall not be carried forward to the next year's requirements or used to reactivate a license in the next calendar year.

(6)[~~(5)~~] Hours of instruction in prelicense real estate education courses, unless it is the licensee's year to complete the core course, shall be credited to the mandatory continuing education requirements for the calendar year in which it is taken and completed. The licensee shall submit a transcript or course completion certificate for the prelicense course in order to receive credit toward the continuing education requirements for that calendar year.

Section 2. Exemptions from the Mandatory Continuing Education Requirement. (1) A licensee shall not be required to attend a continuing education course during the first calendar year in which he **or she** is first licensed in Kentucky.

(2)**(a)** An escrowed licensee shall not be required to attend continuing education courses while the license remains in escrow.

(b) Before a license is changed from escrow to active status, a licensee shall provide the commission with documentation of the completion of the current calendar year's continuing education requirements.

(c) If the licensee has not completed the core course in the previous four (4) years as required, the core course shall become the current calendar year's continuing education requirement for a license changing from escrow to active.

[~~(3) A person licensed by the commission prior to June 19, 1976 shall not be required to satisfy the continuing education or core course requirements set out in this regulation.~~]

Section 3. Continuing Education Course Criteria. (1) An education course shall consist of a minimum of three (3) academic hours. One (1) hour of continuing education shall be allowed for each fifty (50) minutes of actual attendance.

(2) To receive approval, courses shall be real estate specific and consist of topics that shall:

(a) Enable the student to better understand the brokerage business; and

(b) Serve the public.

(3) A course that is motivational or considered to be personal development in nature shall not be approved.

(4) All course approvals shall expire on December 31 of each calendar year.

(5) All primary or secondary providers wishing to offer online or other distance education courses, as outlined 201 KAR 11:240, **shall**[~~must~~] be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC) as to format and delivery systems of the program. The commission shall review the content to ensure that it meets the requirements outlined in 201 KAR 11:240.

Section 4. Continuing Education Course Provider Requirements. (1) An education course shall be sponsored by:

(a) An accredited institution;

(b) A school that has been given a certificate of approval by the Kentucky **State** Board of Proprietary Education;

(c) An appropriate governmental regulatory body; or

(d) An approved real estate school as defined in KRS 324.010(7)(b).

(2) To apply for approval of a continuing education course, a provider shall submit a:

(a) Completed Continuing Education **Provider**[~~Course~~] Application, which shall:

1. Include a **completed Course Outline form**[~~detailed timed outline~~], broken into fifteen (15) minute increments, to include learning objectives for the course, teaching methods, auxiliary aids, materials, and the policies of the provider; and

2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;

(b) Copy of the Certificate of Approval from the Kentucky State Board for Proprietary Education, or the Kentucky Department of Education, unless the provider is an accredited college or university; or an approved real estate school as defined in KRS 324.010(7).

(c) Completed Real Estate Instructor Application for each instructor who will teach the course, as required by 201 KAR 11:175; and

(d) Copy of all advertising or brochures advertising the continuing education course.

(3) The course[~~(e) Course~~] provider shall agree that all instructors **shall**[~~will~~] abide by the Generally Accepted Principles of Education as adopted by the Real Estate Educators Association and the commission as the standard for classroom performance and comply with the **KREC** Guidelines for Classroom Management[~~as adopted by the commission~~].

(4)[~~(3)~~] The commission education director shall submit the information to the commission for approval or rejection of the course at their regularly scheduled meeting.

(5)[~~(4)~~] A course and instructor that have been previously approved within the calendar year may be conducted by another provider, upon the submission of a short form application and approval by the commission staff.

(6)[~~(5)~~] A provider shall:

(a) At least thirty (30) days prior to the scheduling of a continuing education course, submit to the commission a completed Continuing Education Schedule that identifies the course provider, course title and number, instructor, date, time, and location of each class;

(b) Give to each attendee listed on the roster a completed Continuing Education Completion Certificate;

(c) Within ten (10) days of a continuing education course, submit to the commission:

1. A completed Continuing Education Attendance Roster, which shall include the full legal name, residence address, and other identifying information required by the commission, in alphabetical order;

2. Continuing Education Course Evaluation completed by each attendee listed on the roster; and

3. A completed CE Course Evaluation Transmittal Form;

(d) Permit monitoring of the courses and inspection of the records by the commission; and

(e) Make the course available to all licensed agents, subject only to space limitations.

(7)[~~(6)~~] The providers' approval to conduct continuing education courses may be withdrawn by the commission for:

(a) A violation of the classroom management guidelines;

(b) Falsification of attendance information submitted to the commission;

(c) Allowing an instructor to solicit business or sell materials to students in the classroom;

(d) Failure to provide the commission the required materials in accordance with this **administrative regulation; or**[~~regulation~~];

(e) Conducting courses that were not approved prior to being offered.

Section 5. Instructor Requirements. (1) A course instructor shall:

(a) Have adequate education, knowledge and experience in the topic to be presented;

(b) Have prior teaching experience; and

(c) Be an "approved instructor" under the requirements established in 201 KAR 11:175.

(2) A licensee who teaches an approved continuing education course shall be entitled to credit on a hour-for-hour basis. To obtain continuing education credit, the instructor's name shall be added to the attendance roster for the course. However, the instructor shall not receive credit more than once in a calendar year for teaching a specific course.

(3) An instructor of an approved[~~prelicense~~] real estate course shall receive credit toward his **or her** continuing education requirements. The instructor's supervisor shall provide the commission with a written notice requesting teaching credit, to include the instructor's name, name of course, dates the course was conducted and be signed by the approved school or institution's authorized representative.

Section 6. Out-Of-State Continuing Education Requirements. (1) **A licensee who attends**[~~Licensees who attend~~] continuing education in another state may receive approval for continuing education courses completed in another state provided:

(a) The regulatory jurisdiction where the continuing education course is held accepts courses held in Kentucky for continuing education credit in the jurisdiction;

(b) The real estate regulatory agency of the state where the course is held approved the course for real estate continuing education credit;

(c) The course shall be taken and completed during the calendar year for which continuing education credit is sought in Kentucky;

(d) The course enables the licensee to better understand the real estate brokerage business and meets the content criteria prescribed by the commission;

(e) The licensee submits proof of completion of the out-of-state course to the Kentucky Real Estate Commission through a Course Completion Certificate issued by the provider, and an Out of State

Continuing Education Compliance Form. The documentation shall provide the:

1. Name and residence address of the licensee seeking continuing education credit and other identifying information as required by the commission;

2. Name and date of the course for which credit is sought;

3. Course number if one exists;

4. Number of hours completed for which credit is sought;

5. Continuing education provider's name;

6. A signature from a representative of the continuing education provider documenting the licensee's course attendance.

7. Regulatory jurisdiction where the course is approved for continuing education credit; and

8. An outline of the course for which continuing education credit is sought if the outline is specifically requested by the commission.

(f) The completion documentation certificate and other forms shall be provided to the commission for review within fourteen (14) days of the licensee's receipt of the certificate from the approved education provider.

(g) If after review of the materials submitted, the commission determines the course does not merit continuing education credit, the commission may deny continuing education credit for the course. The commission shall notify the licensee of this denial and a brief explanation of the reasons for denial.

Section 7. Compliance and Delinquency. (1) The time requirements established in this administrative regulation may be extended by the commission if:

(a) A true hardship or other good cause clearly warrants relief; and

(b) The request for extension and any required documentation, is received in writing on or before February 15 of the calendar year immediately following the year in which continuing education requirements were not fulfilled.

(2) If a licensee fails to comply with the provisions of this administrative regulation, the executive director or his representative shall notify **the licensee**[~~him~~] as soon as practical on or after January 15 of the next calendar year of **the**[~~his/her~~] failure to comply. If the licensee fulfilled the continuing education requirements in the previous year, proof of completion **shall**[~~must~~] be forwarded to the commission on or before February 15.

(3) A license shall not be cancelled for non-fulfillment of the continuing education requirements if the licensee takes one of the following steps by February 15:

(a) Places his license in escrow; or

(b) Agrees in writing to a delinquency plan, which includes completion of the delinquent continuing education requirements for the previous calendar year on or before June 15; and

(c) Submits a $500 fine which shall be assessed against each licensee who fails to complete the continuing education requirements outlined in KRS 324.085(1) by the end of the calendar year.

(4) A licensee who places his license in escrow under the provisions of this section shall not reactivate his license unless he has:

(a) First completed the core course or the current year's mandatory continuing education requirements as outlined in Section 2(2) of this regulation; and

(b) Paid the fees required by KRS 324.287 and under this administrative regulation.

(5) A licensee who fails to place his license in escrow or file the delinquency plan on or before February 15 immediately following the year in which continuing education requirements were not fulfilled, shall have his license cancelled as of that date and shall not be eligible to renew.

(6) If a licensee fails to complete the requirements of the delinquency plan:

(a) The commission shall notify the licensee of the deficiency on or after July 1**;**[~~.~~]

(b) The deficiency notice shall advise **that the licensee**[~~the licensee that he/she~~] may request a hearing for the commission to consider whether the license should be suspended for noncompliance with the delinquency plan;[~~.~~]

(c) Failure to request a hearing **shall**[~~will~~] result in a default order of suspension**; and**[~~.~~]

(d) Any suspension ordered by the commission for noncompliance with the continuing education delinquency plan shall be for a period of six months.

(7) If the commission suspends the license as a result of a default order or after hearing, the licensee shall not be allowed to activate his license unless, within ninety (90) days of the expiration of the suspension, **the licensee**[~~he~~];

(a) First completes the current year's continuing education requirements;

(b) Submits the required documents to reinstate the license; and

(c) Pays all necessary renewal and transfer fees as required by KRS 324.287.

(8)[~~(d)~~] If the licensee does not reinstate the license within ninety (90) days following the completion of the suspension period, the license shall be cancelled and the licensee shall meet the requirements for initial licensure, including retaking the examination.

Section 8. Records Maintenance. (1) Each continuing education provider shall maintain the following records in a file for two (2) years following the end of each calendar year:

(a) A copy of the roster submitted to the commission of licensees attending the course;

(b) A copy of the Course Evaluation Transmittal form;

(c) The sign in sheet or registration list used by the provider to track attendance; **and**

(d) Any other documentation regarding student attendance.

(2) Records containing licensee information **shall be destroyed**[~~must be shredded~~] by the provider.

Section **9.**[~~10.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Continuing Education Provider Application", 09/07 edition;

(b) "Course Outline", 09/07 edition;

(c) "Real Estate Instructor Application", 09/07 edition;

(d) "Continuing Education Schedule", 09/07 edition;

(e) "Continuing Education Attendance Roster", 09/07 edition;

(f) "CE Course Evaluation Transmittal Form", 09/07 edition;

(g) "Continuing Education Course Evaluation", 09/07 edition;

(h) "Kentucky Continuing Education Completion Certificate", 09/07 edition;

(i) "Continuing Education Short Form Application" 09/07 edition;

(j) "KREC Guidelines for Classroom Management" 09/07 edition;

(k) "Generally Accepted Principles of Education", as adopted by the Real Estate Educators Association and the Kentucky Real Estate Commission, 09/07 edition;

(l) "Kentucky Core Course Provider Application", 09/07 edition;

(m) [~~"Core Course Schedule", 09/07 edition;~~

~~(n) "Kentucky Core Course Attendance Roster", 09/07 edition;~~

~~(o) "Kentucky Core Course Evaluation Transmittal Form", 09/07 edition;~~

~~(p) "Kentucky Core Course Evaluation", 09/07 edition;~~

~~(q) "Kentucky Core Course Completion Certificate", 09/07 edition; and~~

~~(r)~~] "Kentucky Real Estate Commission Out-of-State Continuing Education Compliance Form", 09/07 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

[~~(1)(a) Except as provided in paragraph (b) of this subsection, an active licensee shall meet the requirements of KRS 324.085(1) by attending a continuing education course sponsored or approved by the commission that meets the requirements established in this section of this administrative regulation.~~

~~(b) An active licensee shall attend a commission-approved core course once every four (4) years. The core course shall:~~

~~1. Satisfy the licensee's mandatory continuing education requirement for the year in which the course is taken;~~

~~2. Be a six (6) hour comprehensive review of the requirements of KRS Chapter 324, 201 KAR Chapter 11, common and federal law relating to real estate, and the standards of practice for a real~~

~~estate licensee; and~~

~~3. Be taken according to the following schedule:~~

~~a. If the licensee's birth month is January, February, or March, the licensee shall take the core course in the first year of a four (4) year cycle.~~

~~b. If the licensee's birth month is April, May, or June, the licensee shall take the core course in the second year of a four (4) year cycle.~~

~~c. If the licensee's birth month is July, August, or September, the licensee shall take the core course in the third year of a four (4) year cycle.~~

~~d. If the licensee's birth month is October, November, or December, the licensee shall take the core course in the fourth year of a four (4) year cycle.~~

~~(2) To apply for approval of a continuing education course, a sponsor shall submit a:~~

~~(a) Completed Continuing Education Course Application, which shall:~~

~~1. Include information concerning curriculum, instructors, and educational materials and policies; and~~

~~2. Be signed by the sponsor's administrator to indicate compliance with applicable law and the requirements of this administrative regulation;~~

~~(b) Copy of the Certificate of Approval from the State Board for Proprietary Education, if the sponsor is:~~

~~1. Not an accredited college or university; and~~

~~2. Is certified by the State Board for Proprietary Education;~~

~~(c) Completed Real Estate Instructor Application for each instructor, as required by 201 KAR 11:175; and~~

~~(d) Copy of all advertising or brochures advertising the continuing education course.~~

~~(3) To receive approval, an education course shall consist of topics that shall:~~

~~(a) Enable a student to better understand the brokerage business; and~~

~~(b) serve the public.~~

~~(4) A course that is self-motivational in nature shall not be approved.~~

~~(5) A course instructor shall:~~

~~(a) Be reasonably competent by educational background or work experience;~~

~~(b) Have adequate knowledge of the course material; and~~

~~(c) Be an "approved instructor" under the prelicensure education requirements established in 201 KAR 11:175.~~

~~(6) An education course shall be sponsored by:~~

~~(a) An accredited real estate school;~~

~~(b) A school that has been given a certificate of approval by the Kentucky Board of Proprietary Education;~~

~~(c) An appropriate governmental regulatory body; or~~

~~(d) An approved real estate school.~~

~~(7) A sponsor shall:~~

~~(a) At least thirty (30) days prior to the scheduling of a continuing education course, submit to the commission a completed Continuing Education Schedule that identifies the course provider, course title and number, instructor, date, time, and location;~~

~~(b) Give to each attendee listed on the roster a completed Continuing Education Completion Certificate;~~

~~(c) Within ten (10) days of a continuing education course, submit to the commission:~~

~~1. A completed Continuing Education Attendance Roster, which shall include the name, address, and Social Security number of each attendee, in alphabetical order;~~

~~2. Each completed Continuing Education Course Evaluation completed by each attendee listed on the roster; and~~

~~3. A completed CE Course Evaluation Transmittal Form;~~

~~(d) Permit monitoring and inspection by the commission; and~~

~~(e) Make the course available to all licensed agents, subject to space limitations.~~

~~(8) The commission education director shall submit the information required in subsection (7)(a) of this section to the Real Estate Commission for approval or rejection of the course.~~

~~(9) An education course shall consist of a minimum of three (3) hours. One (1) hour of continuing education shall be allowed for each fifty (50) minutes of actual attendance.~~

~~(10) An escrowed licensee shall not be required to attend a continuing education course. Before a license is changed from escrow to active, a licensee shall provide the commission with documentation of the completion of the current calendar year's continuing education requirements. If the licensee has not completed a commission-approved core course in the previous four (4) years as required by subsection (1)(b) of this section, the core course shall become the current calendar year's continuing education requirement for a license changing from escrow to active.~~

~~(11) A licensee shall not be required to attend a continuing education course during the first calendar year in which he is first licensed in Kentucky.~~

~~(12) An active license shall not be renewed unless the licensee has complied with the provisions of this administrative regulation.~~

~~(13)(a) A licensee shall complete the mandatory continuing education requirements of this administrative regulation by December 31 of each calendar year.~~

~~(b) Proof of completion of the mandatory continuing education requirements shall be submitted to the commission on or before January 15 of the following calendar year.~~

~~(c) If a licensee fails to comply with the provisions of paragraphs (a) and (b) of this subsection, the executive director shall notify him as soon as practicable on or after January 15 of the calendar year immediately following the year in which continuing education requirements were not fulfilled.~~

~~(d) A license shall not be cancelled if a licensee:~~

~~1. Places his license in escrow; or~~

~~2. Completes the requirements of a delinquency plan that complies with subsection (14) of this section.~~

~~(e) A licensee who fails to either place his license in escrow or file the delinquency plan on or before February 15 immediately following the year in which continuing education requirements were not fulfilled as required by subsection (14) of this section shall have his license cancelled as of that date.~~

~~(14) On or before February 15 of the calendar year immediately following the year in which continuing education requirements were not fulfilled, a licensee shall submit a written delinquency plan to complete the continuing education requirements for the previous calendar year.~~

~~(a) The delinquency plan shall provide that the continuing education requirements for the previous calendar year shall be completed on or before June 15 immediately following the year in which continuing education requirements were not fulfilled.~~

~~(b) A $200 fine shall be assessed against each licensee who fails to complete the continuing education requirements of KRS 324.085(1) by the end of the calendar year in which the hours were required.~~

~~(c) If a licensee fails to complete the requirements of the delinquency plan on or before June 15, the licensee will be notified of the deficiency in writing by the commission by July 15.~~

~~(d) The Real Estate Commission shall notify all licensees who failed to meet the requirements of the delinquency plan of the date on which the Real Estate Commission will conduct a hearing to consider suspending the licensee's license for failure to meet continuing education requirements and failure to met the delinquency plan requirements. If the Real Estate Commission suspends the license after hearing, the licensee shall not be allowed to activate his license unless, within (90) ninety days of the expiration of the suspension, he;~~

~~1. Completes the current years continuing education requirements;~~

~~2. Submits required documentation to reinstate the license; and~~

~~3. Pays all necessary renewal and transfer fees as required by KRS 324.287.~~

~~(e) The Real Estate Commission shall offer licensees who have failed to meet continuing education requirements and have failed to meet the delinquency plan conditions the opportunity to enter a final agreement whereby the licensee pays a fine of $500 and agrees to take the delinquent educational hours on or before August 31 rather than be suspended;~~

~~(f) If the delinquent licensee fails to enter the agreement to pay $500 and complete the delinquent hours before August 31, a hearing shall be held and the licensee's license shall be suspended for~~

~~six (6) months if the Real Estate Commission determines the licensee has failed to meet the requirements of this section;~~

~~(g) If a licensee enters an agreement to pay $500 and to complete the delinquent hours before August 31 and fails to either pay the fine or complete the hours, the Real Estate Commission shall notify the licensee of the date on which the Real Estate Commission will conduct a hearing to determine whether the licensee has paid the $500 and completed the delinquent hours before August 31. The Real Estate Commission shall suspend the licensees' license if the Real Estate Commission determines the licensee has failed to meet the requirements of this section; and~~

~~1. To reinstate a suspended license at the conclusion of the six (6) month period, the licensee shall, within ninety (90) days of the expiration of the suspension:~~

~~a. Complete the current year's continuing education requirements;~~

~~b. Submit required documentation to reinstate the license;~~

~~c. Pay all necessary renewal and transfer fees as required by KRS 324.287;~~

~~d. Attend a Kentucky Real Estate Commission Core Course and six (6) hours of continuing education related to the study of real estate law.~~

~~2. If the licensee does not comply with the requirements of subparagraph 2 of this paragraph, after ninety (90) days:~~

~~a. The license shall be cancelled; and~~

~~b. The licensee shall meet the requirements for initial licensure, including retaking the examination.~~

~~(15) A licensee who places his license in escrow under the provisions of subsection (13)(d) of this section shall not reactivate his license unless he has:~~

~~(a) Completed the current year's mandatory continuing education requirements;~~

~~(b) Paid the fees required by KRS 324.287 and under this administrative regulation; and~~

~~(c) Attended the core course as required by subsection (1)(b) of this section.~~

~~(16) The time requirements established in this administrative regulation may be extended by the commission if:~~

~~(a) A true hardship or other good cause clearly warrants relief; and~~

~~(b) The request for extension is received in writing on or before February 15 of the calendar year immediately following the year in which continuing education requirements were not fulfilled or July 1 if the licensee has entered a delinquency plan.~~

~~(17) Licensees who attend continuing education in another state may receive approval for continuing education courses completed in another state provided:~~

~~(a) The regulatory jurisdiction where the continuing education course is held accepts courses held in Kentucky for continuing education credit in the jurisdiction;~~

~~(b) The real estate regulatory agency of the state where the course is held approved the course for continuing education;~~

~~(c) The course is conducted during the calendar year for which continuing education credit is sought;~~

~~(d) The course enables the licensee to better understand the real estate brokerage business;~~

~~(e) The licensee submits proof of completion of the out-of-state course to the Kentucky Real Estate Commission through a Course Completion Certificate or other documentation certificate, which indicates course completion. The documentation certificate shall provide the:~~

~~1. Name and residence address of the licensee seeking continuing education credit;~~

~~2. Name of the course for which credit is sought;~~

~~3. Course number if one exists;~~

~~4. Number of hours completed and for which credit is sought;~~

~~5. Continuing education provider's name;~~

~~6. A signature from a representative of the continuing education provider documenting the licensee's course attendance for which continuing education credit is sought;~~

~~7. Regulatory jurisdiction where the course is approved for continuing education credit; and~~

~~8. An outline of the specific course for which continuing education credit is sought if the outline is specifically requested by the Kentucky Real Estate Commission.~~

~~(f) The completion documentation certificate shall be provided to the Kentucky Real Estate Commission within fourteen (14) days of the licensee's receipt of the certificate from the regulatory body where the course is approved for continuing education credit.~~

~~(g) The licensee seeking continuing education credit for courses not specifically approved by the Kentucky Real Estate Commission shall submit a completed "Kentucky Real Estate Commission Out-of-state Continuing Education Form".~~

~~(h) The Kentucky Real Estate Commission may review:~~

~~1. The course completion form or other completion documentation; and~~

~~2. The course outline.~~

~~(i) If after review of the course completion form, other completion documentation, or course outline, the Real Estate Commission determines the course does not merit continuing education credit, the Real Estate Commission may deny continuing education credit for the course. The Real Estate Commission shall notify the licensee of this denial and a brief explanation of the reasons for denial.~~

~~(18)(a) A licensee who teaches an approved continuing education course shall be entitled to:~~

~~1. One (1) hour of credit for each hour of instruction he teaches; and~~

~~2. Two (2) hours credit for preparation for each course he teaches.~~

~~(b) The instructor's supervisor shall submit a written request for credit to be awarded for teaching a class. The request shall contain the instructor's name, date and name of course, and the number of hours.~~

~~(c) The instructor shall not receive credit more than once in a calendar year for teaching a specific course.~~

~~(19) Hours of instruction in prelicense real estate education courses shall be credited to the mandatory continuing education requirements.~~

~~(a) The licensee shall submit a transcript or course completion certificate for the prelicense course in order to receive credit toward the continuing education requirements for that calendar year.~~

~~(b) An instructor of an approved prelicense real estate course shall receive credit toward his continuing education requirements. Instructor credit for a prelicense course shall comply with the requirements for a continuing education course, as established in subsection (18) of this section.~~

~~(20) Hours of mandatory continuing education exceeding the amount required shall not be carried forward to the next year's requirements.~~

~~(21) The provisions of this administrative regulation shall not apply to any person licensed by the commission prior to June 19, 1976.~~

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

~~(a) "Continuing Education Course Application", 11/97 edition, Kentucky Real Estate Commission;~~

~~(b) "Continuing Education Schedule", 11/97 edition, Kentucky Real Estate Commission;~~

~~(c) "Continuing Education Attendance Roster", 11/97 edition, Kentucky Real Estate Commission;~~

~~(d) "CE Course Evaluation Transmittal Form", 11/97 edition, Kentucky Real Estate Commission;~~

~~(e) "Continuing Education Course Evaluation", 11/97 edition, Kentucky Real Estate Commission;~~

~~(f) "Continuing Education Completion Certificate", 11/97 edition, Kentucky Real Estate Commission; and~~

~~(g) "Kentucky Real Estate Commission Out-of-state Continuing Education Compliance Form", 10/00 edition, Kentucky Real Estate Commission.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.~~]

ARVEL J. MCMAHAN, Chairperson

APPROVED BY AGENCY: September 14, 2007

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CONTACT PERSON: Y. Denise Payne Wade, Staff Attorney,

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GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, January 7, 2008)

201 KAR 11:240. Distance education requirements[~~, and education via interactive television requirements, generally; exemptions; course criteria; course provider requirements~~].

RELATES TO: KRS 324.046(5), 324.085(1), (2), 324.281(7)
STATUTORY AUTHORITY: KRS 324.085(1), 324.281(5), (7), (8), 324.282
NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.282 authorizes the Kentucky Real Estate Commission to promulgate administrative regulations necessary to carry out and enforce the provisions of KRS Chapter 324. This administrative regulation establishes the requirements for courses offered through distance education.

Section 1. Definitions. (1) "Continuing education course" means a program of at least three (3) fifty-(50) minute hours taken primarily to satisfy license renewal requirements for individuals holding a sales associate's license or a broker's license.

(2) "Distance education course" means a continuing education course or a pre-license course that is taught in a setting where the teacher and the student are in separate locations and that uses instructional methods that include internet-based training, computer-based training (CBT), satellite transmission or teleconferencing.

(3) "Prelicense course" means a course that satisfies an education requirement to obtain a real estate sales associate's or broker's license, generally consisting of forty-eight (48) fifty (50) minute hours or more. [~~Examples of a prelicense course include: Real Estate Principles I or II, Real Estate Law, Real Estate Marketing, Property Management, Real Estate Finance, Real Estate Investment, Brokerage Management, Construction and Blueprints, Real Estate Appraisal, Real Estate Auctioneering, Commercial Real Estate, or other real estate topics deemed appropriate by the commission.~~]

Section 2. Distance Education Approval Process Course Requirements. (1)**(a)** The design and format of all continuing education and prelicense courses offered through means of distance education shall be certified by the Association of Real Estate License Law Officials (ARELLO) or the International Distance Education Certification Center (IDECC).

(b) Continuing education and prelicense courses conducted for academic credit in an accredited college or university via interactive television shall be exempt from this requirement, but shall satisfy the requirements **established**[~~set out~~] in Section 5 of this administrative regulation.

(2) Any secondary provider, who obtains an ARELLO or IDECC certified course from a primary provider or course developer, shall obtain the certification as a secondary provider before the course may be offered to Kentucky licensees.

(3) **A course**[~~Courses~~] shall be offered only in the delivery format in which **it was**[~~they were~~] certified. Components of the course may not be added, deleted or altered by the provider in order to fulfill different licensing requirements for a particular jurisdiction.

(4)**(a) An instructor for a**[~~Instructors for~~] distance education **course**[~~courses~~] shall be approved by the commission pursuant to the requirements set out in 201 KAR 11:175.

(b) Each course shall have an approved **instructor**[~~instructor(s)~~] available to answer questions from students.

(c) The individual applying for approval as an instructor shall complete the course before submitting the application to the commission for its approval.

(5)**(a)** If the ARELLO or IDECC certification is discontinued for any reason, the provider shall immediately notify the **commission.**

(b)[~~KREC.~~] Approval of the course shall be suspended pending recertification.

(c) If the certification for a primary provider is discontinued for any reason, any approved secondary provider's approval shall also be suspended pending recertification of the primary provider.

(6)**(a)** The commission shall require approval of the course content **as established in 201 KAR 11:170 and 201 KAR 11:230**.

(b) The content of the course shall be in a topic specifically related to real estate.

(c) License law or regulations from other states and general skills computer classes shall not satisfy this course-content requirement.

(7)**(a)** The provider shall be approved by the commission and meet all other requirements for education as outlined in the KRS Chapter 324 and its **administrative**[~~corresponding~~] regulations.

(b) A course[~~Courses~~] shall be open to all licensees.

Section 3. Distance Education Course Requirements. (1) **A distance education course**[~~Distance education courses~~] shall provide mastery of the material and be developed in accordance with the following guidelines:

(a) The material shall be divided into learning units, modules, or chapters;

(b) Each unit shall contain learning objectives that are comprehensive enough to ensure that the course will **likely** be mastered by the student upon completion of the material;

(c) The course shall provide a structured learning method designed to enable students to attain each objective;

(d) The course shall provide a means to assess the student's performance on a regular basis during each unit of instruction and before proceeding to the next unit;

(e)**1.** The course shall provide a method for tracking the length of time a student spends on the course.

2. A student shall not be able to bypass the course materials and advance directly to the end-of-module quizzes or exercises that are included to assess the student's performance;

(f) Security shall be provided to ensure that the student receiving credit is the one who actually completes the course;

(g)**1.** For **a**[~~all~~] continuing education **course**[~~courses~~], the student shall pass a final exam that shall be included as the last module of the course, in order to receive credit.

2. One (1) retake of the final examination **shall**[~~may~~] be allowed.

3. Each course shall have an item bank from which the final examination questions shall be pulled.

4. The bank shall contain multiple choice items and have thirty (30) percent more questions than required on the final examination, so that retake exams will have some unique new questions.

5. The final examination shall have a minimum of**:**

a. Twenty-five (25) questions for a three (3) hour course**;**

b.[~~,~~] Thirty (30) questions for a four (4) hour course**; and**

c.[~~and~~] Fifty (50) questions for a six (6) hour course;

(h)**1. A**[~~All~~] prelicense distance education **course**[~~courses~~] shall contain a monitored final examination arranged for the student by the instructor for the course.

2. The examination shall cover both the content area covered by the course and the applicable real estate laws and regulations which apply to those content areas.

3. Each course shall have an item bank from which the final examination questions **shall**[~~will~~] be pulled.

4. The bank shall contain multiple choice items and have thirty (30) percent more questions than required on the final examination, so that retake exams will have some unique new questions.

5. A forty-eight (48) hour course shall contain a minimum of**:**

a. Seventy-five (75) items**;** and

b. A ninety-six (96) hour course shall contain at least 100 questions.

6. One (1) retake exam **shall**[~~may~~] be allowed;

(i)**1. A prelicense final examination**[~~Prelicense final examinations~~] shall be monitored by the approved instructor for the course or another individual designated by the instructor who is not a relative or a business associate of the student.

2. The monitor may be:

a. A certified librarian**;**

b.[~~,~~] A public school administrator**;**

c.[,] College professor; or

d.[, or] Other approved real estate instructor who may be associated with the school that offers the course.

3. The monitor shall sign a statement that he or she is not affiliated with the student in any way.

4. The monitor shall:

a. Verify that the person taking the examination is the person registered for the course;

b.[,] Observe the student taking the exam;

c.[,] Assure that the student does not use aids of any kind;

d.[and] That a calculator is nonprogrammable;

e.[,] Assure that any time limitations on the final examination are not exceeded;

f.[,] Certify to the provider that all requirements for the final examination have been met; and

g.[, and] Submit to the provider, a signed and notarized statement to that effect;

(j)1. Each student shall complete an affidavit which certifies that he or she has personally completed all components of the course and the final exam with no assistance from persons other than the instructor.

2. The certification shall include the date of completion and the student's signature, which may be provided electronically.

3. Credit may be denied and disciplinary action taken if it is determined that a licensee received assistance on a distance education course or the final exam.

(2)(a) To obtain credit for a distance education course, a licensee shall complete the course within the time frame allotted by the school for prelicense courses or within the calendar year for continuing education, unless the licensee is completing the course to comply with a continuing education delinquency plan as outlined in 201 KAR 11:230, or to comply with an order of the commission.

(b) Completion date for all courses shall be the date the student completes the final examination with a passing score of at least seventy-five (75) percent.

Section 4. Distance Education Provider Requirements. (1)(a) A provider shall submit the appropriate application for approval and a copy of the ARELLO or IDECC certification form and summary sheet.

(b) The application shall include:

1. A complete copy of the program on the medium that is to be used;

2.[,] All hardware or software required to review the material;

3.[,] A link to the internet site;

4.[,] A copy of the final examination question bank and key for each course; and

5.[, and] A copy of any student materials.

(c) The application and other required documents shall be submitted at least forty-five (45) [to sixty (60)] days prior to the commission's meeting date, to allow adequate time for review.

(2) The provider shall have reasonable oversight of a student's work in order to ensure that the student completing the work is the one who is enrolled in the course.

(3)(a) The provider shall ensure that approved instructors are available to assist students who have questions regarding:

1. The technology used in the delivery;

2.[,] The course content; or

3.[, or] The completion requirements.

(b) The provider shall ensure that the approved instructor has knowledge of both the content and the technology required to complete the program.

(c) A student[Students] shall not be required to call more than one person to obtain answers to questions about the course.

(4)(a) The provider shall include a complete description of the hardware and software or other technology required by the student in order to complete the course.

(b) The provider shall include an explanation of the safeguards against loss of data resulting from inadvertent hardware or software failure.

(5) The provider shall include a detailed explanation of how the course measures, documents and records the student completion of the material, and any activities or exercises required to achieve mastery of the material.

(6)(a) The provider shall obtain an evaluation[evaluations] from each student on forms developed by and available from ARELLO or IDECC, whichever is applicable.

(b) An evaluation[Evaluations] may be submitted to the provider electronically and a copy of each form shall be returned along with the attendance roster and other documents required by the commission for continuing education courses.

(c) Attendance rosters for each approved continuing education course shall be submitted on a semi-monthly[monthly] basis and shall include:

1. Provider's name;

2.[,] Course name and number assigned by the commission;

3.[,] Total enrollment for the month;

4.[,] Licensee's full legal name;

5.[,] Residence address;

6.[,] Identifying information; and

7.[, and] The date of completion for each student, so that compliance with various deadlines can be verified.

(d) A completion certificate[Completion certificates] shall be issued to the student[students] upon completion of the course and the final exam.

(7)(a) For a prelicensure course, a provider[For pre-license courses, providers] shall issue a completion certificate to the student. The document shall contain:

1. The provider's name;

2[,] Course name;

3.[,] number of hours earned;

4.[,] Beginning and completion date for the course;

5.[,] Student's full legal name; and

6.[, and] Residence address.

(b) This document shall be submitted with the student's license application.

Section 5. Interactive Television Requirements. (1) A course[Courses] offered for academic credit via interactive television in an accredited college or university shall not be subject to the ARELLO or IDECC certification requirement, if the following criteria are met: There shall be two (2) way audio and video connections between the instructor and the student; College personnel shall be stationed at each remote site to handle technology problems that may arise and to monitor attendance of students during the class; The program shall be one that has been properly approved by the college accrediting body as fulfilling the requirements for academic credit; and Documentation shall be supplied to the commission along with the application for approval which outlines the compliance with this criteria. The course or program shall be ARELLO or IDECC certified, if any of the requirements in paragraphs (a) trough (d) are not met.

Section 6. Incorporation by Reference. (1) "Distance Education Information Sheet", 09/07 edition, Kentucky Real Estate Commission, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

ARVEL J. MCMAHAN, Chairperson

APPROVED BY AGENCY: September 14, 2007

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CONTACT PERSON: Y. Denise Payne Wade, Staff Attorney, Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville, Kentucky 40223, phone (502) 429-7250, fax (502) 429-7246.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(As Amended at ARRS, January 7, 2008)

201 KAR 11:450. Broker management course.

RELATES TO: KRS 324.046(1)(a)

STATUTORY AUTHORITY: KRS 324.046(1)(a), 324.281(5), 324.282

NECESSITY, FUNCTION, AND CONFORMITY: KRS 324.046(1)(a) gives the commission the authority to promulgate an administrative regulation outlining a brokerage management skills course for all broker applicants. KRS 324.281(5) gives the commission the authority to promulgate administrative regulations. This administrative regulation outlines the requirements of the brokerage management skills course and incorporates the curriculum by reference.

Section 1. **An**[~~Every~~] applicant for a broker's license shall first attend a three (3) academic credit hour brokerage management skills course as part of his or her twelve (12) hours of broker prelicense education real estate courses pursuant to KRS 324.046(1)(a).

Section 2. The brokerage management skills course shall:

(1) Satisfy three (3) hours of the applicant's twelve (12) hours of real estate courses required to become a broker;

(2) Be a three (3) academic hour comprehensive review of all the skills necessary to run a brokerage office in accordance with:

(a) KRS Chapter 324;

(b) 201 KAR Chapter 11;

(c) Common law and federal law relating to real estate; and

(d) The standards of practice for a real estate broker pertaining to adequate supervision of all sales associates affiliated with the broker;

(3) Require each student successfully completing the course to develop a sample business plan, a sample financial plan and an office policy and procedure manual; and

(4)**(a)** Require each successful student to take a comprehensive, closed-book examination consisting of at least seventy-five (75) multiple choice [~~fifty (50)~~] questions and to pass the test with a minimum score of seventy-five (75) percent.

(b) One (1) retake of the examination shall be permitted.

(c) The examination shall be submitted to the commission for approval prior to use in the course.

(d) The commission shall review each proposed examination for content to ensure that each course topic is covered and tested.

(e) If certain areas are lacking, the commission shall issue recommendations as to how to improve the examination and shall allow the school thirty (30) days to resubmit the examination for approval.

(5) Require schools and instructors to take appropriate steps to maintain the confidentiality of the final examinations at all times. These steps shall include:

(a) Maintaining examinations and answer keys in a secure place accessible only to the school administrator and the instructor,

(b) Prohibiting students from retaining copies of the final examination[~~,~~] answer sheets; and

(c) Monitoring the students at all times when examinations are being conducted.

Section 3. Instructors. (1) An instructor teaching this course shall have at least three (3) years of previous experience within the past five (5) years as a Kentucky approved instructor of prelicense courses.

(2) Each instructor shall attend a commission-approved training program specifically designed for this course prior to teaching the course for the first time.

(3) All approved prelicense schools shall be notified when a training program has been scheduled, and it shall be the school's responsibility to notify any instructors that wish to attend the training program [~~The commission shall maintain a list of dates and times when the mandated training program is conducted and provide the list to instructors upon request~~].

(4) Upon completion of the training course, the instructor's request for approval shall be submitted to the commission for approval, along with the course materials [~~An instructor with the required experience who has completed the mandatory training program shall make a written request to the commission for approval to teach the course~~].

[~~(5) Following a recommendation from the education director, the commission shall consider the request and approve or disapprove each request.~~]

(5)[~~(6)~~] The commission shall notify the provider and instructor of its decision in writing.

(6)[~~(7)~~] In order to retain[~~their~~] approval to teach this course, **an instructor**[~~instructors~~] [~~an instructor~~] shall attend all subsequent training programs that the commission deems necessary based upon changes in license laws and administrative regulations.

Section 4. Course Approval. Section 4. Course Approval. (1) To obtain approval for the course, the school shall submit a course syllabus which outlines the requirements for the course and other attachments, specifically:

(a) **The** time period over which the course will be conducted and a sample schedule of how course will be offered;

(b) **The** course description and objectives;

(c) **The** attendance and participation requirements;

(d) When projects **shall**[~~will~~] be due;

(e) When the final examination **shall**[~~will~~] be conducted;

(f) **The** grading scale;

(g) **The** textbooks being used and how material will be taught in conjunction with completion of the projects, the final exam;

(h) The name and contact information for each instructor who will teach the course, subject to completion of the required instructor training program;

(i) **A** copy of the final examination bank and answer key; and

(j) **A** copy of the mandated curriculum.

(2) Course approval may be withdrawn by the commission if the instructor fails:

(a) To follow the prescribed outline;

(b) To require the students to develop a sample business and financial plan or a sample office policy and procedure manual;

(c) To require the students to take and pass a comprehensive examination and obtain a seventy-five (75) percent pass rate; or

(d) To attend training programs required by the commission.

(3)[~~(2)~~] Any school whose course approval has been withdrawn may apply to the commission for an opportunity to be heard. The commission shall make a decision as to reinstatement of course approval.

Section 5. Monitoring [~~Effective Date~~]. (1) **A school**[~~Schools~~] shall permit monitoring by the commission or its authorized representative [~~The effective date of this administrative regulation shall be September 1, 2002. Any broker applicant who will be taking the real estate examination on or after this date shall submit proof of completion of a brokerage management course as part of the required real estate course hours for a broker's license~~].

(2)**(a) A school**[~~Schools~~] shall submit, [~~randomly at the commission's request,~~] sample copies of projects submitted by students and graded by the instructor as an evaluation of the course.

(b) If the instruction or content of the projects is deficient, so as to impair the value of the course, a notice of deficiency shall be issued to the school.

(c) The school shall be given an opportunity to correct the deficiency within thirty (30) days [~~The commission shall accept credits for any brokerage management course that has been completed at an approved Kentucky proprietary school or an accredited college or university within the state of Kentucky if the course was taken within two (2) years prior to the effective date of this administrative regulation and the course, or a substantially similar course, has previously been accepted by the commission as prelicense education under KRS 324.046(1). The applicant shall provide a course completion certificate to the commission along with the request for approval~~].

[~~(3) The commission shall provide credit to an applicant who has completed at least a three (3) semester hour brokerage management course outside the state of Kentucky within the two (2) year period prior to the effective date of this administrative regulation in accordance with 201 KAR 11:210.~~]

Section 6. Incorporation by Reference. (1) "Brokerage Management Curriculum", 09/07 edition is incorporated by reference. [~~The following material is incorporated by reference:~~

~~(a) "Brokerage Management Curriculum (September, 2007)~~ [~~(March, 2001)~~]~~"; and~~

[~~(b) "Generally-Accepted Principles of Education (May, 1994)"~~]

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Real Estate Commission, 10200 Linn Station Road, Suite 201, Louisville Kentucky 40223, Monday through Friday, 8 a.m. to 4:30 p.m.

ARVEL J. MCMAHAN, Chairperson

APPROVED BY AGENCY: September 14, 2007

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GENERAL GOVERNMENT CABINET
Kentucky Board Of Embalmers and Funeral Directors
(As Amended at ARRS, January 7, 2008)

201 KAR 15:110. Funeral establishment criteria.

RELATES TO: KRS 316.010, **316.030,** 316.125**, 316.127, 16 C.F.R. 453.2(b)(2)-(5), 29 U.S.C. 651**[~~,~~]

STATUTORY AUTHORITY: KRS 316.210(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 16.125(1) requires a license from the board for the operation of a funeral establishment. [~~KRS 316.010 defines the categories of funeral establishment.~~]KRS 316.210(1) authorizes the board to promulgate administrative regulations to carry out and enforce the provisions of KRS Chapter 316. This administrative regulation establishes the minimum requirements for the licensing and operation of a funeral establishment.

Section 1. Definitions. (1) "Chapel" means an area where a family and the public may pay their respects to a deceased human being, or an area where funerals or memorial services can be held, and which is a separate and distinct area from the preparation room.

(2) "Preparation room" means an area with a minimum of 100 square feet**,** which is used exclusively to prepare dead human bodies for final disposition if arterial or cavity injection is a function of the establishment, and which is separate and distinct from the viewing area, chapel, or any other part of the establishment.

(3) "Viewing area" means an area in which a family and **the** public may pay their respects to a deceased human being.

Section 2. General Requirements. (1) The interior and exterior of the establishment shall be kept free and clean of litter, dirt, debris, and clutter or other objects or conditions which present a potential or actual hazard to the health, safety, or welfare of the public and the funeral establishment's employees.

(2) A person shall not be permitted to be in a preparation room during the course of embalming a dead human body except employees of the establishment in which the human body is being embalmed, registered apprentices, members of the family of the deceased, or authorized representatives of the deceased, or any other individual otherwise allowed by law.

(3) An establishment shall maintain the following documents, if applicable:

(a) Board approved embalming reports which[~~,~~] set out the name of each body embalmed, the date of death, the date and time that the embalming took place, the name and signature of the embalmer**,** and the embalmer's license number**;**[~~.~~]

(b) Proper documentation of the authorization to embalm**,** and the embalming reports shall be maintained for a minimum of three (3) years; **and**

(c) Accurate and current copies of the casket price list, the outer burial container price list, the general price list, and the statement of funeral goods and services selected as required by the Federal Trade Commission in 16 C.F.R. 453.2(b)(2) through (5), as maintained in the general practice of the establishment.

(4) A license for an establishment shall not be granted for establishments located in any public office building, strip mall, public storage, mini-storage, mini-warehouse, multiunit storage complex**,** or similar facility used by members of the general public for the storage of goods.

(5) The building in which an establishment is located shall be in conformity with the requirements of the applicable state and local statutes, administrative regulations, ordinances, and zoning provisions.

(6)**(a)** Each establishment shall display a sign which identifies the name of the establishment.

(b) The sign shall be in a location that is visible from an adjacent public road.

(7) An establishment shall have adequate rest room facilities for members of the public if there will be public funeral services or visitation or ceremonial services conducted in the establishment.

Section 3. Visitation and Ceremonial Funeral Service Establishment. (1) All new Visitation and Ceremonial Funeral Service Establishments that provide visitation and ceremonial funeral services shall have facilities which meet the following requirements:

(a) The establishment shall have a viewing area or chapel which shall be at least 400 square feet in size.

(b) The establishment shall have the applicable equipment necessary for conducting and arranging funeral services, including**:**

1. Tables or desks and chairs for arrangement conferences;

2. Seating for the viewing room;

3. Casket bier;

4. Register book stand;

5. Officiant stand;

6. Flower display stands; and

7. Organ[~~but not limited to: tables or desks and chairs for arrangement conferences, seating for viewing room, casket bier, register book stand, officiant stand, flower display stands, organ~~], piano, music-producing equipment, or any suitable combination of these items.

(2) Existing visitation and ceremonial funeral establishments that are subject to the "grandfather clause" of KRS 316.127 shall have until July 31, 2007 to meet the requirements established in subsection (1) of this section.

Section 4. Embalming Service Establishment. (1) An establishment that provides embalming services shall have facilities and a preparation room which comply with the requirements of the Occupational Safety and Health Act, 29 **U.S.C. 651** [~~U.S.C.A. 651 et seq.,~~] and shall also require:

(a) At least one (1) approved embalming table and all professional instruments necessary for embalming and the preparation of dead human bodies; and

(b) That a preparation room shall not be used as a storage area other than for supplies pertaining to the embalming and preparation of dead human bodies.

(2) Human remains shall not be prepared for disposition except by a licensed embalmer or a Level 2 apprentice, in accordance with the provisions of KRS 316.030, in a preparation room which meets the requirements of this administrative regulation.

(3) All windows and doors shall be constructed or screened to prevent persons from looking into the preparation room.

(4) Each preparation room entrance shall be lockable and shall display a sign indicating private or restricted entry.

(5) Licensed embalmers may perform removals and transport dead bodies.

[~~(6) Any other equipment or feature used in the establishment must meet the applicable state or federal law requirements.~~]

Section 5. Full Service Funeral Establishments. (1) In addition to the regulatory requirements set forth in Sections 3 and 4 of this administrative regulation, a new full service funeral establishment shall meet the following additional requirements:

(a) The establishment shall have an area available to the public devoted to the display of funeral merchandise. Caskets or casket sections may be viewed by sample, computer, catalog, or other display that corresponds to the current general price list for the funeral establishment; and

(b) In addition to the viewing area or chapel, the establishment shall have a separate room or office for arranging funerals. This room may be used to satisfy the requirements of paragraph (a) of this subsection.

(2) Existing full service funeral establishments that are subject to the "grandfather clause" of KRS 316.127 shall have until July 31, 2007 to meet the requirements established in subsection (1) of this section.

Section 6. Inspections. (1) Each establishment shall be subject to inspection at the convenience of a board inspector.

(2) The **inspector**[~~inspector(s)~~] shall inspect the establishment to see if it has suitable and dignified quarters appropriate for the category of services for which it is licensed.

(3) An establishment that provides embalming services shall have completed and signed embalming reports available for inspection.

(4) The following forms shall be available for inspection, with a copy available to the inspector for the inspector's records:

(a) A current general price list of charges for services to the public;

(b) A current price list of caskets as charged to the public; and

(c) A current price list of outer burial containers as charged to the public.

Section 7. Establishment Supervisor. (1) Each facility establishment shall have a Kentucky-licensed funeral director and a Kentucky-licensed embalmer or an individual licensee as required by KRS 316.125(2)(b)4 to manage and supervise the facility.

(2) The establishment shall notify the board of a change of the funeral director or the embalmer supervisor in the form of an affidavit signed by the licensed owner and the new supervisor within five (5) working days of the change.

(3) A supervisor who leaves the employment of an establishment shall notify the board within five (5) working days.

Section 8. Transferability. (1) Establishment licenses shall not be transferable.

(2) **If**[~~When~~] a sale, lease, relocation, or name change occurs:

(a) The existing establishment license may remain in force by mutual consent of the parties for a period of thirty (30) days or until the next regularly scheduled board meeting, whichever comes first.

(b) During the transition period, the establishment shall be operated under the name shown on the existing license until a new license is issued.

(c) An application for a new license shall be submitted for review at the next board meeting following the sale, lease, relocation, or name change.

(3)(a) Following the death of a Kentucky-licensed owner, funeral director, or embalmer, the establishment may operate for ninety (90) days while under temporary supervision by a licensed funeral director or embalmer. A licensee who is already identified as the supervisor for another establishment under KRS 316.125(4) may act as the temporary supervisor for the establishment under this section for the limited ninety (90) day period.

(b) The temporary supervisor shall be identified to the board in writing within fifteen (15) days of the death of the Kentucky-licensed owner, funeral director, or embalmer.

(c) A licensee may be the temporary supervisor for only one (1) establishment at a time.

Section 9. Opening of an Establishment. (1) An establishment shall not be operated or be opened for business prior to the issuance of an establishment license by the board for that establishment.

(2) Violation of this section **shall**[~~may~~] be grounds for denial of the application for a license by the board.

Section 10. Advertising and Signage. (1) An establishment shall use the exact name listed on the license for the establishment in all advertisements and signage.

(2) Descriptive terms shall be distinctly separated from the name of the establishment in all signage and advertisements unless registered as part of the official name.

(3) Any advertising, designation, or signage for the funeral establishment shall match the classification on the establishment's license.

Section 11. Publication of Obituary. **A**[~~Any~~] licensed establishment which conducts a funeral service and agrees to draft and arrange the publication of an obituary, **shall**[~~must~~] list the name of the licensed funeral director who arranges and conducts the service as well as the name and address of the establishment that the funeral director is practicing through.

Section 12. Incorporation by Reference. (1) Application for Funeral Establishment, 2006 edition, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Embalmers and Funeral Directors, 8412 Westport Road, Louisville, Kentucky 40242-7025 [~~W. Hwy. 22, Suite 7, Crestwood, Kentucky 40014~~], Monday through Friday, 8 a.m. to 4:30 p.m.

RONNIE RAYMOND, Director

APPROVED BY AGENCY: November 14, 2007

FILED WITH LRC: November 15, 2007 at 11 a.m.

CONTACT PERSON: Ronnie Raymond, Kentucky Board of Embalmers and Funeral Directors, 8412 Westport Road, Louisville, Ky, 40242, phone (502) 426-4589.

COMMERCE CABINET
Kentucky Department of Fish and Wildlife Resources
(As Amended at ARRS, January 7, 2008)

301 KAR 2:222. Waterfowl hunting requirements.

RELATES TO: KRS 150.010(40), 150.025(1), 150.305(1), 150.330, 150.340(1), (3), 150.600(1), 150.990, 50 C.F.R. Parts 20, 21

STATUTORY AUTHORITY: KRS 150.025(1)(a), (b), 150.340, 150.600(1), 50 C.F.R. Parts 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) and 150.600(1) authorize the department to establish statewide waterfowl hunting requirements and to specify seasons and other requirements on Wildlife Management Areas. KRS 150.340 authorizes the department to establish bag and creel limits for waterfowl. This administrative regulation establishes waterfowl seasons in the Ballard Wildlife Management Area, Central Kentucky Wildlife Management Area, Cumberland Lake Wildlife Management Area, Addington Enterprises Wildlife Management Area, Land Between the Lakes, Ohio River Waterfowl Refuge, Robinson Forest Wildlife Management Area, and Yellowbank Wildlife Management Area which differ from and are shorter than federal regulations to optimize public use within sound waterfowl conservation practices.

Section 1. Definitions. (1) "Blind" means:

(a) A concealing enclosure;

(b) A pit; or

(c) A boat.

(2) "Blind site" means a specific location identified by the department or approved by the U.S. Army Corps of Engineers where hunting is permitted.

(3) "Party" means:

(a) A person hunting alone; or

(b) From two (2) to four (4) persons who share a blind.

(4) [~~(3)~~] "Permanent blind" means a blind left in place more than twenty-four (24) hours.

(5) [~~(4)~~] "Regular waterfowl season" means the late migratory bird hunting seasons referred to in 50 C.F.R. Part 20.

(6) [~~(5)~~] "Statewide waterfowl seasons" means the provisions of this administrative regulation and of 301 KAR 2:221.

(7) [~~(6)~~] "Waterfowl" is defined in KRS 150.010(40).

Section 2. A waterfowl hunter shall not use or carry a shotgun shell:

(1) Longer than three and one-half (3 1/2) inches; or

(2) Containing shot:

(a) Made of lead;

(b) Not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or

(c) Larger than size "T."

Section 3. In the Ballard Reporting Area, as described in 301 KAR 2:224:

(1) A waterfowl hunter shall:

(a) Hunt from a blind unless hunting in flooded, standing timber;

(b) Not hunt from or establish a blind:

1. Within 100 yards of another blind; or

2. Within fifty (50) yards of a property line; and

(c) Not possess more than one (1) shotgun while in a blind.

(2) The requirements of subsection (1) of this section shall not apply when the Conservation Snow Goose Order is the only waterfowl season open, excluding falconry seasons.

Section 4. (1) Except as specified in this section or in Section 5 of this administrative regulation, on a Wildlife Management Area:

(a) A waterfowl hunter shall not establish or hunt from:

1. A permanent blind; or

2. A blind within 200 yards of:

a. Another blind; or

b. A waterfowl refuge;

(b) A person shall not hunt in a designated recreation area or access point;

(c) More than four (4) persons shall not occupy a blind; and

(d) A hunter shall remove decoys and personal effects from the Wildlife Management Area daily, except that a hunter drawn for a multiday hunt may leave decoys in place for the duration of the [~~his~~] hunt, at his or her own risk.

(2) A person wishing to establish or use a permanent blind or blind site on Barkley Lake, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake, [~~or~~] Sloughs, or Doung Travis Wildlife Management Areas:

(a) Shall first obtain a permit from the U.S. Army Corps of Engineers or the department;

(b) May designate one (1) other person as a partner;

(c) Shall not hold more than one (1) permit per area; and

(d) Shall participate in a drawing for a blind permit on the Barkley, Barren, Green, Paintsville, [~~or~~] Sloughs, or Doung Travis Wildlife Management Areas:

1. At the time of the drawing, the hunter shall possess a valid hunting license, a Kentucky waterfowl permit and a federal waterfowl permit; and

2. Shall be eighteen (18) years of age or older.

(3) The holder of a blind permit shall:

(a) Construct or establish his or her blind or blind site before November 20 or forfeit the permit;

(b) Not lock a blind; and

(c) Unless an extension of time is granted, remove his blind and blind materials within thirty (30) days of the close of the regular waterfowl season or be ineligible for a permit the following year.

(4) A blind or blind site not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-serve basis.

(5) A blind restriction specified in this section shall not apply to a falconer if a gun or archery season is not open.

Section 5. On a Wildlife Management Area: (1)(a) Statewide waterfowl seasons shall apply unless otherwise stated in this section.

(b) If specific hunting dates and times are given in this section, a person shall not hunt waterfowl except on those dates and times.

(c) Paragraph (b) of this subsection shall not apply to a waterfowl hunting season opening before October 15.

(2) A person shall not:

(a) Hunt on an area or portion of an area marked by a sign as closed to hunting;

(b) Enter an area or a portion of an area marked by signs as closed to public access; or

(c) Hunt a species on an area or a portion of an area marked by signs as closed to hunting for that species.

(3) Wildlife management areas in Ballard County.

(a) Sliding shell limit scale.

1. The shell limit shall be twenty-five (25) when the daily bag limit for ducks is greater than three (3) and the Canada goose limit is greater than or equal to two (2); and

2. The shell limit shall be fifteen (15) when the daily bag limit for ducks is less than or equal to three (3) and the Canada goose limit is less than or equal to two (2).

(b) At least one (1) person in a blind shall be eighteen (18) years of age or older while hunting from a department blind at Ballard WMA or Boatwright WMA.

(c) At Ballard Wildlife Management Area:

1. Waterfowl hunting shall be permitted during an open waterfowl season occurring before October 15.

2. The duck, coot, and merganser season shall be December 5 [~~6~~] through January 27 [~~28~~].

3. The goose season shall be December 5 [~~6~~] through January 31.

4. Youth waterfowl season shall be the first weekend in February.

5. A waterfowl hunter shall not hunt on a Monday, Tuesday, Christmas Day, or New Year's Day.

6. A waterfowl hunter shall:

a. Apply in advance in accordance with Section 6 of this administrative regulation;

b. Case his gun while using department-supplied transportation to and from a blind;

c. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream from Dam 53 to fifty (50) yards downstream from the southern border of the Ballard Wildlife Management Area from October 15 through March 15; and

d. Waterfowl hunters shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

(d) At Boatwright Wildlife Management Area, including the Olmsted, Peal and Swan Lake units:

1. A person shall:

a. Not hunt on a Monday, Tuesday, Christmas Day or New Year's Day;

b. Check in daily at the designated check station by 8 a.m. during duck and Canada Goose season; and

c. Check out after 8 a.m. by depositing a card at a department designated drop point.

2. Duck season shall be open one-half (1/2) hour before sunrise to sunset Thanksgiving Day for four (4) consecutive days on portions of Boatwright Wildlife Management Area open to hunting.

3. A department blind or blind site shall be assigned through a daily draw.

4. A blind or blind site shall be offered to another hunter on a first-come, first-served basis, if the blind or blind site has not been assigned during the draw that day.

5. Waterfowl hunters shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

6. Waterfowl hunters shall hunt from department blinds or within twenty-five (25) feet of blind sites [~~designated points~~] as marked by the department.

7. Boat blinds shall not be permitted in flooded timber, except during periods of flood where no other access is possible. When boat blinds are permitted, there shall be a 200 yard distance between boat blinds.

8. On the Olmsted and Peal Units, a person shall not:

a. Hunt waterfowl except from a permanent department blind or within twenty-five (25) feet of department blinds if the area is under flood and only accessible by boat; or

b. Hunt waterfowl except from a blind site [~~location~~] assigned by the department during Canada Goose season.

9. On the Peal unit:

a. More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;

b. More than four (4) parties shall not hunt at the same time on Fish Lake;

c. More than three (3) parties shall not hunt at the same time on First Lake or Second Lake;

10. On the Swan Lake Unit, a person shall not hunt duck, coot, merganser, or goose other than a Canada Goose except from a

blind or blind site assigned by the department and unless:

a. The season for these species is open; and

b. The season for Canada Goose is also open.

c. Except, that area open for hunting during the Canada goose season **shall**[~~will~~] also be open during the Snow Goose Conservation Order without blind restrictions.

(4) Barkley Lake Wildlife Management Area.

(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.

(b) A person shall establish a permanent blind within ten (10) yards of his or her blind site [~~assigned and numbered blind marker~~] within:

1. An area bounded by the mouth of Donaldson Creek, the east side of the Cumberland River Channel and the boat ramp at Linton.

2. An area bounded by the Pryor's Creek Light, the west side of the Cumberland River Channel, Land Between the Lake Road 204 and river mile 73.5.

(c) The following refuge areas are closed to the public:

1. From November 1 through February 15 within an area west of the main river channel between river mile 51 (Hayes Landing Light) and the TVA power transmission lines at river mile 55.5.

2. From November 1 through March 15 within Honker Bay and Fulton Bay as marked by buoys and signs.

(d) From October 15 through March 15, a person shall not hunt:

1. Within 200 yards of; or

2. Within the area defined by the levee between river mile 68.4 and river mile 70.4.

(5) Barren River Lake Wildlife Management Area.

(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.

(b) A waterfowl hunter:

1. May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and

2. Shall not use a breech-loading firearm elsewhere on the area.

(6) Buckhorn Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(7) Central Kentucky Wildlife Management Area. A person shall not hunt waterfowl from October 15 through January 14.

(8) Cumberland Lake Wildlife Management Area. The following sections shall be closed to the public from October 15 through March 15:

(a) Wesley Bend, the area bounded by Fishing Creek, Beech Grove Road and Fishing Creek Road.

(b) Yellowhole, the area bounded by Fishing Creek Road and Hickory Nut Road.

(9) Daniel Boone National Forest Pioneer Weapons Wildlife Management Area. A waterfowl hunter:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area. Addington Enterprises Wildlife Management Area shall be closed to waterfowl hunting.

(10) Doug Travis WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) Waterfowl hunters shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

(c) On Forked Lake, Indian Camp Lake, Fish Lake, Number Four Lake, and Black Lake, all waterfowl hunting after November 1:

1. **Shall**[~~Will~~] be from blind sites assigned by a random preseason draw.

2. Shall be within ten (10) yards of a blind site, even during periods of Mississippi River flooding.

(11) Grayson Lake Wildlife Management Area. A person shall not hunt waterfowl:

(a) Within the no wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) [~~From the shore of the state park;~~

~~(d)~~] On Deer Creek Fork; and

(d) [~~(e)~~] Within three-quarters (3/4) of a mile from the dam.

(12) [~~(11)~~] Green River Lake Wildlife Management Area.

(a) A permanent blind may be used as specified in Section 4 of this administrative regulation.

(b) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(13) [~~(12)~~] Kaler Bottoms Wildlife Management Area. Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(14) [~~(13)~~] Land Between the Lakes.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond;

2. The eastern one-third (1/3) of Smith Bay; and

3. The eastern two-thirds (2/3) of Duncan Bay.

(b) The following portions shall be closed to waterfowl hunting:

1. The Environmental Education Center; and

2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit when hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

2. From a boat over a flooded portion of Land Between the Lakes when the lake level is above elevation 359.

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or

2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(f) A waterfowl hunter shall remove decoys and personal effects daily.

(15)[~~(14)~~] Nolin River Lake Wildlife Management Area. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(16)[~~(15)~~] Obion Creek Wildlife Management Area. Shooting hours are one-half (1/2) hour before sunrise until 2 p.m.

(17)[~~(16)~~] Ohio River Waterfowl Refuge.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to the public from October 15 through March 15, except for quota deer hunting.

(18)[~~(17)~~] Peabody Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) The following portions, as posted by signs, are closed to the public from October 15 through March 15:

1. Sinclair Mine, as bounded by Hwy 176, the haul road, and Goose Lake Road as posted by signs; and

2. Homestead, as bounded by Cool Spring-Wysox Road, H2 Road, H1 Road, and H6 Road, and areas posted by signs.

(19) [~~(18)~~] The main block of Robinson Forest Wildlife Management Area shall be closed to waterfowl hunting.

(20)[~~(19)~~] Sloughs Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) Waterfowl hunters shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.

(c) On the Grassy-Pond Powell's Lake Unit, a waterfowl hunter:

1. Shall use a permanent blind provided by the department;

2. Shall remove decoys and personal effects from a blind or the vicinity of a blind daily; and

3. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(d) On the Jenny Hole-Highlands Creek Unit, a waterfowl hunter:

1. Shall not establish or hunt from a blind closer than 200 yards from another hunting party; and

2. Shall remove decoys and personal effects from blinds or the vicinity of blinds daily.

3. A permanent blind may be used as specified in Section 4 of this administrative regulation.

(e) If the Ohio River reaches a level that requires boat access,

a waterfowl hunter:

1. May hunt from a boat without regard to department blinds; and

2. Shall not hunt closer than 200 yards from another boat.

(f) A waterfowl hunter on the Crenshaw and Duncan Tracts of the Sauerheber Unit:

1. Shall hunt from the blind assigned by the department through a drawing as stipulated in Section 6 of this administrative regulation;

2. May occupy a blind not claimed by the permittee one (1) hour before sunrise;

3. Shall be limited to twenty-five (25) shells when the daily bag limit for ducks is greater than three (3) and the Canada goose limit is greater than or equal to two (2);

4. Shall be limited to fifteen (15) shells when the daily bag limit for ducks is less than or equal to three (3) and the Canada goose limit is less than or equal to two (2);

5. Shall be accompanied by an adult if under eighteen (18) years of age; and

6. The waterfowl blind for mobility-impaired persons will be open to the public only if the permit holder or another mobility-impaired person has not shown up to hunt on that day by one (1) hour before sunrise.

(g) The Crenshaw and Duncan II tracts of the Sauerheber Unit shall be closed to hunting except waterfowl from November 1 through March 15.

(h) The remainder of the Sauerheber Unit shall be closed to the public from November 1 through March 15.

(21)[~~(20)~~] South Shore Wildlife Management Area.

(a) Closed to all hunting November 15 through January 30, except quota hunt waterfowl and dove hunting.

(b) The quota hunt requires advance application and selection.

(c) Hunters shall use department blinds.

(d) Department blinds are allocated by preseason draw. Applicants shall mail a three (3) by five (5) white index card in an envelope to Grayson Lake WMA post marked between November 1 and November 15.

(22)[~~(21)~~] Starfire Wildlife Management Area shall be closed to waterfowl hunting.

(23)[~~(22)~~] Taylorsville Lake Wildlife Management Area. The portion east of Van Buren Boat Ramp as marked by a sign shall be closed to the public from November 1 through the last day of February, except for quota deer hunting, and the waters from the boat ramp to the Highway 248 bridge, which are open to fishing until November 15.

(24)[~~(23)~~] Westvaco Wildlife Management Area.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) The portion south of the Westvaco Road as posted by a sign shall be closed to the public from November 1 through March 15.

(25)[~~(24)~~] Yatesville Lake Wildlife Management Area. The Greenbrier Creek Branch of Yatesville Lake, and Yatesville Lake, including all of the islands, north of the mouth of the Greenbrier Creek Branch **shall be**[~~are~~] closed to all waterfowl hunting.

(26)[~~(25)~~] Yellowbank Wildlife Management Area. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

Section 6. (1) A person wishing to apply to hunt waterfowl on Ballard or Sauerheber Unit of Sloughs Wildlife Management Areas shall:

(a) Apply to the vendor supplied by the department by calling (877) 598-2401;

(b) Register between September 1 and September 30; and

(c) Pay a three (3) dollar application fee for each application.

(2) A person shall not apply more than one (1) time for each hunt.

(3) Each hunter drawn may bring up to three (3) additional hunters.

(4) A person shall be declared ineligible to hunt in department waterfowl quota hunts during the remaining portion of the waterfowl season and declared ineligible to apply for the following year's waterfowl quota hunts if the hunter violates state or federal regulations while waterfowl hunting on WMAs in which hunter numbers are regulated as part of a preseason or daily drawing.

Section 7. State Parks. (1) There shall be no waterfowl hunting on state parks except as specified in the subsection (2) of this section.

(2) State Parks [~~Greenbo State Park~~].

(a) There shall be an open waterfowl hunt December 13 through January 31 [~~15~~] on designated areas [~~selected portions~~] of Barren River, Grason Lake, Greenbo Lake, Lake Barkley, Lincoln Homestead, Painstsville Lake, Pennyrile Lake, and Yatesville Lake State Parks [~~and adjacent shoreline~~].

(b) Hunters shall check in each day at the front desk of the [~~Greenbo Lake~~] state park or a designated check-in location on days in which the park office is not open.

(c) During check-in hunters shall be provided a map showing designated areas [~~portions~~] of the park [~~lake~~] that are open to waterfowl hunting.

(d) Hunters shall check out each day at the front desk of the [~~Greenbo Lake~~] state park or a designated check-out location on days in which the park office is not open.

(e) Statewide waterfowl hunting requirements apply.

Section 8. Mentor Waterfowl Hunts at Minor Clark and Peter W. Pfeiffer Fish Hatcheries. (1) There shall be youth waterfowl mentor hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries.

(2) Dates shall be determined and published in the current Waterfowl Hunting Guide.

(3) **Youths**[~~Youth~~] shall register in advance and carry postcard notification the day of the hunt.

(4) Youths shall be accompanied by an adult eighteen (18) years or older.

(5) One (1) youth shall not be accompanied by more than one (1) adult.

(6) One (1) adult may accompany two (2) youths.

(7) Hunting shall only be permitted from established blinds and hunters shall not change blinds.

(8) Four (4) hunters shall be permitted per blind.

(9) Hunters may only discharge firearms from the blind.

(10) Hunters may only have fifteen (15) shotshells per hunter.

(11) Hunters shall immediately retrieve downed birds. Chasing or harassing waterfowl outside the blinds is strictly prohibited.

(12) Firearms shall be encased when traveling to and from the blind.

(13) Hunting shall end at noon and hunters shall be off the premises by 1 p.m.

(14) All decoys and equipment shall be removed at the end of each day's hunt.

(15) Hunters shall report harvest by dropping hunt permit at designated location.

MARK S. CRAMER, Deputy Commissioner
For DR. JONATHAN GASSETT, Commissioner
GEORGE WARD, Secretary
APPROVED BY AGENCY: August 17, 2007
FILED WITH LRC: November 14, 2007
CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-3400, fax (502) 564-9136.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 2:020. Definitions for 501 KAR Chapter 2.

RELATES TO: KRS 532.060, [~~196.035, 197.020,~~] 532.100
STATUTORY AUTHORITY: KRS 196.035, 197.020, [~~532.060,~~] 532.100
NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(4) requires the Department of Corrections to house quali-

fying Class D and Class C felons in county jails **and promulgate administrative regulations establishing required programs for the jails where they are housed**. This administrative regulation establishes the definitions used in 501 KAR Chapter 2, which implements the required housing program.

Section 1. Definitions. (1) "Assessment and Classification Center" or "AC Center" means the units at Roederer Correctional Complex [~~Kentucky State Reformatory~~] and Kentucky Correctional Institution for Women **that**[~~which~~] initially receive all convicted felons, except for those sentenced to the death penalty, into the Kentucky Adult Correctional System.

[~~(2) "Boot camp" means the voluntary program for offenders that incorporates group and individual counseling, academics, and physically strenuous work and exercise that is operated at Roederer Correctional Complex.~~]

(2)[~~(3)~~] "Class C felon" means an inmate convicted of a Class C felony that meets the requirements established in KRS 532.100(4)(b).

(3)[~~(4)~~] "Class D felon" means an inmate convicted of a Class D felony that meets the requirements established in KRS 532.100(4)(a) or (b).

(4)[~~(5)~~] "Classification branch manager" means the Department of Corrections employee who approves inmates for placement in jails and in halfway house facilities throughout the state and oversees the prerelease programs [~~oversees the Classification Branch and the classification process~~].

(5)[~~(6)~~] "Close custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(6)[~~(7)~~] "Community custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

[~~(8) "Community detention branch manager" means the one who approves inmates for placement in jails and in halfway house facilities throughout the state and oversees the prerelease programs.~~]

(7)[~~(9)~~] "Controlled intake inmate" means a convicted felon who is entering into the Kentucky Adult Correctional System.

(8)[~~(10)~~] "Educational good time" means a credit on an inmate's sentence for an educational accomplishment pursuant to KRS 197.045(1) [~~197.045~~].

(9)[~~(11)~~] "Escape" is defined in KRS 520.010(5).

[~~(10) "Exceptional good time" means a credit on an inmate's sentence for performing an exceptionally meritorious service or a duty of outstanding importance pursuant to KRS 197.045(3).~~]

(10)[~~(11)~~][~~(12)~~] "Jail" is defined in KRS 441.005(1).

(11)[~~(12)~~] "KOMS" means Kentucky Offender Management System.

(12)[~~(13)~~] "Maximum custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(13)[~~(14)~~] "Medium custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(14)[~~(15)~~] "Meritorious good time" means a credit on an inmate's sentence for good conduct pursuant to KRS 197.045(3) [~~for performing an exceptionally meritorious service or a duty of outstanding importance pursuant to KRS 197.045~~].

(15)[~~(16)~~] "Minimum custody" means that the inmate meets the requirements for that classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(16)[~~(17)~~] "Restricted custody" means that the inmate meets the requirements for that subcategory of the minimum custody classification level established in the Department of Corrections Classification Manual, incorporated by reference in 501 KAR 6:080.

(17)[~~(18)~~] "Statutory good time" means a credit on an inmate's sentence [~~for good conduct~~] pursuant to KRS 197.045(1) [~~197.045~~].

(18)[~~(19)~~] "Waiver" means that the department has granted the county an exemption from housing any Class D or Class C felons in its county jail pursuant to KRS 532.100.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman
APPROVED BY AGENCY: October 12, 2007
FILED WITH LRC: October 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 2:030. Administration.

RELATES TO: KRS [~~196.035, 197.020,~~] 532.100
STATUTORY AUTHORITY: KRS 196.035, 197.020, 532.100
NECESSITY, FUNCTION, AND CONFORMITY: KRS 523.100(4) requires the Department of Corrections to house qualifying Class D and Class C felons in county jails. This [~~proposed~~] administrative regulation establishes [~~sets forth~~][~~the purpose of this program and~~] the division responsible for the administration of the program.

Section 1.[~~Purpose.~~] This program shall be administered by the Division of Local Facilities.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman
APPROVED BY AGENCY: October 12, 2007
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 2:050. Transfer requests.

RELATES TO: KRS [~~196.035, 197.020(1),~~] 532.100
STATUTORY AUTHORITY: KRS 196.035, 197.020(1), 532.100(5)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(5) establishes the circumstances in which a county jailer may request the Department of Corrections to transfer a Class D or Class C felon housed in the county jail to a state corrections institution. This administrative regulation establishes the process for the jailer to request a transfer.

[~~Section 1. Eligibility. Any county housing qualified Class D and Class C felons pursuant to KRS 532.100(4) shall be eligible to continue to do so unless the department, through its minimum jail standards enforcement procedures established by KRS 441.075, orders a county jail to cease housing Class D and Class D felons.~~]

Section **1.**[~~2.~~] Transfer Requests. (1) To request a transfer of a

Class D or Class C felon housed in a county jail to a state corrections institution pursuant to KRS 532.100(5), the county jailer shall:

(a) Request the transfer on an "Inmate Priority Movement Form" [~~a Request for Transfer" form~~]; and

(b) Submit the form to the Division of Local Facilities, which shall review the form and forward it with a recommendation to the commissioner.

(2) The commissioner or his designee shall approve or deny the request.

(a) If approved, a copy of the form shall be forwarded to the Classification Branch Manager so that an appropriate transfer can be arranged.

(b) If denied, a copy of the form shall be returned to the jailer who may appeal the denial as provided by KRS 532.100(5).

Section **2.**[~~3.~~] Incorporation by Reference. (1) "Inmate Priority Movement Form." 6/07, ["~~Request for Transfer, 2/95"~~] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, Division of Local Facilities [~~Office of General Counsel~~], 2439 Lawrenceburg Road, P.O. Box 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

RELATES TO: KRS 196.035, 197.020, 532.100
STATUTORY AUTHORITY: KRS [~~196.035, 197.020,~~] 532.100
NECESSITY, FUNCTION, AND CONFORMITY: KRS 532.100(4) requires the Department of Corrections to house qualifying Class D and Class C felons in county jails. This administrative regulation establishes the procedures to implement the required housing program.

Section 1. **Eligibility. Any county housing qualified Class D and Class C felons pursuant to KRS 532.100(4) shall be eligible to continue to do so unless the department, through its minimum jail standards enforcement procedures established by KRS 441.075, orders a county jail to cease housing Class D and Class C felons.**

Section 2. Submission of Documents for Class D Felons. In any county jail housing Class D felons, the jailer shall forward to the assessment and classification center the following documents, within ten (10) working days of receipt of the judgment, for each Class D felon for whom a transfer has not been requested:

(1) Picture [~~with negative~~] which shall be updated annually;

(2) [~~Fingerprints;~~

~~(3)~~] Any detainers;

(3) [~~(4)~~] Any incident or disciplinary reports; and

(4) [~~(5)~~] Body identification sheet.

Section **3.**[~~2.~~] Custody Assignment for Class D Felons. (1) The assessment and classification center staff shall, within ten (10) working days of receipt of the presentence investigation and the judgment documents, review the inmate file and assign a custody **classification level** to the Class D felon.

(2) The AC Center staff shall forward the inmate file to Offender Information Branch, Central Office, which shall audit the file within five (5) working days of receipt.

(3) [~~Offender information shall forward the file to the~~]Central Office Offender Information [~~Director of Local Facilities~~], [~~who~~] shall notify the jailer of the custody **classification level** assignment.

(4) If the custody **level** assigned is minimum or community, the Class D felon may participate in community service work or any program offered outside the secure perimeter of the jail.

(5) If the custody **level** assigned is restricted, the Class D felon may:

(a) Only participate in community service work under direct supervision of jail staff; and

(b) Not participate in any outside program.

(6) If the custody **level** assigned is medium, close, or maximum, the Class D felon shall not be eligible to participate in any program or work outside the secure perimeter of the jail.

(7) The jailer may request the department to review the assignment ninety (90) days from the date of the last assignment. Any additional custody review may be completed as deemed necessary by the Classification Branch Manager.

Section **4.**[~~3.~~] Assignment of Class C Felons. (1) The assessment and classification center shall identify [~~potential~~] Class C felons and the Division of Local Facilities shall inform the jailer of any felon who qualifies under KRS 532.100(4).

(2) The jailer shall forward, within ten (10) working days of receiving the notice, the felon's fingerprints and photographs to the assessment and classification center, in order that the Class C felon may be processed into the program. The photograph shall be updated annually.

(3) The **AC**[~~assessment~~] center [~~director of local facilities~~] shall notify the jailer when an inmate has been assigned as a Class C felon.

(4) Class C felons, as inmates with a community custody level as required by KRS 532.100, may perform community service work.

Section **5.**[~~4.~~] Assessment Summary Reports. Prior to the meeting of the Parole Board, jail staff shall prepare and submit an assessment summary report on each Class D and Class C felon to the Offender Information Branch via KOMS or electronically.

Section **6.**[~~5.~~] Transportation. Jail staff shall be responsible for the transportation of a Class D or Class C felon except as specified in KRS 431.215(1) and 441.510.

Section **7.**[~~6.~~] Release Procedures. (1) The release of a Class D or Class C felon shall follow the procedure established by CPP 25.6, incorporated by reference in 501 KAR 6:020.

(2) Jail staff shall not release a Class D or Class C felon to any other county without advance notice to the Director of Local Facilities or designee and entering the external movement into KOMS. A Class D or Class C felon shall not be released to another state or to federal authorities without advance notice and approval of the Director of Local Facilities or designee.

(3) Jail staff shall notify the Director of Local Facilities or the Offender Information Branch of any detainer or holder lodged against the Class D or Class C felon by another jurisdiction.

[~~Section 7. Transfer to Boot Camp Program. (1) The jailer shall provide each inmate with information concerning the program during the inmate's orientation at the jail.~~

~~(2) Any inmate interested in the program shall apply to the assessment and classification center.~~

~~(3) Staff at the assessment and classification center shall review the file to determine if the inmate meets the basic eligibility criteria for the program. If the basic criteria have been met, the inmate shall be transferred to the assessment and classification center for additional tests. If the inmate does not meet physical and psychological requirements, he shall be returned to the jail of origin.~~]

Section **8.**[~~7.~~][~~8.~~] Furlough Program. (1) The Classification Branch Manager [~~Community Detention Branch Manager~~] shall have the authority and responsibility to grant and monitor any fur-

loughs of a Class D or Class C Felon.

(2) Eligibility for a furlough shall be determined as follows:

(a) The furlough of a Class D or Class C felon shall be a privilege, not a right.

(b) To be considered for a furlough, a community or minimum custody Class D felon or a Class C felon shall have spent at least sixty (60) days in the county jail since the date of the custody assignment.

(c) A Class D felon who is community custody or minimum custody or a Class C felon, who meets the requirement established in paragraph (b) of this subsection, may be considered for a forty-eight (48) hour furlough each quarter**, beginning** six (6) months after his final sentencing date. **The total time on furlough**[~~A furlough~~] shall not exceed eight (8) [~~furlough~~] days each calendar year. There shall be a minimum of sixty (60) days between furloughs.

(d) To be considered for a furlough, a probation or parole violator who is a community or minimum custody Class D or a Class C felon shall have spent at least sixty (60) days in the county jail since the date of the custody assignment.

(e) A probation or parole violator who is a community or minimum custody Class D or a Class C felon, who meets the requirement established in paragraph (d) of this subsection, may be considered for a forty-eight (48) hour furlough each quarter **beginning**, six (6) months after his commitment date. **The total time on furlough**[~~A furlough~~] shall not exceed eight (8)[~~furlough~~] days each calendar year. There shall be a minimum of sixty (60) days between furloughs.

(f) To be considered for a furlough, a Class D or Class C felon shall meet the furlough criteria established in CPP 25.4, incorporated by reference in 501 KAR 6:020, with the exception of the six (6) continuous months of minimum or community custody requirement.

Section **9.**[~~8.~~][~~9.~~] Escape. If a Class D or Class C felon escapes, the procedures established in CPP 25.6, incorporated by reference in 501 KAR 6:020, shall be followed.

Section **10.**[~~9.~~][~~10.~~] Medical Needs. The department shall pay each jail a per diem for state prisoners as established by KRS 532.100(6). The jail shall pay for routine medical and medication expenses. If the inmate requires an admission to a hospital with at least one (1) night stay or outpatient surgery in which a general anesthesia is used, the cost shall be paid by the department.

Section **11.**[~~10.~~][~~11.~~] Inmate Pay. A Class D or Class C felon on a work assignment shall be paid in accordance with CPP 19.3, incorporated by reference in 501 KAR 6:020.

Section **12.**[~~11.~~][~~12.~~] Good Time. For a Class D or Class C felon housed in a county jail, the awarding of:

(1) Statutory good time shall follow the procedures established in KRS 197.045(1)-(2);

(2) Meritorious good time shall follow procedures established in KRS 197.045(3) and CPP 15.3, incorporated by reference in 501 KAR 6:020.

(3) Educational good time shall follow procedures established in **KRS 197.045(1) and** CPP 20.1, incorporated by reference in 501 KAR 6:020.

Section **13.**[~~12.~~][~~13.~~] Annual Photograph. The jailer or a jail staff member shall take a photograph each year of each Class D and Class C inmate and immediately send it by United States mail to Offender Information Services, Central Office, P.O. Box 2400, Frankfort, Kentucky 40602 via KOMS or electronically.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Commissioner, Chairman

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CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 2:070. Work release.

RELATES TO: KRS **533.010**[~~533.010(14)~~], 533.025

STATUTORY AUTHORITY: KRS 196.035, 197.020, 533.010(14)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 533.010(14) requires the Department of Corrections to promulgate an administrative regulation to **develop written criteria for**[~~identify procedures for implementing~~] work release privileges granted by **the**[~~this~~] statute. This administrative regulation establishes work release procedures.

Section 1. **(1)** The criteria to be used in the determination of granting work release shall **be**[~~include~~] the following:

(a)[~~(1)~~] The defendant granted work privileges shall have a suitable job placement, at a lawful wage, as approved by the sentencing court.

(b)[~~(2)~~] The defendant's job placement shall be within the boundaries of the Commonwealth and shall not require travel outside of the Commonwealth.

(c)[~~(3)~~] The defendant shall provide or arrange transportation to and from the employment site in a lawful manner.

(d)[~~(4)~~] The defendant's employer shall be willing to cooperate with all law enforcement agencies in the verification of the conditions of the defendant's work release.

(2)[~~(5)~~] If **the** defendant is paying for a part of his incarceration through court-ordered work release, it shall be the responsibility of the Jailer or designee to notify the Department of Corrections. The amount paid by the defendant **toward**[~~towards~~] his incarceration shall be forwarded to the Department of Corrections on a monthly basis along with the jail housing bill. [~~The defendant shall pay for the cost of his incarceration as set by the sentencing court.~~]

Section 2. The jailer may deny work release privileges to a defendant for violating any duly promulgated or adopted rule of the jail governing inmate conduct or work release including:

(1) **Returning**[~~The defendant returning~~] to the jail under the influence of drugs or alcohol;[~~.~~]

(2) **Promoting**[~~The defendant promoting~~] or attempting to promote contraband; and[~~.~~]

(3) **Failing**[~~Failure~~] to notify the jailer of any change in the status of his employment.

Section 3. Upon denial of work release privileges, a written report shall be completed stating the reasons for the suspension of these privileges and citing the rule or regulation that has been violated.

(1) The jailer shall provide a copy of the report to the defendant within twenty-four (24) hours.

(2) The jailer shall file the report and supporting documentation with the court of jurisdiction within the time specified in KRS 533.010(13).

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Commissioner, Chairman,

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Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

RELATES TO: KRS 67A.028, 67B.020(1), **441.005,** 441.045, 441.055, Ky. Const. Sec. 99, 152**, 42 U.S.C. 15601-15609**
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes definitions for 501 KAR Chapter 3, regulating full-service jail facilities.

Section 1. Definitions. (1) "Ceiling" means the overhead area in any area of the jail [~~the multipurpose room~~] which is below the secure deck.
(2) "Dayroom" means a secure area with controlled access from the inmate living area, to which inmates may be admitted for daytime activities including dining, bathing, and selected recreation or exercise.
(3) "Deck" means the secure overhead area of the jail, which is part of the security perimeter.
(4) "Department" is defined in KRS 441.005(5).
(5) "Detoxification area" means an area used to hold one (1) or more chemically impaired persons temporarily during the detoxification process until they can care for themselves.
(6) "Direct supervision area" means an area used to house seventy (70) or fewer prisoners in which a corrections officer is always present and directly supervising the prisoners.
(7) "Dormitory" means**:**[~~;~~]
(a) An area equipped for housing not less than three (3) **nor**[~~or~~] more than thirty-six (36) persons; or
(b) If in a direct supervision area, an area equipped for housing not more than seventy (70) persons.
(8) **"Full-service jails" means jails that may house state prisoners pursuant to KRS 441.055 and that meet the standards established by 501 KAR Chapter 3.**
(9) "Holding area" means an area used to hold one (1) or more persons temporarily while awaiting processing, booking, court appearance, or discharge, or until they can be moved to a general housing area.
(10)[~~(9)~~] "Jail" is defined in KRS 441.005(1).
(11)[~~(10)~~] "Jail Administrator" means the official appointed by a regional jail board **and**[~~,~~]charged with the responsibility of administering the regional jail.
(12)[~~(11)~~][~~10~~] "Jail personnel" is defined in KRS 441.005(6).
(13)[~~(12)~~][~~(11)~~] "Jailer" means:
(a) The official duly elected or appointed pursuant to Section 99 or 152 of the Kentucky Constitution, charged with the responsibility of administering the jail;
(b) A department as defined in KRS 67B.020(1); or
(c) A correctional services division as created by KRS 67A.028.
(14)[~~(13)~~][~~(12)~~] "Medical authority" means the person or persons licensed and certified to provide medical care to prisoners in the jail's custody.
(15)[~~(14)~~][~~(13)~~] "Pat or frisk" means a manual search of a clothed person and includes a visual inspection of the open mouth.
(16)[~~(15)~~][~~(14)~~] "Penal type" means furnishings, fixtures, and equipment approved by the department.
(17)[~~(16)~~][~~(15)~~] "Prisoner" is defined in KRS 441.005(3).
(18)[~~(17)~~][~~(16)~~] "Prisoner living area" means a group of rooms or cells that provide housing for the prisoner population.
(19)[~~(18)~~] "PREA" means the Prison Rape Elimination Act, 42 U.S.C. 15601-15609.
(20)[~~(19)~~][~~(17)~~] "Probing of body cavities" means a manual or instrument search of a person's oral, anal, vaginal, or other body cavity, performed by medical personnel.
(21)[~~(20)~~] [~~(18)~~] "Safety vestibule" means a defined space that promotes security by the use of two (2) or more doors used to contain and observe those who pass.
(22)[~~(21)~~][~~(19)~~] "Sally port" means an enclosed, covered vehicular drive-in, located adjacent to the jail intake area [~~a vehicular drive-in, which shall be located in close proximity to the jail intake area~~].
(23)[~~(22)~~][~~(20)~~] "Security area" means a defined space whose physical boundaries have controlled ingress and egress.
(24)[~~(23)~~][~~(21)~~] "Security personnel" means full-time and part-time personnel operating within a security area.
(25)[~~(24)~~] "Special Needs Area" means an area used to hold one (1) person for direct observation when displaying **suicidal or violent tendencies or other physical or emotional expressions** [~~expressions, including but not limited to, suicidal and violent tendencies~~].
(26)[~~(25)~~][~~(22)~~] "Strip search" means a body search during which a person is required to open or remove clothing, during which a person is subject to visual inspection of the torso, female breast, genital area, anal area, and other body cavities.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:020. Administration; management.

RELATES TO: KRS 69.210, 202A.091, 441.055
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails **that**[~~which elect to~~] house state prisoners. This administrative regulation sets forth procedures [~~to be followed by jails which elect to house state prisoners~~] for the administration and management of those jails.

Section 1. Policy and Procedure-Organization. (1) The jailer or jail administrator for a jail **that houses**[~~which elects to house~~] state prisoners shall develop and maintain an organizational chart and an operations manual of policy and procedure that has been adopted by the fiscal court or regional jail authority and filed with the Department of Corrections.
(2) The written policy and procedures manual shall be made available to employees. Employees shall sign documentation attesting they have read and will comply with the jail's policy and procedure manual.
(3) The operations manual shall include**, at a minimum,**[~~but not be limited to~~] the following aspects of the jail's operation:
(a) Administration;[~~.~~]
(b) Fiscal management;[~~.~~]
(c) Personnel;[~~.~~]
(d) Security and control;[~~.~~]
(e) Sanitation and management;[~~.~~]
(f) Medical services;[~~.~~]
(g) Food services;[~~.~~]
(h) Emergency and safety procedures;[~~.~~]
(i) Classification;[~~.~~]
(j) Prisoner programs;[~~.~~]

(k) Prisoner services; and[.]

(l) Admission and release.

(4) The operations manual shall be reviewed and updated at least annually. All revisions shall be marked with the effective date and filed with the Department of Corrections.

Section 2. Legal Assistance. (1) The jailer for a jail **that**[~~which~~] elects to house state prisoners shall be represented and advised by the county attorney as provided in KRS 69.210.

(2) The county attorney shall advise the fiscal court in writing if legal representation or legal advisement to the jailer by that office is inappropriate or creates a conflict of interest. The fiscal court shall provide funds for adequate legal representation for the jailer if the jailer has acted within his official capacity and is involved in civil or criminal litigation as a result. The fiscal court shall be encouraged to carry liability insurance for the jail staff and other county officials.

Section 3. Legal Assistance for Regional Jails. [~~(1)~~] The jail administrator for a regional jail which elects to house state prisoners shall be represented and advised by the county attorney in the county in which the regional jail is located.

Section 4. [~~3.~~] Public Information. (1) The jailer for a jail that elects to house state prisoners shall develop and implement a procedure for the dissemination of information about the jail to the public, to government agencies, and to the media. The public and prisoners [~~prisoner~~] shall have access to the procedures.

(2) With the consent of the prisoner, news media shall be permitted to interview any prisoner as set forth in the jail's policy and procedure manual except if the safety and security of the jail is affected.

(3) Written policy and procedure shall set forth the time and length allowable for prisoner interviews.

(4) All official statements to the news media, relating to jail administration policy, shall be made by the jailer only or his designee.

(5) Release of prisoner information.[~~shall include the following:~~]

(a) All requests for information shall be addressed to the jailer.[~~;~~]

(b) Governmental agencies shall be provided with information pertinent only to their specific function.[~~; and~~]

(c) Private citizens shall only be provided with information **made available**[~~supplied~~] to the media.

(6) Information shall not be released that is detrimental to another prisoner.

Section 5. [4.] Information Systems. The jailer for a jail that elects to house state prisoners shall establish and maintain an information system that shall comply with the requirements of this section.

(1) Jail information and prisoner records shall be retained in written form or within computer records.

(2) Jail information and prisoner records shall be stored in a secure manner so that they are protected from theft, loss, tampering, and destruction. Written guidelines shall specify the length of time a prisoner record shall be maintained after a prisoner's release from custody and the conditions **under**[~~by~~] which archives are maintained.

(3) A telephonic report to the Department of Corrections shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence, and a final written report shall be made within forty-eight (48) hours. This report shall be placed in the jail record. Extraordinary or unusual occurrences shall include, but shall not be limited to:

(a) Death of a prisoner;[.]

(b) **Suicide or attempted**[~~Attempted~~] suicide that constitutes a serious health situation [~~or suicide~~];[.]

(c) Serious injury, whether accidental or self-inflicted;[.]

(d) **Escape or attempted escape**[~~Attempted escape or escape~~] from confinement;[.]

(e) Fire;[.]

(f) Riot;[.]

(g) Battery, whether by a staff member or prisoner;[.]

(h) Sexual assaults;[.]

(i) Occurrence of contagious or infectious disease, or illness within the facility;[.]

(j) Violent acts or behavior by either mental inquest detainees held under KRS Chapter 202A or prisoners known to be or suspected to be mentally ill or mentally retarded; and[.]

(k) Any serious event that threatens the safety or security of the facility or staff.

(4) **Each jail**[~~All jails~~] electing to house state prisoners shall keep a log of daily activity within the jail.

(5) Each jail electing to house state prisoners shall assign a staff member the responsibility to enter, maintain, and audit the training records for the jail's staff. The assigned staff member shall utilize the current DOC training records management system to meet this responsibility [~~maintain records on the types and hours of training completed by each employee~~]. A current and accurate personnel record shall be maintained on each employee. Each employee shall have access to his individual record.

(6) Each jail electing to house state prisoners shall be required to provide the Department of Corrections with a weekly population update that shall include the number of state prisoners, federal prisoners and county prisoners.

(7) Each jail electing to house state prisoners shall provide the Department of Corrections with a monthly "PREA" report via KOMS or electronically that shall include the number of incidents of sexual contact between staff, staff on inmate, inmate on staff, and inmate on inmate.

(8) Each jail electing to house state prisoners shall provide the Department of Corrections with all external movements of state prisoners via KOMS or electronically and on a daily basis. This information shall be sent to the Division of Local Facilities.

Section 6. [~~5.~~] Prisoner Records. (1) The information required by 501 KAR 3:120 and 3:130 for admission and release shall be retained for each prisoner. Other information retained in each prisoner's jail record shall include but not be limited to:

(a) Court orders;[.]

(b) Personal property receipts;[.]

(c) Infraction reports;[.]

(d) Reports of disciplinary actions;[.]

(e) Work record and program involvement; and[.]

(f) Unusual occurrences and **in the event of the**[~~if~~] death of a prisoner, disposition of the prisoner's property and remains.

(2) Medical records shall be maintained as required by 501 KAR 3:090.

(3) The jailer for a jail which elects to house state prisoners shall ensure that prisoner records are safeguarded in accordance with relevant federal and state laws and administrative regulations.

(4) The jailer shall **not release**[~~require that prisoners sign a "Release of Information Consent Form" prior to the release of~~] information, other than public information, to individuals other than law enforcement or court officials **unless the prisoner has signed a release of information consent form**. A copy of the signed consent form shall be maintained in the prisoner's record. This form shall include but not be limited to:

(a) Name of person, agency, or organization requesting information;[.]

(b) Name of facility releasing information;[.]

(c) Specific information to be disclosed;[.]

(d) Purpose of the information;[.]

(e) Date consent form is signed;[.]

(f) Signature of prisoner; and[.]

(g) Signature of employee witnessing the prisoner's signature.

(5) All jail records maintained on mental inquest detainees held under KRS Chapter 202A shall be kept separate from any other jail records. Mental inquest records are confidential and shall be made available for examination only as provided in KRS 202A.091. Upon an order of expungement pursuant to KRS 202A.091(2), the jailer for a jail **that**[~~which~~] elects to house state prisoners shall seal the records and the mental inquest detainee's stay at the jail shall be deemed never to have occurred.

This is to certify that the Jail Standards Commission has approved this administrative regulation prior to its filing by the De-

partment of Corrections with the Legislative Research Commission as required by KRS 13A.120(3) and 13A.220(6)(a).

JOHN D. REES, Chairman, Commissioner
APPROVED BY AGENCY: October 12, 2007
FILED WITH LRC: October 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:040. Personnel.

RELATES TO: KRS 441.045, 441.055, 441.115
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails **that** [~~which elect to~~] house state prisoners. This administrative regulation establishes personnel procedures to be followed in full-service jails.

Section 1. Staffing. (1) Each jail shall provide **twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) staff members, excluding communication staff.** [~~a minimum of two (2) staff members, communication staff excluded, per twenty-four (24) hour awake supervision for all prisoners.~~]If requested by the jailer or fiscal court, the Department of Corrections may conduct a staffing analysis.
(2) If a female prisoner is booked, detained, or otherwise lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications. All persons **who**[~~that~~] work inside the secure perimeter of the jail shall be at least twenty-one (21) years of age [~~Security employees shall be at least twenty-one (21) years of age~~].

Section 3. Compensation. Each employee shall receive a wage at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

Section 4. Training; Curriculum. (1) In order to qualify for the training expense allowance under KRS 441.115, the jailer shall successfully complete a minimum of forty (40) hours annual in-service training certified by the department.
(a) Local corrections training efforts shall be certified by the department **prior to the training**.
(b) The Curriculum Advisory Committee shall advise the department on topics for training curriculum.
(c) Jailer training shall be delivered on a regional basis by the department or by computer-based training, if appropriate.
(2) Jail personnel shall attend [~~receive~~] a minimum of sixteen (16) hours annual in-service training delivered by the department on a regional or local basis or approved by the department if delivered by another agency.
(3) Jail staff who are assigned to a direct supervision area shall receive forty (40) hours of preservice training related to direct supervision. The training shall be approved by the Department of Corrections.

Section 5. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every staff position.

Section 6. Physical Fitness. The jailer shall ensure a level of physical fitness is maintained that will allow each employee to satisfactorily perform his or her [~~their~~] duties.

Section 7. Code of Ethics. (1) The jailer shall make a written code of ethics available to each employee.
(2) The written code of ethics shall be incorporated in the jail's policy and procedures manual and shall include the following:
(a) An employee shall not:
1. Exchange a personal gift or favor with a prisoner, prisoner's family, or friends;
2. Accept any form of bribe or unlawful inducement;
3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;
4. Violate or disobey an established rule, administrative regulation, or lawful order from a superior;
5. Discriminate against a prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;
6. Employ corporal punishment or unnecessary physical force;
7. Subject a prisoner to physical or mental abuse;
8. Intentionally demean or humiliate a prisoner;
9. Bring a weapon or an item declared as contraband into the jail without proper authorization;
10. Engage in critical discussion of staff or a prisoner in the presence of another prisoner;
11. Divulge confidential information without proper authorization;
12. Withhold information which threatens the security of the jail, its staff, visitors, or the community;
13. Through negligence **or intentionally**, endanger the well-being of self or another;
14. Engage in a business or profitable enterprise with a prisoner; [~~or~~]
15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;[~~.~~]
16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail that the employee is employed by; or
17. Enter into an intimate, personal relationship with a former prisoner of the jail within six (6) months of that prisoner's release; and
(b) An employee shall:
1. Comply with established rules, administrative regulations, and lawful orders from a superior;
2. Treat each prisoner in a fair, impartial manner; and
3. Report a violation of the code of ethics to the jailer.
(3) A violation of the code of ethics shall be made a part of the employee's personnel file.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner
APPROVED BY AGENCY: October 12, 2007
FILED WITH LRC: October 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:050. Physical plant.

RELATES TO: KRS 441.045, 441.055, 441.064, 441.075
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails **that**[~~which elect to~~] house state prisoners. This administrative regulation establishes standards and procedures to be followed in the design and construction of full-service jails.

Section 1. Consultation. The department shall provide to a county government seeking to remodel an existing jail or construct a new jail, a consultant knowledgeable in the design, utilization, and operation of jails. The consultant shall meet with the appropriate officials of that county and advise them concerning:

(1) Site selection;

(2) Probable need as it relates to capacity and types of prisoners to be housed;

(3) Sources of financing for constructing;

(4) Laws and administrative regulations relating to treatment of prisoners;

(5) Laws and administrative regulations relating to facilities for prisoners;

(6) Sources of revenue for operations of the jail;

(7) Probable cost for operation of the jail; and

(8) Potential for sharing facilities with adjoining counties.

Section 2. Site Acceptance. A jail shall not be built without site acceptance by the department. The following criteria shall be considered in site selection:

(1) Size;

(2) Proximity to court;

(3) Proximity to community resources;

(4) Availability of public transportation;

(5) Environmental health;

(6) Adequate parking; and

(7) Provisions for future expansion.

Section 3. Construction Documents. Prior to the renovation or construction of any jail, **or for information review purposes,** plans and specifications shall be submitted to the department for review and approval. Plans and specifications for jail renovation or construction shall contain the following criteria and documentation:

(1) For major renovation or new construction or information review purposes, a programming phase, to include:

(a) Evaluation of existing facility;

(b) Population analysis as based on the NIC **(National Institute of Corrections)** staffing analysis, and **shall**[~~may~~] include, jail's operations, jail programs, court location, and transportation issues;

(c) Space requirements based on population analysis and standards for the facility and site outlined in this administrative regulation;

(d) Staffing analysis;

(e) Cost analysis to include construction and operation costs;

(f) Financing alternatives, if applicable;

(g) Design-construction time schedule; and

(h) Summary and recommendations.

(2) A schematic phase containing:

(a) A scale drawing of each floor plan with proposed rooms and areas one-eighth (1/8) inch minimum;

(b) A scale drawing of the site, locating the building, parking and other facilities one (1) inch equals fifty (50) feet;

(c) Documentation of site as to:

1. Size;

2. Proximity to court;

3. Proximity to community resources;

4. Availability of public transportation;

5. Environmental health;

6. Adequate parking; and

7. Provisions **for**[~~of~~] future expansion.

(d) Sections through the proposed structure indicating deck heights of rooms, mechanical spaces, roof slopes and other related information;

(e) Scale elevation drawing of exterior walls;

(f) Schematic cost estimate to include revised construction and operation costs; and

(g) A revised design-construction time schedule.

(3) A design development phase containing:

(a) A scale drawing on each floor plan with proposed rooms and areas with their dimensions one-eighth (1/8) inch minimum;

(b) All necessary construction drawings including construction details;

(c) Specifications for materials and workmanship;

(d) A proposed contract with general and special conditions;

(e) Engineering calculations for the foundations, structure, heating, ventilating, air conditioning, lighting and plumbing; and

(f) Detailed estimates of cost of land, site development, construction, financing, professional services, equipment and furnishings.

(4) Construction document phase containing:

(a) Revised design development construction drawings following review by all applicable agencies, signed by an architect registered in the Commonwealth of Kentucky, and revised if necessary to include changes required by the department; and

(b) Revised design development specifications of material and workmanship following review by all applicable agencies.

(5) A contract administration phase containing:

(a) Signed copies of the contracts for construction, financing and bonding;

(b) Signed copies of the construction permits; and

(c) Documentation of required review by other applicable state agencies.

(6) Every change order shall be submitted to the department for review and approval.

Section 4. Approval of Renovation, Construction Plans and Specifications. (1) Construction shall not begin until the construction document phase has been approved. The department shall:

(a) Review each submission within thirty (30) days of receipt; and

(b) Issue a letter of:

1. Approval;

2. Acceptance with required changes; or

3. Rejection, with reasons stated.

(2) Depending on the site of the proposed **construction**[~~constructions~~], renovation or addition, the department may combine two (2) or more **of the** phases[~~,as~~] outlined in Section 3 of this administrative regulation, for review and approval.

(3) A change to the plan shall require redrawing unless specifically exempted by the department. Specifications shall be rewritten to reflect a change.

Section 5. Waiver of Compliance. (1) The department may grant a waiver of the implementation of the physical plant standards for an existing jail if the department determines:

(a) That strict compliance shall cause unreasonable difficulties;

(b) That a waiver shall not seriously affect the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the jail; and

(c) That compliance shall be achieved in a manner other than that specified, but in a manner **that**[~~which~~] is sufficient to meet the intent of this administrative regulation.

(2) If a waiver from a standard is desired, the responsible local authority shall submit a written request to the department. The written request shall include the following information:

(a) Citation of the specific standard involved;

(b) Identification and description of the specific difficulties involved in meeting strict compliance;

(c) Description of the alternative proposed; and

(d) Provision of sufficient documentation which shall demonstrate that the waiver, if granted, shall not jeopardize the security, supervision of prisoners, programs, or the safe, healthful, or efficient operation of the jail.

(3) A waiver, if granted by the department, shall apply only to the petitioner for the specific situation cited and for the period of time specified and shall include any requirements imposed by the department as conditions upon the waiver. A waiver shall not be granted for longer than twelve (12) months. A waiver granted for a twelve (12) month period shall be reviewed for reapproval at the end of the period.

Section 6. Facility Design. All existing jails **that**[~~which~~] are in operation and have prior approval from the department shall be exempt from the requirements of this section until the facility is renovated. Depending upon its size and intended use, each jail shall include within its walls the following facilities and equipment:

(1) Entrances. Each jail shall have three (3) separate and dis-

tinct entrances: a public entrance, a prisoner entrance and a service entrance. The department may permit these entrances to be combined.

(a) Public entrance. The purpose of this entrance shall be to divert the general public from the security area of the jail and from contact with incoming prisoners. This area shall be the location for the general public to conduct their business at the jail. The following design features shall be incorporated:

1. Provide a clear view of this entrance from the control room by means of direct surveillance or closed circuit TV; and [.]

2. Meet the requirements for handicapped persons.

(b) Service entrance. The purpose of this entrance shall be to provide access to service vehicles and delivery trucks with minimum security risks. It shall be located in close proximity to storage rooms and the kitchen area.

(c) Prisoner entrance. The purpose of this entrance shall be to provide secure and controlled access to the jail for prisoners. The entrance shall be serviced by an enclosed [a] drive-in sally, located adjacent to the jail intake area, and port made secure by electronically or manually operated doors for entrance and exit, or a secure walk-in vestibule and shall incorporate the following design features:

1. Be located adjacent to the booking area;[.]

2. Be monitored from the control room;[.]

3. Be free of steps or other obstacles;[.]

4. Be protected from inclement weather;[.]

5. Have a security penal-type pistol locker in the sally port or vestibule; and[.]

6. **Have approved penal-type hardware**[~~Hardware~~] and equipment [~~shall be of approved penal-type~~].

(d) If the vestibule is used for outside entrance, at least the outer entry door shall be remotely operated.

(2) Exits. An opening in the security perimeter shall be secured with a penal device. Fire exits, if possible, shall open into controlled, secured courts or exercise areas.

(3) Administrative areas. Administrative areas shall provide space outside the secured area of the jail for the housing of administrative offices and to accommodate the public. Administrative areas shall contain the following additional areas:

(a) A waiting area which shall provide:

1. Space for the general public;

2. Protection from inclement weather; and

3. If the facility is a new jail, ADA compliant toilet facilities for both male and female persons [~~toilet facilities~~] and drinking fountains;

(b) A visiting area, public side which shall:

1. Provide for private communication with prisoners; [~~and~~]

2. Be located in close proximity to the waiting area; and

3. Provide at least one (1) ADA compliant space.

(c) An office area which shall be of sufficient space to house the administrative function of the jail; and

(d) An entrance to the security area which shall:

1. Provide secure access to the security area;

2. Be of penal-type; and

3. Have access controlled from the security area.

(4) Security area. The area shall enclose those facilities and services required for or used by prisoners. It shall contain a booking area. The purpose shall be to provide a private and separate area, properly equipped to carry out admission and release procedures. The equipment shall be penal-type. This area shall be designed for different classes of prisoners. Design features for this area shall include:

(a) Close proximity to a secure area for storage of prisoner personal property;[.]

(b) Close proximity to an area for photography and fingerprinting;[.]

(c) Close proximity to an area for showering, delousing, and strip searching a prisoner **and** which assures privacy for the prisoner;[.]

(d) Close proximity to temporary holding and detoxification cells; and[.]

(e) Located in a manner to be monitored by a control room;[.]

(5) Detoxification area. The purpose shall be to provide an area to separate intoxicated prisoners from the general prisoner population. Design features shall include:

(a) A minimum of fifty (50) square feet per prisoner;[.]

(b) A minimum of eight (8) feet deck height including soffits;[.]

(c) One (1) bunk of approved material thirty (30) inches wide by seventy-two (72) inches long by four (4) inches high for each prisoner;[.]

(d) A penal commode, lavatory and a flush floor drain controlled from outside the cell;[.]

(e) A bubble-type drinking fountain;[.]

(f) These fixtures and equipment shall be penal-type;[.]

(g) Each surface inside the area shall be smooth, flush, and free of sharp edges and protrusions;[.]

(h) Each horizontal surface (the bunk and the floor) shall be sloped (one-fourth (1/4) of an inch to the foot) to the floor drain;[.]

(i) The protruding corners (except at deck) shall be covered;[.]

(j) Deck, walls, surfaces of the wall base and floors shall be of approved masonry, concrete or steel construction; and [.]

(k) Each detox cell shall have sufficient penal-type fixtures capable of providing twenty (20) foot-candles of light with a nightlight capable of providing five (5) foot-candles of light.

(6) Holding areas. The purpose of holding areas shall be for temporary detention not to exceed eighteen (18) hours [~~four (4) hours~~] in secure holding or eighteen (18) hours [~~eight (8) hours~~] in diversion holding.

(a) Design features for secure holding shall include:

1. Twenty-five (25) square feet per rated capacity **with a**[~~;~~] minimum size of [~~the area shall be~~]no less than fifty (50) square feet;[.]

2. Eight (8) feet deck height;[.]

3. One (1) penal-type bench per rated capacity;[.].

4. **Penal-type**[~~The~~] equipment;[~~shall be penal-type~~][.]

5. One (1) penal-type lavatory and commode;[.]

6. One (1) penal-type light fixture capable of providing twenty (20) foot-candles of light; and [.]

7. Decks, walls, surfaces of wall bases and floors **that are constructed**[~~shall be~~] of approved masonry, concrete or steel construction.

(b) If a diversion holding area is provided, features and requirements shall include:

1. Twenty-five (25) square feet per rated capacity **with a**[~~;~~] minimum size of [~~area shall be~~] fifty (50) square feet;

2. Total rated capacity not to exceed twenty-four (24) persons;

3. One (1) bathroom for a rated capacity of eight (8) or less; two (2) bathrooms for a rated capacity of nine (9) or more;

4. At least one (1) water fountain **that is**[~~shall be~~] located in the area;

5. A phone system **that is**[~~shall be~~] available for use by prisoners;

6. **Fire-rated construction**[~~Construction shall be fire-rated~~] with penal hardware, windows and door;

7. **Fire-rated**[~~Furnishings shall not include beds but~~] chairs and tables per rated capacity **but no beds**[~~and shall be fire-rated~~];

8. An unobstructed view into the area**; and** [~~shall be provided;~~]

9. Areas **that allow**[~~shall have~~] constant in-person surveillance.[~~;~~]

[~~10. If prisoners are housed in the area during normal meal times, they shall be fed. Meals shall be either hot or cold; and~~]

(c)[~~11.~~] Policy and procedure shall set forth criteria for placement of prisoners in **the diversion holding area**[~~this area~~].

(7) Medical exam area [~~room~~]. The purpose of this room shall be to provide a separate and secure area for medical examinations and rendering medical treatment. Design features shall include:

(a) Minimum **dimensions that are**[~~dimension shall be~~] no less than ten (10) feet; [~~eight (8) feet.~~]

(b) Minimum deck height **that is**[~~shall be~~] eight (8) feet including soffits;[.]

(c) One (1) lavatory or counter sink;[.]

(d) One (1) work counter;[.]

(e) Secured lockers for medical equipment, medical instruments, medications, bandages, etc., secured to the floor or walls or a secure closet;[.]

(f) One (1) or more medical examination tables;[.]

(g) Electrical power outlets **with at**[~~shall be provided in this room. At~~] least one (1) outlet or power source [~~shall be~~] connected

to an emergency power source;

(h) **Decks**[~~All decks~~], walls, and floors **constructed of**[~~shall be~~] approved masonry, concrete or steel construction;[~~.~~]

(i) **A**[~~If medical services are provided outside the jail, the jail shall have a~~] secure area for storage of medication and medical equipment **if medical services are provided outside the jail**; and [~~.~~]

(j) One (1) bathroom with commercial grade fixtures.

(8) Visiting area, prisoner side. The purpose shall be to provide secure and private visitation for the prisoners. The equipment and furnishings shall be of penal-type and permanently attached. At least one (1) area is to be ADA compliant.

(9) Conference area. The purpose of this area shall be to provide space for confidential conferences between prisoners and lawyers, counselors, clergy, etc. Design features shall include:

(a) Doors, windows, and light fixtures shall be penal-type;[~~.~~]

(b) Walls, floors, and decks shall be of approved masonry, concrete or steel construction; and [~~.~~]

(c) Furnishings shall be noncombustible and nontoxic as approved by the department.

(10) Multipurpose room. The purpose of this area shall be to provide space for assembly of prisoners for specific program activities.

(a) The multipurpose room shall be:

1. In jails with 100 or fewer beds, a minimum of 250 square feet;

2. In jails with 101 to 300 beds, a minimum of 500 square feet or two rooms with a minimum of 250 square feet each; and

3. In jails with 301 or more beds, a minimum of 1000 square feet or four (4) rooms with a minimum of 250 square feet each. [~~This area shall allow at least twenty-five (25) square feet per prisoner in an area with a minimum of 250 square feet.~~]

(b) Design features shall include:

1.[~~(a)~~] Doors, windows, and light fixtures shall be penal-type;[~~.~~]

2. [~~(b)~~] Walls, floor, and deck shall be of approved masonry, concrete or steel construction;[~~.~~]

3. [~~(c)~~] Furnishings shall be noncombustible and nontoxic as approved by the department; and[~~.~~]

4. [~~(d)~~] Deck shall be of approved construction.

(11) Outdoor recreation. The purpose of this area shall be to provide secure outdoor space for recreational activities. This area shall allow at least thirty-five (35) square feet per prisoner in an area with a minimum of 385 square feet. At least part of this area is to be covered.

(12) Kitchen. The purpose of this area shall be to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

(a) Compliance with [~~standards for~~]the Retail Food Code, 902 KAR 45:005;[~~.~~]

(b) Commercial-type stoves and refrigeration units;[~~.~~]

(c) **Penal-type doors**[~~Doors~~] and windows [~~shall be penal-type~~]; and[~~.~~]

(d) Walls, floors, and decks **constructed of** [~~shall be approved~~] fire-rated masonry, concrete or steel construction.

(13) Control room. The purpose of this area shall be to control all movement of prisoners within the jail and traffic in and out of the security area. Also, this area shall be the hub for operations within the jail. Design features shall include:

(a) Doors and windows shall be of penal-type;[~~.~~]

(b) Walls, floors, and deck shall be approved masonry, concrete or steel construction;[~~.~~]

(c) Audio and video monitors shall be located in this area;[~~.~~]

(d) Gauges, indicators, and alarms shall be located in this area;[~~.~~]

(e) Central control panels shall be located in this area; and[~~.~~]

(f) This area shall permit visual observation of all corridors, entrances, and exits under its supervision.

(14) If [~~When~~] jail staff is not within normal hearing distance of prisoners, an audio communication system shall be installed to allow staff to communicate with prisoners.

(15) A panic button, staff call station or portable communication device shall be installed or available in corridors and staff observation areas, which shall sound an alarm in the control center in [~~the event of~~] an emergency situation.

(16) Confinement areas. The purpose of these areas shall be to provide suitable living conditions for all types of prisoners lodged in the jail.

(a) Design features for all living areas shall include:

1. **Sufficient**[~~Providing sufficient~~] natural or artificial light to provide twenty (20) foot-candles with a nightlight capable of providing five (5) foot-candles of light;[~~.~~]

2. **Ventilation**[~~Providing ventilation~~] to meet air exchange as required in the Kentucky Jail Construction and Renovation Standards; [~~Kentucky Building Code, 815 KAR 7:120.~~]

3. **Temperature**[~~Providing temperature~~] ranges within comfort zones (sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit);[~~.~~]

4. **Approved**[~~Shall be of~~] approved masonry, concrete or steel construction;[~~.~~]

5. **Penal-type**[~~All~~] furnishings and equipment **that are**[~~shall be penal-type and~~] permanently attached;[~~.~~]

6. **Floor**[~~Each confinement area shall have floor~~] drains **that**[~~to~~] service each living area;[~~.~~]

7. **An**[~~Be equipped with an~~] approved securable food pass where appropriate and approved by the Kentucky DOC jail consultants; [~~and~~][~~.~~]

8. Electrical outlets **that** if provided**, are** [~~shall be~~] ground-faulted or have ground-fault circuit breakers**; and**

9. Penal-type receptacle[~~. Receptacle~~] and switch plate covers [~~shall be penal-type~~].

(b) All cells and housing areas **shall meet the following design requirements**[~~design features shall include~~]:

1. Prisoner living areas shall be equipped with the security hardware to meet the security requirements of the prisoners housed in the area. Depending on the size of the jail, at least one (1) living area shall be designed at high security and be equipped with a safety vestibule to enter the living area.

2. Depending on the size of the jail, at least one (1) male, one (1) female, and one (1) medical isolation cell shall be provided [~~one (1) or more isolation single-man cells shall be provided~~].

3. All cells shall open into a dayroom and a cell shall not be less than seventy (70) square feet. A cell shall not have more than two (2) penal-type bunks. If two (2) persons are housed in a cell, they shall not be detained in the cells for longer periods than twelve (12) hours, except in emergency situations.

4. If the vestibule is used at a cell area, at least the inner door shall be remotely operated.

5. Each cell shall contain:

a. A penal-type commode, lavatory and drinking fountain, penal-type bunks secured to the floor or wall, penal-type table with two (2) seats, and penal-type storage area for personal property; and[~~.~~]

b. A penal-type light fixture with controls inaccessible [~~nonaccessible~~] to prisoners unless it has staff override.

6.[~~5.~~] The jail shall provide living space for low security prisoners including work release and community service workers. This area shall be either cells opening into a dayroom or a combination of this and multiple-occupancy dorms. If dorms are used, they shall include:

a. Forty (40) feet per prisoner;[~~.~~]

b. One (1) commode, one (1) lavatory, and one (1) drinking fountain per ten (10) prisoners, **but one**[~~. One~~] (1) urinal may be substituted for each commode in male areas **so long as**[~~but~~] the commodes shall not be reduced to less than one-half (1/2) the number required;[~~.~~]

c. One (1) shower per twenty (20) prisoners;[~~.~~]

d. Sufficient tables and benches to handle the number of prisoners housed in the dorm;[~~.~~]

e. One (1) penal-type storage area for personal property per prisoner; and[~~.~~]

f. One (1) penal-type bunk per prisoner;[~~.~~]

7.[~~6.~~] Each dayroom area shall contain:

a. Thirty-five (35) square feet per prisoner; and[~~.~~]

b. One (1) commode per ten (10) [~~eight (8)~~] prisoners**, but one**[~~. One~~] (1) urinal may be substituted for each commode in male areas **so long as** [~~but~~] the commodes shall not be reduced to less than one-half (1/2) the number required;[~~.~~]

c. One (1) lavatory per ten (10) [~~eight (8)~~] prisoners;[~~.~~]

d. One (1) drinking fountain per twenty (20) prisoners;[.]

e. One (1) shower per twenty (20) prisoners; and[.]

f. Tables and benches **sufficient to handle the** [per] rated capacity with space twenty-four (24) inches wide and twelve (12) inches deep per prisoner.

(17) Direct supervision areas. The purpose of a direct supervision area shall be to provide suitable living conditions for prisoners who are located in the jail whose behavior indicates their ability to function in a less secure setting under the direct supervision of jail staff. Jails that elect to use the direct supervision concept shall have a sufficient number of secure cell or dormitories, as approved by the Department of Corrections, in order to separate prisoners who display negative behavior in direct supervision areas. All direct supervision areas shall have a secure perimeter. Direct supervision area design features shall include:

(a) Sufficient natural or artificial light to provide twenty (20) foot-candles with a nightlight capable of providing five (5) foot-candles of light;[.]

(b) Ventilation to meet air exchange as required in the Kentucky Jail Construction and Renovation Standards; [Kentucky Building Code, 815 KAR 7:120.]

(c) Temperature ranges within comfort zones (sixty-five (65) degrees Fahrenheit to eighty-five (85) degrees Fahrenheit;[.]

(d) Approved masonry or concrete construction [shall be used];[.]

(e) **Penal- or commercial-type**[All] furnishings and equipment [shall be penal-type or commercial type];[.]

(f) Electrical outlets **that are**[shall be] ground-faulted or have ground-fault circuit breakers;[.]

(g) Dormitories **that provide not less than forty (40) square feet per person and do not exceed seventy (70) persons**[shall not be less than forty (40) square feet person or exceed more than seventy (70) persons];[.]

(h) One (1) commode, one (1) lavatory, and one (1) drinking fountain per ten (10) prisoners**, but one**[. One] (1) urinal may be substituted for each commode in male areas **so long as the**[. The] commodes shall not be reduced to less than one-half (1/2) the number required;[.]

(i) One (1) shower per twenty (20) prisoners;[.]

(j) Sufficient tables and chairs to handle the number of prisoners in the dorm;[.]

(k) One (1) storage area for personal property per prisoner;[.]

(l) A phone system [shall be] available for use by prisoners; and [.]

(m) **Compliance with all**[All] other full-service requirements as outlined in 501 KAR Chapter 3 [shall apply to direct supervision areas].

Section 7. Incorporation by Reference. (1) "Kentucky Department of Corrections Jail Construction and Renovation Standards," 10-07, is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Corrections, Division of Local Facilities, 2439 Lawrenceburg Road, P.O. 2400, Frankfort, Kentucky 40602-2400, Monday through Friday, 8 a.m. to 4:30 p.m.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:060. Security; control.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 441.055(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails **that**[which elect to] house state prisoners. This administrative regulation establishes security procedures to be followed in full-service jails.

Section 1. Policy and Procedure. (1) Each jailer shall develop a written policy and procedure governing the security aspects of the jail's operation.

(2) The department shall provide technical assistance to the jailer in formulating written policy and procedure.

(3) The policies and procedures shall include:

(a) Prisoner rules and administrative regulations;

(b) Staffing;

(c) Searches of prisoner and of secure areas;

(d) Visitation;

(e) Key and weapon control;

(f) Prisoner head counts;

(g) Surveillance checks;

(h) Emergency situations;

(i) Jail schedule; and

(j) Administering medication.

Section 2. Prisoner Supervision. (1) Jail personnel shall conduct and document direct in-person surveillance of each prisoner on an irregular schedule, at least every sixty (60) minutes.

(2) Jail personnel shall conduct and document direct in-person surveillance every twenty (20) minutes on the following classes of prisoners:

(a) Suicidal;

(b) Assaultive, unless housed in a single cell;

(c) Escape risk, unless housed in a single cell;

(d) Mentally or emotionally disturbed;

(e) In segregation, unless housed in a single cell;

(f) In detox cell;

(g) Juveniles, if housed in the jail; and

(h) Mental inquest detainees.

(3) If available, closed-circuit television shall be used primarily to monitor hallways, stairwells, sally ports, perimeter security, points of egress, and common and support areas.

(4) There shall be at least three (3) documented prisoner counts every twenty-four (24) hours during which each prisoner's physical presence, by show of skin or by movement, shall be observed. At least one (1) count shall be conducted per shift.

Section 3. Security Procedures. (1) Each jailer shall establish a procedure for weekly inspection, for contraband and physical security, of each area accessible to a prisoner.

(a) Isolated security spot checks for contraband shall be conducted daily.

(b) The prisoner rules, as specified in Section 1(3)(a) of this administrative regulation, shall contain a clear definition of each item permitted in the jail. All other items shall be considered contraband.

(c) There shall be a written procedure for reporting security irregularities.

(2) A weapon, ammunition, chemical agent, related security equipment, or object which may be used as a weapon shall not be permitted in the security area unless authorized by the jailer. Firearms shall not be permitted in the security perimeter unless authorized by the jailer, under emergency circumstances.

(3) If a weapon, ammunition, chemical agent, or related security equipment is not being carried or used, as authorized by the jailer, it shall be stored in an arsenal, vault, or other secure room under lock.

(a) The weapons storage area shall be inaccessible to unau-

thorized persons.

(b) There shall be a written procedure for issuing and accounting for all weapons.

(4) Security devices and safety equipment shall be inspected monthly to ensure they are maintained in proper working order.

(5) Tools and toxic, corrosive, or flammable substances, and other potentially dangerous supplies and equipment shall be stored in a secure, locked area located outside the security perimeter of the confinement area.

(6) A prisoner shall use hazardous tools, supplies, or equipment only under the direct supervision of jail personnel.

(7) A prisoner:

(a) May be assigned the responsibility of providing prisoner services, including providing meals, under the direct supervision of staff; and

(b) Shall not be assigned to a position of authority over another prisoner.

(8) A prisoner shall not be permitted to perform or assist in a security duty.

(9) A jail with a work release or community service program shall establish special control procedures to minimize contact between a prisoner with work release privileges and another prisoner.

(10) A prisoner shall be searched, in accordance with the guidelines established in 501 KAR 3:120, if entering or leaving the security perimeter.

(11) Written procedures shall be developed for transporting **a prisoner** outside the jail and shall identify training required before staff are permitted to transport any prisoner.

(12) Each jailer shall develop written policies and procedures governing the use of physical restraints.

(13) A prisoner placed in physical restraints shall be constantly monitored.

(14) The jail shall have key-control procedures which shall include:

(a) A key control center **that**[~~which~~] is secure and inaccessible to an unauthorized person at all times;[.]

(b) An accounting procedure for issuing and returning keys;[.]

(c) A procedure for immediate reporting and repairing **of** a broken or malfunctioning key or lock;[.]

(d) A set of duplicate keys to be maintained in a separate, secure place;[.]

(e) A prisoner shall not be permitted to handle a key used to operate a jail security lock;[.]

(f) A key operating a lock to an outside door or gate shall not be permitted in the confinement area;[.]

(g) An emergency key or any key to a critical security area shall be issued in accordance with written procedures established by the jailer;[.]

(h) Precautions similar to those outlined above shall be taken to insure the security of monkey operated locking devices including electrical switches or levers; [~~and~~][.]

(i) A lock to an outside exit shall be keyed differently from an interior lock**; and**

(j)[.] The lock to the control room shall be keyed differently from all other locks.

(15) Trustees.

(a) A trustee shall not have access to, or control of, a weapon.

(b) An unsupervised trustee shall not be permitted in either a program, support, or housing area with a prisoner of the opposite sex.

(c) A trustee shall not be permitted in either a program, support, or housing area with a juvenile inmate.

Section 4. Daily Jail Log; Special Reports. A daily jail log shall be kept current and shall reflect significant occurrences within the jail. Special reports shall include:

(1) Use of force;[.]

(2) Disciplinary action;[.]

(3) Medical or mental health treatment;[.]

(4) Feeding schedule and menus;[.]

(5) Extraordinary occurrences.

(a) Fire;[.]

(b) Assault;[.]

(c) Suicide or attempted suicide; and[.]

(d) Escape or attempted escape;[.]

(6) Inmate vandalism;[.]

(a) Destruction of jail property; and[.]

(b) Flooding of plumbing fixtures;[.]

(7) Staff roster for each shift; and[.]

(8) Visitor's log.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:070. Safety; emergency procedures.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes safety and emergency procedures to be followed in local full-service jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written policy and procedure **that**[~~which~~] shall specify fire prevention administrative regulations and practices to ensure the safety of prisoners, visitors, and staff. The policy shall include:

(a) Provision for a fire emergency planning session for staff at least quarterly;[.]

(b) Written documentation of the fire planning session including evacuation, fire drills, and other procedures covered during the session;[.]

(c) A fire safety inspection by the department at least once a year;[.]

(d) Inspection and testing of fire protection equipment by a qualified person at least annually with visual inspections by staff monthly;[.]

(e) All county jails that elect to house state prisoners shall be deemed nonsmoking facilities; and [~~Smoking restrictions and regulations~~].

(f) An evacuation plan coordinated with local fire officials **and**[~~. This plan shall be~~] approved by the Department of Corrections.

(2) Each jail shall have written policy and procedures for emergency situations including:

(a) Escape;

(b) Hostage taking;

(c) Riot;

(d) Food poisoning;

(e) Civil disturbance in the community;

(f) Natural disaster;

(g) Suicide; [~~and~~]

(h) Other death and disorder; and

(i) Mass evacuation disaster plan.

Section 2. Physical Plant. (1) Each jail shall comply with the Kentucky Building Code, incorporated by reference in 815 KAR 7:120. An existing jail for which approval has been granted may continue without change, except if a significant alteration, addition or change of occupancy occurs.

(2) Each exit shall be:

(a) Distinctly and permanently marked;

(b) Visible at all times;
(c) Kept clear; and
(d) Maintained in usable condition.
(3) Each jail shall have equipment necessary to maintain essential lights, power, and communications in an emergency situation.
(4) In each area where a prisoner may be confined, there shall be an emergency smoke control [~~evacuation~~] system activated by smoke detectors and operated by emergency power. Inspection and testing of the smoke control system shall be conducted by a qualified person at least annually.
(5) Each jail shall have an approved fire alarm and smoke detection system.
(6) Each direct supervision area shall have an approved fire-suppression system.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES,Chairman, Commissioner
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:080. Sanitation; hygiene.

RELATES TO: KRS 441.055
STATUTORY AUTHORITY: KRS 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation sets forth procedures to provide proper sanitation and hygiene in full-service jails.

Section 1. Procedures. (1) The jailer shall provide for the control of vermin and pests.
(2) The jail shall provide for both solid and liquid waste disposal.
(3) The jailer shall have a written preventative maintenance plan that includes but is not limited to:
(a) A cleaning schedule for various locations and items in the jail;[~~.~~]
(b) A schedule for inspections by the jailer;[~~.~~]
(c) A schedule for trash and garbage removal; and[~~.~~]
(d) A schedule for periodic inspection and maintenance of specific mechanical equipment.
(4) The jail shall have fresh air circulating within prisoner living and activity areas.
(5) The jail shall furnish clean sanitized bedding to prisoners except in holding areas and unless it is determined to be detrimental to a particular prisoner. Issuance of bedding in detoxification is optional. Bedding shall include:
(a) One (1) mattress;[~~.~~]
(b) One (1) blanket if [~~when~~] conditions require;[~~.~~]
(c) Two (2) sheets;[~~.~~]
(d) One (1) pillow, if not part of the mattress; and [~~.~~]
(e) One (1) pillowcase, if applicable.
(6) Prisoner bedding shall be cleaned on a regular basis according to the following schedule:
(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week and cleaned prior to reissue to next prisoner;[~~.~~]
(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner; and[~~.~~]
(c) Mattresses and pillows shall be cleaned quarterly and cleaned prior to reissue to next prisoner.
(7) Each prisoner shall be issued a clean towel upon admission to a prisoner living area. Towels shall be laundered weekly or more as needed and cleaned prior to reissue to next prisoner.
(8) All floors, toilets, and sinks in the jail shall be washed daily or more often as necessary.
(9) All showers shall be cleaned on at least a weekly basis.
(10) (a) All prisoners assigned to prisoner living areas shall be issued or permitted to obtain the following hygienic items:
1. Soap;[~~.~~]
2. Toothbrush;[~~.~~]
3. Toothpaste;[~~.~~]
4. Toilet paper; and[~~.~~]
5. Female sanitary supplies (if applicable).
(b) Indigent prisoners shall be furnished these items by the jail.
(11) All prisoners shall be permitted to shave a minimum of three (3) times per week. Communal razors shall not be used.
(12) Hair cutting services or sanitized hair cutting equipment shall be available to all prisoners.
(13) All prisoners shall be provided shower facilities within twenty-four (24) hours of admission. Prisoners shall be permitted to shower daily.
(14) All prisoners in the jail shall be provided with hot and cold running water in showers and lavatories.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner
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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:090. Medical services.

RELATES TO: KRS 441.045, 441.047, 441.055, 441.560
STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 441.560
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health standards for jails **that** [~~which elect to~~] house state prisoners. This administrative regulation sets forth procedures for the proper delivery of medical services in full-service jails.

Section 1. Medical [~~Procedure~~] Services. (1) The jail's medical services shall be provided by contracting with a health care provider licensed in Kentucky.
(2) The medical staff shall not be restricted by the jailer in the performance of their duties except to adhere to the jail's security requirements.
(3) All health care staff working in the jail shall comply with state licensure and certificate requirements commensurate with health care personnel working elsewhere in the community. Copies of licenses and certificates for health care staff employed by the jail shall be maintained on file within the jail.
(4) A daily medical log shall be maintained documenting specific medical treatment rendered in the jail. This log shall be kept current to the preceding hour.
(5) Prisoners shall not perform any medical functions within the jail.
(6) Prisoners shall be informed verbally and in writing at the

time of admission the methods of gaining access to medical care within the jail.

(7) All medical procedures shall be performed according to orders issued by the responsible medical authority. All medical procedures that require hospital care shall use the Kentucky Correctional Health Care Services Network, or other contracted health care provider.

(8) Medical screening shall be performed by the receiving officer on all prisoners upon their admission to the jail and before their placement in prisoner living areas. The findings of this medical screening shall be recorded on a printed screening form approved by the medical authority. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;[.]

(b) Medications taken and special health requirements;[.]

(c) Screening of other health problems designated by the medical authority;[.]

(d) Behavioral observation, state of consciousness and mental status;[.]

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;[.]

(f) Condition of skin and body orifices, including rashes and infestations; and[.]

(g) Disposition and referral of prisoners to qualified medical personnel on an emergency basis.

(9) Sick call conducted by the medical authority shall be available to each prisoner as follows:

(a) Facilities with fewer than 100 prisoners shall hold sick call two (2) days [~~one (1) day~~] per week, at a minimum;[.]

(b) Facilities with 100 to 300 prisoners shall hold sick call three (3) days per week, at a minimum; and[.]

(c) Facilities with more than 300 prisoners shall hold sick call five (5) days [~~four (4) days~~] per week, at a minimum.

(10) Deputy jailers and correctional officers shall have current training in standard first aid equivalent to that defined by the American Red Cross.

(11) Deputy jailers and correctional officers [~~At least one (1) jail staff~~] member per shift shall be trained and certified to perform approved CPR (Cardiopulmonary Resuscitation).

(12) Emergency medical, vision, and dental care shall be available to all prisoners commensurate with the level of care available to the community.

(13) Medical research shall not be permitted on any prisoner in the jail.

(14) Access to the prisoner's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record shall be separate from custody and other administrative records of the jail.

(15) All examinations, treatments, and procedures affected by informed consent standards in the community shall be observed for prisoner care.

(16) In accordance with KRS 72.025, a postmortem examination shall be conducted on all prisoners who die while in the custody of the jailer.

(17) The jailer shall have written delousing procedures.

(18) All jail staff or contract staff who administer medications to prisoners shall be trained in the proper procedures as outlined in the Policy and Procedures Manual.

(19) The jail shall have first aid kits available at all times.

(20) A prisoner who has been prescribed treatment by a recognized medical authority and cannot receive that treatment in the jail shall be moved to another confinement facility that can provide the treatment or may be moved to a hospital.

(21) If emergency care is needed, it shall be provided.

Section 2. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a prisoner be transferred to the department for necessary medical treatment and care if the prisoner:

(a) Is injured;

(b) Is pregnant;

(c) Becomes sick or ill;

(d)1. Is severely and persistently mentally ill; and

2. Is presenting an imminent risk of harm to self or others; or

(e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the Commissioner in writing and shall contain the following information:

(a) Prisoner's name;

(b) Prisoner's Social Security number;

(c) County where currently housed;

(d) Inmate number;

(e) Pending charge or conviction and **whether**[~~if~~] felony or misdemeanor;

(f) Estimated sentence or time to serve;

(g) Whether the prisoner has insurance or not;

(h) Whether the prisoner is indigent or not;

(i) Justification for medical transfer;

(k) Whether the care is necessary or not;

(l) Any conflict reports; and

(m) Relevant attachments such as:

1. Copy of prisoner's insurance card;

2. Doctor's report;

3. Incident report;

4. Citation;

5. Booking information;

6. Preexisting medical records; or

7. Current medication.

(3) If a prisoner is approved for transfer to the department as a catastrophic medical prisoner, the jail shall provide the following, unless already provided with the transfer request:

(a) All medical information;

(b) Current medication in proper container;

(c) Booking information;

(d) Incident reports;

(e) Current citation;

(f) Classification information;

(g) Conflict reports;

(h) Any additional pertinent information; and

(i) Custody receipt.

(4) If a prisoner is approved for transfer to the department as a catastrophic medical prisoner, the prisoner shall be transported by the department.

This is to certify that the Jail Standards Commission has 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).

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:100. Food services.

RELATES TO: KRS 196.035,197.020, 217.280-217.390, 441.055

STATUTORY AUTHORITY: KRS 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to [-] promulgate administrative regulations establishing minimum health standards for jails **that**[~~which elect to~~][-] house state prisoners and for jails which do not elect to [-] hold state prisoners. This administrative regulation sets forth procedures for proper food services in both types of jails.

Section 1. Procedures. (1) The jail shall comply with KRS 217.280 through 217.390 and 902 KAR 45:005.

(2) The jailer shall provide adult prisoners with a nutritionally adequate diet containing at least 2,400 calories per day. **If prison-**

ers are housed in the diversion holding area during normal meal times, they shall be fed. Meals may be either hot or cold.[~~Juvenile prisoners shall be provided a nutritionally adequate diet containing at least 3,000 calories per day.~~]

(3) Prisoners shall receive three (3) meals per day, one (1) of which shall be hot. More than fourteen (14) hours shall not elapse between any two (2) meals.

(4) The jailer shall provide for religious diets **in accordance with 501 KAR 3:130** after review and approval of religious authority.

(5) The jailer shall provide for medical diets if prescribed by a medical authority.

(6) The jailer shall maintain accurate records of all meals served.

(7) Food shall not be used for disciplinary or reward purposes.

(8) A nutritionist or dietician shall approve the nutritional value of the jail menu on an annual basis.

(9) A staff member shall directly supervise all food prepared within the jail.

(10) All food shall be served under the direct supervision of a staff member.

(11) The jail shall have sufficient cold and dry food storage facilities.

(12) The jailer or his designee shall inspect the food service area daily.

(13) Canteen food items purchased by prisoners may be stored or prepared in amounts that do not pose a threat to the health or security of the institution.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:130. Prisoner programs; services.

RELATES TO: KRS 439.179, 441.055, 441.125, 532.100

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 532.100(4)(c)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures for prisoner programs and services in those jails.

Section 1. Definitions. (1) "Chaplain" means a volunteer authorized to provide religious counsel, instruction, and advice to inmates and to provide a system of services or religious volunteers, ecclesiastical visitors, and guests for inmates.

(2) "Inmate Religious Beliefs and Practices Manual" means the U.S. Department of Justice, Federal Bureau of Prisons technical reference manual, "Inmate Religious Beliefs and Practices," dated March 27, 2002, incorporated by reference in 501 KAR **6:080**[~~6:020~~].

(3) "Religious diet" means any diet deemed essential by the Inmate Religious Beliefs and Practices manual.

(4) "Religious items" means items associated with a particular religious faith which may include religious medallions, kufi cap, prayer rugs, crucifix, yarmulke, prayer beads, rosary, sacred eagle feathers, medicine bag, or Star of David.

(5) "Religious practice" means outwardly observable manifestations of religious beliefs including:

(a) Participating in congregations and meetings;

(b) Engaging in rituals and ceremonies;

(c) Praying, chanting, and singing;

(d) Wearing special items of clothing, jewelry, hairstyles, or beards;

(e) Adhering to special diets; and

(f) Participating in special activities characteristic of a particular religion or adherents of a particular religion.

Section 2.[~~1.~~] Work Programs. (1) Written policy and procedure shall provide that prisoner programs and services shall be available and include social services, religious services, recreation and leisure time activities and library services.

(2) Sentenced prisoners who perform work as authorized by KRS 441.125 may receive rewards in the form of sentence reductions or other privileges, if granted by the proper authority.

(3) Written policy and procedure shall provide that unsentenced prisoners shall not be required to work except to do personal housekeeping.

Section 3.[~~2~~]. Education Programs. (1) The jail shall develop a policy and procedure that encourages the implementation of education programs in the jail. The utilization of community resources in these efforts shall also be encouraged to offset the costs of the programs.

(2) Education programs may be made available in accordance with KRS 439.179.

(3) State prisoners shall be provided the opportunity to attend adult basic education programs or to pursue a general educational development (GED) diploma.

Section 4.[~~3.~~] Library Services. If resources are available in the community, library services may be made available to all prisoners.

Section 5.[~~4.~~] Religious Programs. (1) Written policy and procedure shall ensure the constitutional rights of prisoners to voluntarily practice their own religious activities, subject to those limitations necessary to maintain the order and security of the jail.

(2) The jailer or designee shall ensure that an inmate has the opportunity to participate in practices of his religious faith in accordance with the Inmate Religious Beliefs and Practices Manual. These practices shall:

(a) Include religious publications, religious symbols, congregational religious services, individual and group counseling, religious study classes, and religious diets; and

(b) Be limited only by documentation showing a threat to the safety of persons involved in an activity or that the activity itself disrupts order in the institution.

(3) Each jail shall provide a chaplain or staff who plans, directs, and coordinates all aspects of the religious program including approval and training of both lay and clergy volunteers from faiths represented by the inmate population.

(4) If the chaplaincy staff or volunteers do not include a religious leader of an inmate's faith, the chaplain shall assist the inmate in contacting a person who has the appropriate credentials from the faith judicatory. That person may minister to the inmate under the supervision of the chaplain.

(5) The chaplain, in cooperation with the jailer or designee, shall develop and maintain communications with faith communities and approve donations of equipment or materials for use in religious programs.

(6) The jailer shall have final authority over publications, services, volunteers, and other operations of religious services.

(7) Jailer or designee responsibilities. The jailer or designee shall:

(a) Assure equal status and protection for all [~~approved~~] religions **listed in the inmate Religious Beliefs and Practices Manual**;

(b) Coordinate scheduling of religious programs;

(c) Have access to approved areas of the jail;

(d) Develop and maintain close relationships with community religious resources; and

(e) Coordinate and supervise all religious volunteers.

(8) Religious Programming.

(a) The provisions of **the Inmate Religious Beliefs and Practices Manual**[~~Federal Bureau of Prisons Technical Reference Manual~~] notwithstanding, the following religious practices and activities shall not be authorized:

1. Animal sacrifice;
2. Language or behavior that may reasonably be construed as a threat to safety, security, or the orderly running of the institution;
3. Nudity;
4. Self mutilation;
5. Use, display, or possession of weapons or what appear to be weapons;
6. Paramilitary exercises;
7. Self-defense training;
8. Sexual acts;
9. Profanity;
10. Consumption of alcohol (except consumption by the celebrating ordained minister as provided in the Inmate Religious Beliefs and Practices Manual);
11. Ingestion of illegal substances;
12. Proselytizing;
13. Inscription;
14. Discouragement of other religions; or
15. Use of candles or open flames inside any building.

(b) The jail shall provide space and equipment adequate for the conduct and administration of each religious program.

1. In an institution that uses a common worship area, adequate space shall be provided for religious emblems and other items used during worship.
2. The institution shall maintain a basic library of religious reading materials, which shall include required literature of faiths represented by the inmate population.

(c) Services and ceremonies.

1. Each jail shall allow religious services pursuant to this policy.
2. A specific religious service and ceremony may be provided based upon the inmate's stated religious preference.

(d) Religious objects and literature. All jails shall permit an inmate to possess items essential to the practice of his particular religious faith if the items are not a threat to institutional security.

(e) Religious diets. The jail shall, to the extent it is feasible and within appropriate jail resources, provide each inmate with the opportunity to satisfy the minimum dietary requirements deemed essential by **the** Inmate Religious Beliefs and Practices Manual. Religious diets shall be included in the Department of Corrections' master menu. Any request for a religious diet not included in the master menu shall be reviewed by the jailer or designee.

(f) New religious components. If a request is made for a religious service not represented at the jail, the jailer or designee shall consult the Inmate Religious Beliefs and Practices Manual.

1. If the request is in compliance with the Inmate Religious Beliefs and Practices Manual, it shall be implemented.
2. If **the**[a] request **is** for a religion or religious practice **that** is not represented in the Inmate Religious Beliefs and Practices Manual, then the request shall be denied.
3. Documentation of the request and action taken shall be forwarded to the jailer or designee.

(g) Inmate responsibilities.

1. Upon entry into the correctional system, an inmate's religious preference shall be recorded on the inmate I.D. form.
2. After three (3) months, an inmate may change his religious preference by contacting the jailer or designee.
3. It shall be the inmate's responsibility to seek a job or program assignment that does not conflict with his religious beliefs and practices.
4. An inmate request for a special service or ceremony shall be made at least forty-five (45) days prior to the requested date. This request shall be made in writing to the chaplain **and shall include a statement of the reason for the request** [~~with appropriate justification~~]. In order to ensure consistency of religious programming, any special request shall be referred through the institutional administration to the Director of Operations/Programs for appropriate action.

(9) Staff Meetings and Training. The jail's chaplains or religious staff shall meet on a quarterly basis to address issues pertaining to religious services. These meetings shall be coordinated through the office of the Director of Operations/Programs.

Section 6.[~~5.~~] Recreation Programs. (1) Written policy and procedure shall provide all prisoners with the opportunity to participate in at least one (1) hour of physical exercise per day with at least three (3) exercise periods per week outside the cell. There shall be available one (1) hour of outdoor recreation two (2) times per week if weather permits. Prisoners who pose a threat to the safety and security of the jail shall be denied outdoor recreation.

(2) Leisure time and recreation programs shall be scheduled to permit prisoners to participate in board games, arts and crafts, radio and television or other activities designed to relieve idleness and boredom.

Section 7.[~~6.~~] Programs for State Prisoners. (1) [~~On-the-job training work programs.~~] State prisoners may be provided the opportunity to participate in [~~on-the-job training~~] work programs in accordance with KRS 441.125.

(2) Substance abuse programs. State prisoners shall be provided the opportunity to participate in self-help substance abuse programs offered within the jail. State prisoners who apply for treatment and are accepted by the Division of Mental Health, shall be allowed to participate in the substance abuse program (SAP), if space is available or may be housed in jails offering the program, if space **is**[~~if~~] available.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

APPROVED BY AGENCY: October 12, 2007

FILED WITH LRC: October 15, 2007 at 10 a.m.

CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 3:140. Prisoner rights.

RELATES TO: KRS 441.045, 441.047, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures to ensure the protection of rights of prisoners in those full-service jails.

Section 1. Policy and Procedure. (1) Each jail shall have a written statement of prisoner rights which shall address:

(a) Access to court;[~~,~~]
(b) Access to attorney;[~~,~~]
(c) Mail;[~~,~~]
(d) Telephone;[~~,~~]
(e) Grievance procedure;[~~,~~]
(f) Search and seizure;[~~,~~]
(g) Disciplinary procedure;[~~,~~]
(h) Racial segregation;[~~,~~]
(i) Medical care;[~~,~~]
(j) Mental health care, if available; and[~~,~~]
(k) Religion.

(2) The statement of prisoner rights shall be posted in a conspicuous place in the booking area and living areas of the jail, and a copy shall be made available to the prisoner as soon after assignment as possible. Upon admission, a prisoner shall sign that he has received a written copy of the prisoner's rights.

(3) The jailer shall not prohibit a prisoner's right of access to the judicial process.

(4) The jailer shall ensure the right of a prisoner to have confidential access to his attorney or authorized representative.

(5) The jailer shall have a written policy which defines the jail's visitation rules and regulations, which shall include:

(a) A schedule identifying no fewer than two (2) visiting days each week, one (1) of which shall be during the weekend;[~~.~~]

(b) At least one (1) visit per week per prisoner shall be allowed except if a prisoner is assessed a disciplinary penalty for an infraction of rules governing visitation or the prisoner's current institutional behavior presents an imminent danger or threat of danger to staff or other prisoners;[~~.~~]

(c) A visit shall not be less than fifteen (15) minutes;[~~.~~]

(d) Two (2) or more persons permitted to visit at the same time shall count as a single visit; and[~~.~~]

(e) Children, if accompanied by an adult, shall be permitted to visit a prisoner.

(6) Attorneys, clergy, and medical personnel shall be permitted to visit a prisoner at reasonable hours, other than during regularly scheduled visiting hours and shall not count as an allotted visit.

(7) Each visitor shall register before admission and shall be denied admission for refusal to register, refusal to consent to search, or for a violation of the visitation rules established pursuant to subsection (5) [~~(4)~~] of this section or established in subsection (6) of this section.

(8) A prisoner shall not be restricted in regard to whom he may have as a visitor unless the jailer determines to exclude the visitor on the basis of one (1) or more of the following conditions:

(a) The visitor:

1. Represents a clear and present danger to security;
2. Has a past history of disruptive conduct at the jail;
3. Is under the influence of alcohol or drugs;
4. Refuses to submit to a search; or
5. Refuses to show proper identification; or

(b) The prisoner refuses the visit.

(9) Except for visitors pursuant to subsection (6) [~~6~~] of this section, the jail staff may monitor and record visitor and prisoner conversation for security reasons. Notification shall be posted in a conspicuous location in the visiting areas.

Section 2. Mail. (1) The jailer shall have written policy and procedure for receiving and sending mail that:

(a) Protects prisoners' personal rights; and

(b) Provides for security practices consistent with the operation of the jail.

(2) A prisoner shall be allowed to correspond with anyone if the correspondence does not violate state or federal law. Caution shall be taken to protect prisoner rights in accordance with court decisions regarding correspondence. A jailer may enact a policy prohibiting the sending or receipt of prisoner-to-prisoner mail. The policy shall permit the jailer discretion to grant the privilege.

(3) Incoming mail may be opened and inspected for contraband prior to delivery. Mail received from the court, an attorney of record, or a public official may be opened and inspected only in the presence of the prisoner.

Section 3. Telephone. (1) A newly admitted prisoner shall be permitted a reasonable number of local or collect long distance telephone calls to an attorney of the prisoner's choice, or to a family member, as soon as practical, generally within one (1) hour after arrival, until one (1) call has been completed.

(2) The jailer or his designee shall maintain a log of telephone calls made by a prisoner during the admission procedure unless those calls are made on a telephone in the housing area. The log shall document the date, time, and party contacted.

(3) Written policy and procedure shall permit each prisoner to complete at least one (1) telephone call each week. The expense incurred for a call shall be borne by the prisoner or the party called.

(4) A minimum of five (5) minutes shall be allotted for each phone call.

(5) If calls are monitored, the prisoner shall be notified.

(6) Telephone privileges may be suspended for a designated period of time if telephone rules are violated.

Section 4. Religion. (1) A prisoner shall be granted the right to practice his religion within limits necessary to maintain institution order and security.

(2) Each prisoner shall be afforded an opportunity to participate in religious services and receive religious counseling within the jail.

(3) A prisoner shall not be required to attend or participate in religious services or discussions.

Section 5. Access to Programs. The jailer shall ensure each prisoner equal access to programs and services, if the security and order of the jail will [~~shall~~] not be jeopardized.

Section 6. Grievance Procedure. The jailer shall have a written prisoner grievance procedure. The procedures shall include provisions for:

(1) Response, within ten (10) days, to all grievance complaints, unless waived by the prisoner;

(2) Equal access for each prisoner;

(3) Guarantee against reprisal; and

(4) Resolving legitimate complaints.

Section 7. Disciplinary Rights. Each jail shall have a written policy and procedure for maintaining discipline, consistent with constitutional requirements for due process.

Section 8. Medical. Each prisoner shall be afforded access to necessary medical care.

(1) Jailers shall be required to report suicides or attempted suicides that constitute a serious health situation to the Kentucky Department of Corrections within twenty-four (24) hours.

(2) All jail personnel shall receive a minimum of four (4) hours of mental health training annually [~~within their first year of service~~].

(3) Each jail shall have a written policy and procedure outlining staff response to detainees who are at risk for suicide or have attempted or completed suicide.

(4) The Kentucky Department of Corrections and Kentucky Jailers Association shall coordinate the development of and revisions to mental health training curriculum.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner,

APPROVED BY AGENCY: October 12, 2007

FILED WITH LRC: October 15, 2007 at 10 a.m.

CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the cabinet or any division therein. These policies and procedures are incorporated by reference in order to comply with the accreditation standards of the American Correctional Association. This administrative regulation establishes the policies and procedures for the Northpoint Training Center.

Section 1. Incorporation by Reference. (1) Northpoint Training Center policies and procedures, **January 7, 2008**[~~"November 15,~~

~~2007"~~] [~~July 11, 2006~~], are incorporated by reference. Northpoint Training Center policies and procedures include:

NTC 01-17-01 Relationships with Public, Media and Other Agencies (Amended 5/12/06)
NTC 02-07-02 Institutional Religious Center Fund (Amended 5/12/06)
NTC 02-08-01 Inmate Canteen
NTC 02-12-01 Inmate Accounts (Amended 5/12/06)
NTC 06-01-01 Offender Information Services (Added 5/12/06)
NTC 06-01-02 Offender Information Services - Release of Information (Amended 6/10/03)
NTC 08-05-02 Fire Procedures (Amended **01/08/08**[~~11/15/07~~][~~4/15/03~~])
NTC 08-05-03 Fire Prevention (Amended 4/15/03)
NTC 08-07-01 Safety Standards
NTC 09-06-01 Searches and Contraband Procedures; Disposition of Contraband (Amended 11/15/07)
NTC 09-14-01 Inmate Death (Amended 11/15/07)
NTC 09-16-01 Restricted Areas (Amended **01/07/08**[~~11/15/07~~])
NTC 09-33-01 Use of the Electronic Identification Card Scanner, Metal Detector and X-ray Machine (Amended 5/12/06)
NTC 10-01-01 Special Management Unit (Amended 7/11/06)
NTC 11-03-01 Food Services: General Guidelines (Amended 11/15/07)
NTC 11-04-02 Menu, Nutrition, Special, and Individual Diets (Amended 4/15/03)
NTC 11-05-02 Health Standards and Regulations for Food Service Employees (Amended 11/15/07)
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens (Amended 5/12/06)
NTC 12-02-02 Issuance of Personal Hygiene Products
NTC 12-06-01 Housekeeping Procedures (Amended 5/12/06)
NTC 12-07-01 Grooming and Hair Care Standards
NTC 13-01-01 Emergency Medical Care Plan (Amended 11/15/07[~~10/14/05~~])
NTC 13-01-02 Emergency and Specialized Health Services (Amended 10/14/05)
NTC 13-03-01 Sick Call and Pill Call (Amended 10/14/05)
NTC 13-04-01 Utilization of Pharmaceutical Products
NTC 13-05-01 Dental Services (Amended 11/15/07)
NTC 13-05-03 Dental Radiation Levels
NTC 13-07-01 Provisions for Health Care Delivery (Amended 10/14/05)
NTC 13-08-01 Medical and Dental Records (Amended **11/15/07**[~~9/14/07~~])
NTC 13-10-01 Notification of Inmate's Family or Designation Individual of Serious Illness or Injury, Surgery, or Inmate Death (Added 11/15/07)
NTC 13-11-01 Inmate Health Screening and Evaluation
NTC 13-12-01 Special Health Care Programs (Amended 11/15/07)
NTC 13-13-01 Inmate Self-administration of Medication
NTC 13-17-01 Inmates Assigned to the Health Services Department
NTC 13-19-01 Mental Health Care Program (Amended 11/15/07)
NTC 13-19-03 Suicide Prevention and Intervention Program
NTC 13-20-01 Infectious Disease (Amended 10/14/05)
NTC 13-20-02 Infection Control (Amended 10/14/05)
NTC 13-21-01 Vision Care and Optometry Services
NTC 13-22-01 Informed Consent
NTC 13-23-01 Special Needs Inmates
NTC 13-26-01 Public Advocacy Access to Psychological and Psychiatric Reports (Amended 12/13/05)
NTC 14-01-01 Legal Services Program (Amended 11/15/07)
NTC 14-02-01 Inmate Grievance Procedure (Amended 5/12/06)
NTC 14-03-01 Inmate Rights and Responsibilities
NTC 14-03-02 Board of Claims
NTC 15-02-01 Due Process and Disciplinary Procedures (Amended 4/15/03)
NTC 15-02-02 Extra Duty Assignments
NTC 15-02-03 Hearing Officer (Amended 5/12/06)
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail (Amended 5/12/06)
NTC 15-03-02 Rules and Regulations for General Population Dormitories (Amended 6/10/03)
NTC 15-03-03 Nonsmoking Dormitory
NTC 15-04-01 Inmate Identification (Amended 5/12/06)
NTC 15-05-01 Drug Abuse and Intoxicants Testing
NTC 16-01-01 Mail Regulations (Amended 5/12/06)
NTC 16-02-01 Visiting (Amended 5/12/06)
NTC 16-02-02 Extended and Special Visits (Amended 5/12/06)
NTC 16-02-04 Controlled Visitation
NTC 16-03-01 Inmate Furloughs
NTC 16-05-01 Telephone Use and Control
NTC 17-01-01 Personal Property Control (Amended 5/12/06)
NTC 17-01-02 Authorized Inmate Personal Property
NTC 17-01-03 Unauthorized Inmate Property (Amended 4/15/03)
NTC 17-01-04 Disposition of Unauthorized Property
NTC 17-01-05 State Issue and Required Inmate Clothing (Amended 5/12/06)
NTC 17-03-01 Assessment and Orientation (Amended 4/15/03)
NTC 18-01-01 Preparole Progress Report (Amended 4/15/03)
NTC 18-02-01 Classification (Amended 5/12/06)
NTC 18-02-02 Classification - 48 Hour Notification (Amended 5/12/06)
NTC 18-03-01 Conflict Notification Form (Amended 6/10/03)
NTC 18-05-01 Transfers of Inmates (Amended 4/15/03)
NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01 Inmate Work Program
NTC 19-02-01 Correctional Industries (Amended 5/12/06)
NTC 19-02-02 Guidelines for Correctional Industries
NTC 20-01-01 Educational Programs (Amended 5/12/06)
NTC 20-02-02 Live Work Projects in Technical School Classes (Amended 4/15/03)
NTC 21-01-01 Library Services (Amended 5/12/06)
NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01 Religious Services (Amended 11/15/07)
NTC 23-03-01 Marriage of Inmates (Amended 5/12/06)
NTC 24-04-01 Honor Housing (Amended 6/10/03)
NTC 24-05-01 Unit Management (Amended 5/12/06)
NTC 25-01-01 Release Preparation Program
NTC 25-01-02 Temporary and Community Center Release
NTC 25-01-03 Graduated Release (Amended 6/10/03)
NTC 25-02-01 Funeral Trips and Bedside Visits
NTC 25-03-01 Inmate Release Procedure (Amended 5/12/06)
NTC 26-01-01 Citizen Involvement and Volunteer Services Program

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686 [~~Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, PO Box 2400, Frankfort, Kentucky 40602-2400~~], Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN D. REES, Commissioner
APPROVED BY AGENCY: November 13, 2007
FILED WITH LRC: November 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 6:170. Green River Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice

Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any 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 policies and procedures for the Green River Correctional Complex.

Section 1. Incorporation by Reference. (1) "Green River Correctional Complex Policies and Procedures", November 15, 2007][~~8, 2005~~], is incorporated by reference. Green River Correctional Complex Policies and Procedures include:

[~~GRCC 01-01-01~~	~~Establishment of the GRCC Institutional Operations Manual (Amended 5/15/02)~~
~~GRCC 01-01-02~~	~~Organization of GRCC Operations Manual~~
~~GRCC 01-01-03~~	~~Formulation and Revision of GRCC Operating Procedures (Amended 5/15/02)~~
~~GRCC 01-02-01~~	~~Organization and Assignment of Responsibility (Amended 5/15/02)~~
~~GRCC 01-03-01~~	~~Staff Meetings, Purpose and Requirements (Amended 5/15/02)~~
~~GRCC 01-04-01~~	~~Monthly Reports~~
~~GRCC 01-05-01~~	~~Procedures Officer~~]
GRCC 01-06-01	Inmate Access to and Communication with GRCC Staff (Amended 11/15/07)
GRCC 01-07-01	Institutional Tours of GRCC (Amended 11/15/07)
GRCC 01-08-01	GRCC Cooperation with Outside Bodies Including Courts, Governmental, Legislative, Executive, and Community Agencies (Amended 11/15/07)
[~~GRCC 01-09-01~~	~~Duty Officer Responsibilities~~
~~GRCC 01-10-01~~	~~Smoking: GRCC Facility (Amended 7/9/02)~~
~~GRCC 01-11-01~~	~~Institutional Planning~~]
GRCC 01-12-01	Public Information and Media Communication (Amended 11/15/07)
[~~GRCC 02-01-01~~	~~Fiscal Management Organization~~]
GRCC 02-01-02	Fiscal Management: Accounting Procedures (Amended 11/15/07)
GRCC 02-01-03	Fiscal Management: Agency Funds (Amended 11/15/07)
[~~GRCC 02-01-04~~	~~Fiscal Management Insurance~~
~~GRCC 02-02-01~~	~~Fiscal Management: Budget~~
~~GRCC 02-03-01~~	~~Fiscal Management: Audits~~
~~GRCC 02-04-01~~	~~Purchase and Supply Requisitions~~
~~GRCC 02-05-01~~	~~Warehouse Operation~~]
GRCC 02-06-01	Inmate Canteen (Amended 11/15/07)
GRCC 02-06-02	Inmate Canteen Committee (Amended 11/15/07)
GRCC 02-07-01	Inmate Personal Funds (Amended 11/15/07)
[~~GRCC 02-08-01~~	~~Inventory Control~~
~~GRCC 03-01-01~~	~~General Guidelines for GRCC Employees (Amended 7/9/02)~~
~~GRCC 03-02-01~~	~~Personnel Designated for Mandatory Operations During Inclement Weather or Emergency Conditions (Amended 5/15/02)~~
~~GRCC 03-03-01~~	~~Employee Recognition Program~~
~~GRCC 03-04-01~~	~~Employee Grievance and EEO Complaint Procedure~~
~~GRCC 03-05-01~~	~~Drug Free Work Place~~
~~GRCC 03-06-01~~	~~Organization of Payroll and Personnel Records (Amended 5/15/02)~~
~~GRCC 03-07-01~~	~~Personnel Staffing Review (Amended 7/9/02)~~
~~GRCC 03-08-01~~	~~Personnel Registers (Amended 5/15/02)~~
~~GRCC 03-09-01~~	~~Selection and Promotion of Employees (Amended 7/9/02)~~
~~GRCC 03-10-01~~	~~Medical Examination for New Employees (Amended 5/15/02)~~
~~GRCC 03-11-01~~	~~Kentucky Employee Assistance Program~~]
GRCC 03-12-01	Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, [~~and~~] Volunteers, and Student Interns (Amended 11/15/07)
[~~GRCC 03-13-01~~	~~Employee Evaluations (Amended 7/9/02)~~
~~GRCC 03-14-01~~	~~Student Placement Program~~
~~GRCC 03-15-01~~	~~Documentation – Requirement – Guidelines (Amended 5/15/02)~~
~~GRCC 03-16-01~~	~~New Employee Orientation (Amended 5/15/02)~~
~~GRCC 03-17-01~~	~~Resignation, Transfer or Termination Clearance Procedure~~
~~GRCC 04-01-01~~	~~Employee Training and Staff Development~~
~~GRCC 05-01-01~~	~~Information System~~]
GRCC 05-02-01	Outside Consultation and Research (Amended 11/15/07)
GRCC 06-01-01	Offender Records
[~~GRCC 06-02-01~~	~~Storage of Expunged Records~~
~~GRCC 07-01-01~~	~~Maintenance Requests~~
~~GRCC 07-02-01~~	~~Preventive Maintenance Program (Amended 5/15/02)~~
~~GRCC 07-03-01~~	~~Mechanical Equipment Repair and Control of Hazardous Energy (Amended 5/15/02)~~
~~GRCC 08-01-01~~	~~Occupational Exposure to Serious and Infectious Diseases (Amended 5/15/02)~~]
GRCC 08-02-01	Fire Safety (Amended 11/15/07[~~5/15/02~~])
[~~GRCC 08-04-01~~	~~Control of Caustic, Toxic, Flammable, Hazardous and Other Materials~~
~~GRCC 08-04-02~~	~~Hazardous Chemicals and Material Safety Data Sheet~~]
GRCC 09-01-01	Inmate Counts (Amended 11/15/07[~~7/9/02~~])
GRCC 09-02-01	Drug Abuse Testing (Amended 11/15/07[~~7/9/02~~])
[~~GRCC 09-03-01~~	~~Procedure for Operation in Event of Dense Fog, Inclement Weather or Loss of Power (Added 5/15/02)~~]
GRCC 09-04-01	Inmate Death (Amended 11/15/07[~~Added 7/9/02~~])
[~~GRCC 09-13-01~~	~~Establishment of Security Posts at GRCC (Amended 5/15/02)~~
~~GRCC 09-14-01~~	~~Vehicle Usage (State and Private) (Amended 5/15/02)~~]
GRCC 10-01-01	Special Management Unit (Amended 11/15/07[~~7/9/02~~])
GRCC 11-01-01	Food Service: **General** Guidelines (Amended 11/15/07[~~5/15/02~~])
GRCC 11-02-01	Food Service: Security (Amended 11/15/07[~~5/15/02~~])
GRCC 11-03-01	Dining Room Guidelines (Amended 11/15/07[~~7/9/02~~])
GRCC 11-04-01	Food Service: Meals (Amended 11/15/07[~~5/15/02~~])
GRCC 11-04-02	Food Service: Menu, Nutrition and Restricted Diets (Amended 11/15/07[~~5/15/02~~])
GRCC 11-06-01	Health Requirements of Food Handlers (Amended 11/15/07[~~5/15/02~~])
GRCC 11-07-01	Food Service: Inspections and Sanitation (Amended 11/15/07[~~5/15/02~~])
[~~GRCC 11-08-01~~	~~Food Service: Purchasing, Storage and Farm Products (Added 5/15/02)~~]
GRCC 12-01-01	Clothing, Bedding, Hygiene Supplies and Barber Shop (Amended 11/15/07[~~5/15/02~~])
[~~GRCC 12-02-01~~	~~Sanitation Inspections~~
~~GRCC 12-03-01~~	~~Vermin and Insect Control~~
~~GRCC 13-01-01~~	~~Organization of Medical Services (Amended 9/14/2005)~~]
GRCC 13-02-01	Medical Services: Sick Call, Physician's Clinics and Pill Call (Amended 9/14/2005)
GRCC 13-02-02	Medical Services: Copayment (Amended 9/14/2005)
GRCC 13-02-03	Continuing of Care: Health Evaluations, Intrasystem Transfer, Individual Treatment Plans (Amended 9/14/2005)
GRCC 13-03-01	Use of Pharmaceutical Products (Amended 9/14/2005)
GRCC 13-04-01	Health Records (Amended 9/14/2005)
GRCC 13-04-02	Psychological and Psychiatric Reports

(Amended 11/8/2005)
GRCC 13-05-01 Management of Serious and Infectious Diseases (Amended 9/14/2005)
GRCC 13-06-01 Mental Health Services (Amended 9/14/2005)
GRCC 13-07-01 Medical Restraints (Amended 9/14/2005)
GRCC 13-08-01 Eye Care (Amended 9/14/2005)
GRCC 13-09-01 Dental Care (Amended 9/14/2005)
GRCC 13-10-01 Transfers and Medical Profiles (Amended 9/14/2005)
GRCC 13-11-01 Informed Consent (Amended 9/14/2005)
GRCC 13-12-01 Infirmary Care (Amended 9/14/2005)
GRCC 13-13-01 Inmate Self-administration of Medication (Amended 9/14/2005)
GRCC 13-15-01 Health Education Program and Detoxification (Amended 9/14/2005)
GRCC 14-01-01 Inmate Rights and Responsibilities (Amended 11/15/07[~~5/15/02~~])
GRCC 14-02-01 Legal Services Program (Amended 11/15/07)
GRCC 16-01-01 Inmate Visiting (Amended 11/15/07[~~5/15/02~~])
GRCC 16-02-02 Inmate Correspondence and Privileged Mail (Amended 11/15/07[~~7/9/02~~])
GRCC 16-03-01 Inmate Telephone Communications (Amended 11/15/07[~~5/15/02~~])
GRCC 16-04-01 Inmate Packages (Amended 11/15/07[~~7/9/02~~])
GRCC 17-01-01 GRCC Inmate Property Control (Amended 11/15/07[~~7/9/02~~])
GRCC 17-02-01 GRCC Inmate Receiving and Orientation Process (Amended 11/15/07[~~7/9/02~~])
GRCC 17-03-01 Procedure for Sending Televisions to Outside Dealer for Repair (Amended 11/15/07[~~7/9/02~~])
GRCC 18-01-01 Inmate Classification (Amended 11/15/07[~~5/15/02~~])
GRCC 18-02-01 Meritorious Housing (Amended 11/15/07[~~7/9/02~~])
GRCC 18-02-02 Meritorious Visitation Program (Amended 11/15/07[~~5/15/02~~])
GRCC 18-03-01 Minimum Security Unit: Operating Procedures and Living Conditions (Added 11/15/07)
GRCC 19-01-01 Inmate Work Program (Amended 11/15/07[~~5/15/02~~])
GRCC 19-01-02 90-Day Unassigned Status (Amended 11/15/07[~~7/9/02~~])
GRCC 20-01-01 Educational Programs (Amended 11/15/07[~~5/15/02~~])
GRCC 21-01-01 Library Services (Amended 11/15/07)
GRCC 22-01-01 Recreation Programs (Amended 11/15/07[~~7/9/02~~])
GRCC 22-02-01 Inmate Clubs and Organizations (Amended 11/15/07[~~7/9/02~~])
[~~GRCC 22-03-01 Employee Use of Recreation Facilities~~]
GRCC 22-04-01 Arts and Crafts Projects (Amended 11/15/07[~~5/15/02~~])
GRCC 22-05-01 Inmate Photo Project (Amended 11/15/07[~~7/9/02~~])
GRCC 23-01-01 Religious Programs (Amended 11/15/07[~~5/15/02~~])
GRCC 23-02-01 Death or Hospitalization of an Inmate's Family Member and Notification of Inmates (Amended 11/15/07[~~5/15/02~~])
GRCC 24-01-01 Social Services and Counseling Program (Amended 11/15/07[~~7/9/02~~])
GRCC 25-01-01 Prerelease Program (Amended 11/15/07[~~5/15/02~~])
GRCC 25-01-02 Inmate Release Process (Amended 11/15/07[~~5/15/02~~])
GRCC 25-02-01 Parole Hearing Procedure (Amended 11/15/07[~~7/9/02~~])
GRCC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 11/15/07[~~Added 5/15/02~~])

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JOHN D. REES, Commissioner
APPROVED BY AGENCY: November 13, 2007
FILED WITH LRC: November 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 7:040. Personnel.

RELATES TO: KRS **441.045,** 441.055
STATUTORY AUTHORITY: KRS 196.035, 197.020, [~~441.045,~~] 441.055
NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes personnel procedures to be followed in restricted custody centers.

Section 1. Staffing. (1) **Each jail shall provide twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) staff members, excluding communication staff.**[~~Each center shall provide a minimum of two (2) staff members, communication staff excluded, per twenty-four (24) hour awake supervision for all prisoners.~~] If requested by the jailer or fiscal court, the Department of Corrections may conduct a staffing analysis.

(2) If a female prisoner is housed in the center, the center shall provide a female deputy to perform twenty-four (24) hour awake supervision.

Section 2. Qualifications. Security employees shall be at least twenty-one (21) years of age.

Section 3. Compensation. Each employee shall receive a wage that is at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

Section 4. Training. Jail personnel whose jobs require prisoner supervision shall successfully complete a minimum of sixteen (16) hours annual in-service training delivered by the department on a regional or basis, or by computer-based training, or by another agency after first being reviewed and approved by the Department of Corrections [~~local basis or approved by the department if delivered by another agency~~].

Section 5. Policy and Procedure. Written policy shall specify that equal employment opportunities exist for every staff position.

Section 6. Physical Fitness. The jailer shall ensure that a level of physical fitness is maintained that will allow each employee to satisfactorily perform his duties.

Section 7. Code of Ethics. (1) The jailer shall make a written code of ethics available to each employee.

(2) The written code of ethics shall be incorporated in the center's policy and procedures manual and shall include the following:

(a) An employee shall not:

1. Exchange a personal gift or a favor with a prisoner, his family, or friend;

2. Accept any form of bribe or unlawful inducement;

3. Perform duties under the influence of an intoxicant or consume an intoxicant while on duty;

4. Violate or disobey an established rule, administrative regula-

tion, or lawful order from a superior;

5. Discriminate against any prisoner on the basis of race, religion, creed, gender, national origin, or other individual characteristic;

6. Employ corporal punishment or unnecessary physical force;

7. Subject a prisoner to physical or mental abuse;

8. Intentionally demean or humiliate a prisoner;

9. Bring a weapon or an item declared as contraband into the center without proper authorization;

10. Engage in critical discussion of staff or any prisoner in the presence of a prisoner;

11. Divulge confidential information without proper authorization;

12. Withhold information which, in so doing, threatens the security of the center, its staff, visitors, or the community;

13. Through negligence, endanger the well-being of self or others;

14. Engage in any form of business or profitable enterprise with a prisoner; [~~or~~]

15. Inquire about, disclose, or discuss details of a prisoner's crime other than as may be absolutely necessary in performing official duties;

16. Enter into an intimate, personal relationship with a prisoner while the prisoner is incarcerated at the same jail that the employee is employed by; or

17. Enter into an intimate, personal relationship with a former prisoner of jail within six (6) month of that prisoner's release.

(b) An employee shall:

1. Comply with established rules, administrative regulations, and lawful orders from superiors;

2. Treat prisoners in a fair, impartial manner; and

3. Report a violation of the code of ethics to the jailer.

(3) A violation of the code of ethics shall be made a part of the employee's personnel file.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 7:080. Sanitation; hygiene.

RELATES TO: KRS 441.045, 441.055

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055(1) requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures for proper sanitation and hygiene in restricted custody centers.

Section 1. Procedures. (1) The jailer shall provide for:

(a) The control of vermin and pests; and

(b) Both solid and liquid waste disposal.

(2) The jailer shall have a written preventative maintenance plan which includes schedules for:

(a) Cleaning various specified locations and items in the center;

(b) Inspections by the jailer;

(c) Trash and garbage removal; and

(d) Periodic inspection and maintenance of specified mechanical equipment.

(3) The center shall have fresh, purified air circulating within each prisoner living and activity area.

(4) The center shall furnish clean, sanitized bedding to prisoners, including:

(a) One (1) penal mattress;

(b) One (1) blanket, if [~~when~~] conditions require;

(c) Two (2) sheets;

(d) One (1) pillow, if not part of the mattress; and

(e) One (1) pillowcase, if applicable.

(5) Prisoner bedding shall be cleaned on a regular basis according to the following schedule:

(a) Sheets, pillowcases, and mattress cover shall be cleaned at least once per week or upon reissue to another inmate;

(b) Blankets shall be cleaned upon reissue or quarterly, whichever is sooner; and

(c) Mattresses and pillows shall be cleaned quarterly or upon reissue to another inmate.

(6) Each prisoner shall be issued a clean towel. Towels shall be laundered weekly, or more as needed, or upon reissue to another inmate.

(7) Provisions shall be made for laundering prisoner clothing at least once a week.

(8) Floors, toilets, and sinks shall be washed daily or more often as necessary.

(9) Showers shall be cleaned on at least a weekly basis.

(10)(a) Prisoners shall be issued or permitted to obtain the following hygienic items:

1. Soap;

2. Toothbrush;

3. Toothpaste;

4. Toilet paper; and

5. Female sanitary supplies, if applicable.

(b) An indigent prisoner shall be furnished these items by the center.

(11) Hair cutting services or sanitized hair cutting equipment shall be available to all prisoners.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 7:090. Medical services.

RELATES TO: KRS 72.025, 441.045, 441.055, 441.560

STATUTORY AUTHORITY: KRS 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners. This administrative regulation establishes procedures to provide proper medical services in restricted custody centers.

Section 1. Medical [~~Procedure~~] Services. (1) The center's medical services shall be provided by contracting with a Kentucky licensed health care provider.

(2) The medical staff and mental health professionals shall not be restricted by the jailer in the performance of their duties except to adhere to the center's security requirements.

(3) All health care staff working in the center shall comply with state licensure and certificate requirements commensurate with

health care personnel working elsewhere in the community. Copies of the licenses and certificates for health care staff employed by the center shall be maintained on file within the center.

(4) A daily medical log shall be maintained documenting specific medical treatment rendered in the center. This log shall be kept current to the preceding hour.

(5) Residents shall not perform any medical functions within the center.

(6) Residents shall be informed verbally and in writing at the time of admission the methods of gaining access to medical care within the center.

(7) All medical procedures shall be performed according to orders issued by the responsible medical authority.

(8) Medical screening information shall be transferred to the center from the jail on each resident. Staff shall insure that the information is current when the resident is transferred [~~at the time of transfer~~]. The medical screening inquiry shall include but not be limited to:

(a) Current illnesses and health problems;

(b) Medications taken and special health requirements;

(c) Screening of other health problems designated by the medical authority;

(d) Behavioral observation, state of consciousness, and mental status;

(e) Notation of body deformities, markings, bruises, lesions, jaundice, ease of movement, and other distinguishing characteristics;

(f) Condition of skin and body orifices, including rashes and infestations; and

(g) Disposition and referral of residents to qualified medical personnel on an emergency basis.

(9) Medical, dental and psychological care for residents shall be provided in accordance with KRS Chapter 441 [~~441.045~~].

(10) At least one (1) center staff member per shift shall be trained in first aid procedures including CPR.

(11) Medical research shall not be permitted on any resident in the center.

(12) Access to the resident's medical file shall be controlled by the medical authority and the jailer. The physician-patient privilege shall apply to the medical record. The medical record shall be separate from custody and other administrative records of the center.

(13) In accordance with KRS 72.025, a postmortem examination shall be conducted on all residents who die while in the custody of the jailer.

(14) All center staff, or contract staff who **administer**[~~administers~~] medications to residents shall be trained in the proper procedures as outlined in the Policy and Procedures Manual.

(15) The center shall have first aid kits available at all times.

(16) If a urine surveillance program is in effect there shall be written procedures for carrying out the program

Section 2. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a resident be transferred to the department for necessary medical treatment and care if the resident:

(a) Is injured;

(b) Is pregnant;

(c) Becomes sick or ill;

(d)1. Is severely and persistently mentally ill; and

2. Is presenting an imminent risk of harm to self or others; or

(e) Requires specialized medical care or long-term medical care which is not available at the local jail.

(2) The transfer request shall be submitted to the commissioner in writing and shall contain the following information:

(a) Resident's name;

(b) Resident's Social Security number;

(c) County where currently housed;

(d) Inmate number;

(e) Pending charge or conviction and **whether**[~~if~~] felony or misdemeanor;

(f) Estimated sentence or time to serve;

(g) Whether the resident has insurance or not;

(h) Whether the resident is indigent or not;

(i) Justification for medical transfer;

(k) Whether the care is necessary or not;

(l) Any conflict reports; and

(m) Relevant attachments such as:

1. Copy of resident's insurance card;

2. Doctor's report;

3. Incident report;

4. Citation;

5. Booking information;

6. Preexisting medical records; or

7. Current medication.

(3) If a resident is approved for transfer to the department as a catastrophic medical prisoner, the jail shall provide the following, unless already provided with the transfer request:

(a) All medical information;

(b) Current medication in proper container;

(c) Booking information;

(d) Incident reports;

(e) Current citation;

(f) Classification information;

(g) Conflict reports;

(h) Any additional pertinent information; and

(i) Custody receipt.

(4) If a resident is approved for transfer to the department as a catastrophic medical prisoner, the resident shall be transported by the department.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES, Chairman, Commissioner

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 7:100. Food services.

RELATES TO: KRS 441.055

STATUTORY AUTHORITY: 196.035, 197.020[~~13A.350~~], 441.055

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum standards for jails that [~~elect to~~] house state prisoners [~~detention facilities~~]. This administrative regulation establishes [~~sets forth~~] procedures for the delivery of proper food services in restricted custody centers.

Section 1. Procedures. (1) The center shall comply with KRS 217.280 through 217.390 and 902 KAR 45:005 [~~the Kentucky Food Service Establishment Act and State Food Service Code (KRS 219.019 through KRS 219.081) and the Kentucky Occupational Safety and Health Standards for General Industry (803 KAR 2:020 and 29 C.F.R. Part 1910)~~].

(2) The jailer shall provide adult residents with a nutritionally adequate diet.

(3) The jailer shall provide for religious diets **in accordance with 501 KAR 3:130** after review and approval of a religious authority.

(4) The jailer shall provide for medical diets if [~~where~~] prescribed by a medical authority.

(5) The center shall maintain accurate records of all meals served.

(6) Food shall not be used for disciplinary [~~or reward~~] pur-

poses.

(7) A nutritionist or dietician shall approve the nutritional value of the center menu on an annual basis.

(8) A staff member shall directly supervise all food prepared within the center.

(9) All food shall be served under the direct supervision of a staff member.

(10) The center shall have sufficient cold and dry food storage facilities if food is prepared in the center.

This is to certify that the Jail Standards Commission has 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).

JOHN D. REES Chairman, Commissioner,

APPROVED BY AGENCY: October 12, 2007

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CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(As Amended at ARRS, January 7, 2008)

501 KAR 13:010. Life safety issues.

RELATES TO: KRS 198B.650-198B.689, 217.280-217.390, 441.055, 441.560

STATUTORY AUTHORITY: KRS 196.035, 197.020, 441.055, 441.560

NECESSITY, FUNCTION, AND CONFORMITY: KRS 441.055 requires the Department of Corrections to promulgate administrative regulations establishing minimum health and life safety standards for jails **that**[~~which~~] do not elect to house state prisoners. This administrative regulation sets forth procedures to provide protection for basic health and life safety in jails that do not house state prisoners.

Section 1. Definitions. (1) "Life Safety Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS **67B.020**[~~441.005~~], operated by and under the supervision of any county, regional jail authority, city or urban county government that does not house state prisoners **pursuant to**[~~as defined by~~] KRS 532.100.

(2) "Medical authority" means the person or persons licensed and certified to provide medical care to prisoners in the jail's custody.

Section 2. Staffing. (1) Each jail shall provide **twenty-four (24) hour awake supervision for all prisoners by providing a minimum of two (2) staff members, excluding communication staff.** [~~a minimum of two (2) staff members, communication staff excluded, per twenty-four (24) hour awake supervision for all prisoners.~~] If requested by the jailer or fiscal court, the Department of Corrections may conduct a staffing analysis.

(2) Each jail shall be required to provide the Department of Corrections with a weekly population update.

(3) If a female prisoner is lodged in the jail, the jail shall provide a female deputy to perform twenty-four (24) hour awake supervision.

(4) Qualifications. Security employees shall be at least twenty-one (21) years of age.

(5) Compensation. Each employee shall receive a wage at least equal to the State Minimum Wage Law except if Federal Minimum Wage Law applies.

(6) Males and females shall be housed separately.

Section 3. Physical Plant. (1) Square footage living space requirement for jails shall be the same as required in 501 KAR 3:050.

(2) All furnishings in the jail shall be noncombustible and nontoxic as approved by the Department of Corrections.

(3) Kitchen. The purpose of this area shall be to provide sufficient space and equipment for preparing meals for the maximum rated capacity of the jail. Design features shall include:

(a) Compliance with standards of the **Retail Food**[~~State Food Service~~] Code, 902 KAR 45:005;[~~.~~]

(b) Commercial type stoves and refrigeration units; and[~~.~~]

(c) Walls, floors, and decks **that are**[~~shall be~~] approved fire-rated masonry, concrete, or steel construction.

(4) Gauges, indicators, and alarms shall be located in an area monitored by staff.

(5) The jail shall provide ventilation to meet **the** air exchange **requirements in the Kentucky Jail Construction and Renovation Standards incorporated by reference in 501 KAR 3:050** [~~as required in the state health codes, KRS 198B.650 to 198B.689, 803 KAR 2:317, and 902 KAR 45:005~~].

(6) Electrical outlets if provided shall be ground-faulted or have ground-fault circuit breakers.

(7) All tools, toxic, corrosive, and flammable substances, and other potentially dangerous supplies and equipment shall be stored in a locked area which shall be secure.

(8) The jail shall have a procedure for immediate reporting and repairing any broken or malfunctioning key or lock.

(9) A set of duplicate keys shall be maintained in a separate, secure place.

(10) Each jail shall comply with the Kentucky Building Code, 815 KAR 7:120.

Section 4. Fire Safety. (1) Each jail shall have a written policy and procedure **that**[~~which~~] specifies fire prevention regulations and practices to ensure the safety of prisoners, visitors, and staff. These shall include**, at a minimum**[~~but not be limited to~~]:

(a) Provision for fire emergency planning sessions for staff at least quarterly;[~~.~~]

(b) Written documentation of fire planning sessions and a written copy of the material taught;[~~.~~]

(c) A fire safety inspection by the Department of Corrections at least once a year;[~~.~~]

(d) Inspection and testing of fire protection equipment by qualified persons at least annually with visual inspections by staff monthly;[~~.~~]

(e) Smoking restrictions and regulations; and[~~.~~]

(f) Written evacuation plan coordinated with local fire officials.

(2) Each jail shall have exits distinctly and permanently marked, visible at all times, kept clear, and maintained in usable condition.

(3) Each jail shall have equipment necessary to maintain essential lights, power, and communications in an emergency situation.

(4) In all areas where a prisoner may be confined, each jail shall be provided with an emergency smoke evacuation system activated by smoke detectors and operated by emergency power.

(5) Each jail shall have an approved fire alarm and smoke detection system.

Section 5. Sanitation; Hygiene. (1) The jailer shall provide for the control of vermin and pests.

(2) The jail shall provide for both solid and liquid waste disposal.

(3) The jail shall have fresh air circulating within prisoner living and activity areas.

(4) All prisoners shall be provided with hot and cold running water in showers and lavatories.

Section 6. Medical Services. (1) Deputy jailers and correctional officers shall have current training in standard first aid and C.P.R., as offered by the American Red Cross, the American Heart Association, or an equivalent nationally recognized organization [~~and the Department of Corrections, Division of Corrections Training~~].

(2) The jail shall have first aid kits available at all times.

(3) A health status (including current medications, known allergies, and diet or other special medical needs) shall be completed on each prisoner during admission.

(4) Each prisoner shall be afforded access to necessary medi-

cal care as in KRS 441.045.

Section 7. Medical Transfers pursuant to KRS 441.560. (1) A jailer may request that a prisoner be transferred to the department for necessary medical treatment and care if the prisoner:
(a) Is injured;
(b) Is pregnant;
(c) Becomes sick or ill;
(d)1. Is severely and persistently mentally ill; and
2. Is presenting an imminent risk of harm to self or others; or
(e) Requires specialized medical care or long-term medical care which is not available at the local jail.
(2) The transfer request shall be submitted to the commissioner in writing and shall contain the following information:
(a) Prisoner's name;
(b) Prisoner's social security number;
(c) County where currently housed;
(d) Inmate number;
(e) Pending charge or conviction and **whether**[if] felony or misdemeanor;
(f) Estimated sentence or time to serve;
(g) Whether the prisoner has insurance or not;
(h) Whether the prisoner is indigent or not;
(i) Justification for medical transfer;
(k) Whether the care is necessary or not;
(l) Any conflict reports; and
(m) Relevant attachments such as:
1. Copy of prisoner's insurance card;
2. Doctor's report;
3. Incident report;
4. Citation;
5. Booking information;
6. Preexisting medical records; or
7. Current medication.
(3) If a prisoner is approved for transfer to the department as a catastrophic medical prisoner, the jail shall provide the following, unless already provided with the transfer request:
(a) All medical information;
(b) Current medication in proper container;
(c) Booking information;
(d) Incident reports;
(e) Current citation;
(f) Classification information;
(g) Conflict reports;
(h) Any additional pertinent information; and
(i) Custody receipt.
(4) If a prisoner is approved for transfer to the department as a catastrophic medical prisoner, the prisoner shall be transported by the department.

Section 8. [~~7.~~] Food Services. (1) The jail shall comply with KRS 217.280 to 217.390, 803 KAR 2:317, and 902 KAR 45:005.
(2) The jail shall provide prisoners with a diet containing 2400 calories daily and jail menus shall be approved annually by a nutritionist or dietician.
(3) Prisoners shall receive three (3) meals per day, one (1) of which shall be hot. More than fourteen (14) hours shall not elapse between any two (2) meals.
(4) The jailer shall provide for medical diets if prescribed by a medical authority.
(5) The jailer shall provide for religious diets **in accordance with 501 KAR 3:130** after review and approval of religious authority.
(6) The jailer shall maintain accurate records of all meals served.
(7) Food shall not be used for disciplinary [~~or reward~~] purposes.
(8) A staff member shall directly supervise all food prepared within the jail.
(9) All food shall be served under the direct supervision of a staff member.
(10) The jail shall have sufficient cold and dry food storage facilities.
(11) The jailer or his designee shall inspect the food service area daily.
(12) Canteen food items purchased by prisoners may be stored and prepared in amounts that do not pose a threat to the health or security of the institution.

This is to certify that the Jail Standards Commission has 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).

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JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police
(As Amended at ARRS, January 7, 2008)

502 KAR 14:010. Provision and maintenance of automated fingerprint identification system equipment and programs in detention centers. Submission of fingerprints by jailers to the Kentucky State Police.

RELATES TO: KRS 17.180, 441.046
STATUTORY AUTHORITY: KRS 17.180, 441.046
NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.180 authorizes the Department of Kentucky State Police to promulgate administrative regulations concerning the automated fingerprint identification system equipment and programs to be required at every detention center in the Commonwealth. KRS 441.046 requires jailers in the Commonwealth to submit fingerprints to the Department of Kentucky State Police in the manner and time required by the department through administrative regulation.

Section 1. Definitions. (1) "AFIS" means the Automated Fingerprint Identification System which is a computer- based array of systems maintained by the Kentucky State Police that is designed to capture, search, and store fingerprint images and arrest data.
(2) "Fingerprints" mean graphical representations of the friction ridge skin found on the fingers between the first joint and the finger-tip.
(3) "Fingerprint card" means the ink and paper criminal fingerprint records on standard FBI fingerprint cards (FBI form FD-249) or the KSP-22 fingerprint card.
(4) "LiveScan fingerprint capture devices" means computer-based devices designed for the electronic capture and transmission of criminal arrest data and fingerprints of subjects taken into custody for criminal offenses.
(5) "Mug shot" means a photograph of an individual taken as part of the arrest and booking process.
(6) "Rolled fingerprints" means all friction ridge skin captured from the first joint of the finger to the end of each digit from fingernail to fingernail for all ten (10) fingers of the subject, containing as much of the geographical surface area of the area described above by rolling the finger from fingernail to fingernail.

Section 2. (1) The Department of Kentucky State Police shall provide and maintain LiveScan fingerprint capture devices in every detention center in the Commonwealth.
(2) All communication equipment associated with LiveScan fingerprint capture devices (including routers, Channel Service Units, Data Service Units, and telecommunication lines) deemed necessary to transmit criminal arrest fingerprint records to the Department of Kentucky State Police repository shall be supplied by the department.
(3) Depending on factors such as cost, volume, and site environmental issues, the Department of Kentucky State Police may equip certain LiveScan fingerprint capture devices with laser printers, digital mug shot cameras, and associated lighting and back-

drops to ensure National Institute of Science and Technology (NIST) compliant mug shot packet collection during the booking process.

Section 3. (1) The following required data elements shall be entered into the LiveScan fingerprint capture devices during the booking process:
(a) First name;
(b) Last name;
(c) Date of birth;
(d) Sex;
(e) Race;
(f) Height;
(g) Weight;
(h) Place of birth;
(i) Skin tone;
(j) Arresting officer name;
(k) Arresting officer badge or unit number;
(l) Arresting agency Originating Agency Identifier (ORI);
(m) Fingerprinting agency Originating Agency Identifier (ORI);
(n) Date of arrest;
(o) Whether mug shot was taken;
(p) Whether DNA was taken;
(q) Whether palm prints were taken;
(r) Violation (UOR) code;
(s) KRS citation of offense;
(t) Citation number; and
(u) Date of offense.
(2) The fourteen (14) fingerprint images shall consist of:
(a) Rolled fingerprints;
(b) Simultaneous impressions of the left and right hand four fingers (index, middle, ring, and little) taken in a "straight down" or "flat" method; and
(c) Simultaneous impressions of the right and left thumbs taken in a "straight down" or "flat" method.
(3) Image specifications shall be in compliance with the Federal Bureau of Investigation's electronic fingerprint transmission specifications, "Electronic Biometric Transmission Specification (EBTS), Version 8.0."

Section 4. Jailers shall electronically submit the fingerprints taken pursuant to KRS 441.046 to the Department of Kentucky State Police via a LiveScan fingerprint capture device. If the LiveScan fingerprint capture device is not functioning due to damage, power failure, or other circumstance beyond the control of the jailer, fingerprints shall be placed on a fingerprint card and sent, postage prepaid, via U.S. mail, to: AFIS Section, Criminal Identification and Records Branch, Kentucky State Police, 1250 Louisville Road, Frankfort, Kentucky 40601.

Section 5. Fingerprints and criminal arrest data shall be sent to the Department of Kentucky State Police as soon as feasible after the arrest. Fingerprints on a LiveScan fingerprint capture device shall be completed and submitted prior to the subject's release from incarceration. Fingerprints on fingerprint cards may be mailed to the Department of Kentucky State Police on a weekly or semi-weekly basis, except the jailer shall not retain fingerprint cards more than thirty (30) days prior to mailing.

Section 6. LiveScan fingerprint capture devices shall be kept in a climate controlled area in a standard office environment that minimizes exposure to foreign substances such as dust, smoke, and dirt. Electrical circuits for LiveScan fingerprint capture devices shall not have any large ampere draw equipment such as air conditioners, refrigerators, copy machines, or laser printers on the same circuit. LiveScan fingerprint capture devices shall not be located in an area exposed to weather elements. Users of LiveScan fingerprint capture devices shall report system problems immediately to the Department of Kentucky State Police.

Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:
(a) "Federal Bureau of Investigation fingerprint card", FD-249, 5/11/99;
(b) "Kentucky State Police fingerprint card", KSP-22, 1/87; and
(c) "Federal Bureau of Investigation Electronic Biometric Transmission Specification (EBTS)", Version 8.0, September 24, 2007.
(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686.

JOHN (JACK) ADAMS, Commissioner
APPROVED BY AGENCY: November 13, 2007
FILED WITH LRC: November 15, 2007 at 10 a.m.
CONTACT PERSON: Karen S. Howard, Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

JUSTICE AND PUBLIC SAFETY CABINET
Kentucky Law Enforcement Council
(As Amended at ARRS, January 7, 2008)

503 KAR 3:110. Certified Court Security Officers academy trainee requirements; misconduct; penalties; discipline procedures.

RELATES TO: KRS 15.380(1)(c), KRS 15.3975
STATUTORY AUTHORITY: KRS 15.3975(1), 15A.070(1), (5)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.070(1) requires the Commissioner of the Department of Criminal Justice Training to establish, supervise, and coordinate training programs and schools for law enforcement personnel **and KRS 15A.070(5) authorizes the commissioner to promulgate administrative regulations**. This administrative regulation prescribes conduct requirements of trainees attending the Certified Court Security Officers academy conducted by the Department of Criminal Justice Training, prescribes procedures for disciplinary action, and sets penalties **for violations**.

Section 1. Uniforms Required. (1) A trainee shall acquire and wear **the designated uniform of his or her employing agency while participating in the academy. If an agency has not adopted a uniform, male trainees shall wear a shirt and tie and female trainees shall wear business casual for women. Penalty: verbal warning, written reprimand, loss of privileges, or problem.** [~~a brown utility uniform while participating in the academy.~~]
(2) A uniform shall be:
(a) Clean, pressed, and in good condition;
(b) Appropriately sized to fit the trainee and not excessively loose, baggy, or tight;
(c) Worn over a clean white or department-issued tee-shirt, visible at the neck; and
(d) Worn with a wide black police-type belt, clean police-type footwear, brown or black socks, and when outdoors, a department cap.
(e) The penalty for violation of this subsection shall be a verbal warning or written reprimand.
(3) Jewelry.
(a) The trainee may wear one (1) ring per hand. A wedding and engagement ring worn together shall be considered one (1) ring.
(b) Necklaces, earrings, bracelets, and other jewelry shall not be worn unless authorized by the coordinator.
(c) The penalty for violation of this subsection shall be a verbal warning or written reprimand.[~~Penalty: verbal warning or written reprimand.~~]
(4) A name tag, provided by the department, shall be worn on the left shirt-pocket flap. Penalty: verbal warning or written reprimand.
(5) Sleeves on winter shirts shall not be rolled up outside the classroom. Penalty: verbal warning or written reprimand.
(6) Optional clothing may be worn during a training activity if authorized by the class coordinator or an instructor.

Section 2. Removing a Trainee from the Academy. (1) Unqualified trainee. If the Department discovers that a trainee does not meet the Certified Court Security Officer qualifications in KRS 15.3971, he shall:

(a) Be removed from the academy by the:

1. Director;

2. Branch manager; or

3. Section supervisor; and

(b) Not receive credit for completed portions of academy training.

(2) If a trainee is removed from the academy he may request an administrative hearing, conducted in accordance with the requirements of KRS Chapter 13B, within thirty (30) days of the removal. The request for an administrative hearing shall be in writing.

(3) Agency request. The department shall remove a trainee from the academy upon written request of the trainee's law enforcement agency. The trainee shall not receive credit for completed portions of academy training.

Section 3. Gifts. A gift from trainees to department staff shall conform with the requirements of KRS Chapter 11A, the executive branch code of ethics.

Section 4. Penalties for Misconduct. (1) The following penalties shall apply to a trainee's failure to meet conduct or honor code requirements of the department. The penalties are listed in order of decreasing severity.

(a) Expulsion. The trainee is dismissed from the academy, and all privileges are terminated.

(b) Suspension. The trainee is suspended from the academy for a specified period of time; all privileges are rescinded during the suspension period.

(c) Loss of privileges. The trainee's privileges as specified in the imposed penalty are rescinded for a stated period of time. The trainee's participation in academy activities is not affected.

(d) Written reprimand. The trainee is reprimanded in writing for violating a conduct or honor code requirement.

(e) Verbal warning. The trainee is warned verbally that he has violated a conduct or honor code requirement.

(2) Second and subsequent violations.

(a) If a trainee has received a penalty for violating a conduct or honor code requirement, upon a second violation of any conduct or honor code requirement the next higher penalty shall be added to the list of penalties **that**[~~which~~] may be imposed for the second violation.

(b) If a trainee has previously received two (2) penalties for violating two (2) conduct or honor code requirements, upon a third or subsequent violation of any conduct or honor code requirement the next two (2) higher penalties shall be added to the list of penalties **that**[~~which~~] may be imposed for the third or subsequent violation.

(3) **Notice**[~~Giving notice~~] of disciplinary action to trainee and trainee's agency. The department shall give written notice to a trainee of any penalty imposed upon him. The trainee's agency shall be given written notice of any penalty imposed upon the trainee except a verbal warning, and shall be given verbal notice when a trainee has been charged with a violation of a conduct or honor code requirement and has requested a hearing.

(4) Penalty records.

(a) The department shall keep a written record of a penalty imposed on a trainee by placing it in the trainee's file.

(b) Except where required by law, a trainee's training file shall not be available for access except by:

1. The department;

2. The trainee; or

3. The trainee's agency head.

Section 5. Termination of Dangerous or Disruptive Situation. If the conduct or condition of a trainee 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 trainee attending the academy shall meet the following conduct requirements:

(1) General conduct - chain of command. All communications shall follow **the** chain of command of the department. Exceptions are the unavailability of a supervisor, or the trainee's complaint regarding a supervisor. **Penalty: verbal warning or written reprimand.**

(2) General conduct - insubordination. A trainee shall:

(a) Obey a lawful order from a department staff member. **Penalty: verbal warning or written reprimand, loss of privileges, probation, or suspension.**

(b) Refrain from:

1. Engaging in sexual activity on Department property;

2. Physical contact with another person that is inappropriate in a professional training setting**, for** [~~(For~~] example, hugging **or**[~~and/or~~] kissing[~~)~~];

3. Vulgarity;

4. Sexual harassment;

5. Rudeness;

6. Confrontation; **and**

7. Other disrespectful conduct directed toward a department staff member, trainee or other department trainee or guest.

8 Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

(3) General conduct - grooming.

(a) A male trainee:

1. Shall be clean shaven with sideburns no longer than the bottom of the ear lobe;

2. May wear a mustache if he had it upon arrival and keeps it neatly trimmed; and

3. Shall not wear a beard unless he receives permission from the department, based upon:

a. A written request from the trainee's agency; and

b. A showing of good cause.

(b) A trainee's hair shall:

1. Not be unkempt; and

2. Be kept above the collar.

(c) Penalty: verbal warning or written reprimand.

(4) General conduct - alcoholic beverages and other intoxicants.

(a) Regardless of amount, a trainee 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 when residing in the dormitory, including the weekend if the trainee is granted permission to stay beyond the normal Friday evening checkout.

(b) "Attending a basic training course" shall not include the weekend period during which trainees check out of the dormitory and return to their homes.

(c) A trainee shall not report to the dormitory having consumed alcoholic beverages, controlled substances, or other intoxicating substances.

(d) A trainee 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.

(e) Testing shall not be required to impose a penalty under this subsection, but may be requested if a department or dormitory staff member, instructor, section supervisor, branch manager, director**,** or commissioner has a reasonable suspicion that the trainee has violated the provisions of this section.

(f) Testing may be randomly requested of all members of an academy class or all dormitory residents. If a test is requested, a trainee shall be considered to have consumed alcoholic beverages if his or her blood alcohol concentration is 0.01% or greater.

(g) If a trainee 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 academy activity if he is under the influence thereof to the extent that the trainee may be impaired or may endanger himself or other persons or property. A trainee 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.

(h) Confiscation.

(i) Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.

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. A confiscated item shall be stored in a secure facility of the department until the item is returned to the trainee at the completion of the academy, or disposed of by the department.

(5) General conduct - weapons and other dangerous devices.

(a) Due to the accidents that have occurred in the training setting in other jurisdictions, a trainee shall not possess **the following on property used by the department except under circumstances specifically authorized by the department:**

1. Deadly weapons as defined in KRS 500.080;

2. Ammunition;

3. Destructive devices as defined in KRS 237.030;

4. Booby trap devices as defined in KRS 237.030;

5. Hazardous substances as defined in KRS 224.01-512;

6. Fireworks; or

7. Instruments used by law enforcement for control purposes, such as batons, stun guns, Mace, and pepper spray.[~~deadly weapons (as defined in KRS 500.080), ammunition, destructive devices or booby trap devices (as defined in KRS 237.030), hazardous substances (as defined in KRS 224.01-400), fireworks, or instruments used by law enforcement for control purposes (such as batons, stun guns, Mace, and pepper spray) on property used by the department except under circumstances specifically authorized by the department.~~]

(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 academy activities and may be removed only for scheduled training, servicing, cleaning, or repair. Servicing, cleaning, and repairs of weapons (other than repairs **that**[~~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.

(c) **Penalty: verbal warning, written reprimand, loss of privileges, or probation.**

(d) Confiscation.

1. If a dormitory staff member, department instructor, section supervisor, branch manager, director, or commissioner observes **a**[~~an unlawfully-possessed~~] weapon or other dangerous device **possessed in violation of this subsection,** 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 trainee shall not 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 trainee shall not have successfully completed the academy, 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 trainee. A trainee shall not:

(a) Engage in criminal activity, including acts which would constitute a felony, misdemeanor**,** or violation, while enrolled in the academy. **Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.**

(b) Engage in conduct **that**[~~which~~] creates a danger or risk of danger to the trainee or another**;**

(c) Possess[~~, possess~~] obscene material as defined in KRS 531.010**;**

(d) Engage[~~, engage~~] in conduct **that**[~~which~~] is [~~unreasonably~~] annoying**;**

(e) Engage[~~, engage~~] in fighting or in violent, tumultuous**,** or threatening conduct**;**

(f) Engage[~~, engage~~] in sexual harassment; or

(g) Engage in conduct **that**[~~which~~] is [~~patently~~] offensive. **Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.**

(8) Academy activities - absences.

(a) A trainee shall be considered absent if he is not physically present in a class or other required department activity for more than ten (10) minutes. A trainee shall be considered tardy if he is not physically present at a class or other required department activity for fewer than ten (10) minutes. A trainee shall give advance notice of an absence if possible. **Penalty for unexcused absence: verbal warning, written reprimand, loss of privileges, probation, or suspension. Penalty for unexcused tardiness: verbal reprimand or written reprimand.**

(b) An absence shall be excused if the trainee was absent due to:

1. Illness;
2. Illness of an immediate family member;
3. Death of an immediate family member;
4. Necessity of trainee's agency; or
5. Emergency circumstances.

(c) An absence from the academy shall be approved by the section supervisor or branch manager.

(d) If a trainee is absent, excused or unexcused, he shall make up for the absence by completing an assignment provided by the instructor who taught the missed unit. Failure to make up the work shall be deemed a failure for that academy area.

(e) If a trainee is absent for a combined period of more than ten (10) percent of the academy, he or she may be required to return to a later class in order to complete all coursework.

(10) Academy activities - breaks. Trainees shall be allowed a ten (10) minute break per hour of instruction if possible. A trainee shall not take a break in an area restricted by the department. **Penalty: verbal warning or written reprimand.**

(11) Academy activities - general conduct.

(a) A trainee shall be attentive during academy activities. **Penalty: verbal warning or written reprimand.**

(b) A trainee shall not use tobacco products during, or bring food or drink into **an**[a] academy activity unless so permitted by the training director or commissioner. **Penalty: verbal warning or written reprimand.**.

(c) A trainee shall not engage in conduct **that**[~~which~~] creates or may create a risk of injury to others during a training session. **Penalty: probation, suspension, or expulsion.**

(12) Academy activities - dishonesty. A trainee shall not cheat or attempt to cheat on a test or on any other assignment or activity; or alter or attempt to alter a test grade or other evaluation result; or engage in any other conduct intended to gain an undeserved evaluation for himself or another. **Penalty: suspension or expulsion.**

(13) Residence hall.

(a) During the academy, when attending in Madison County, a trainee shall reside in the residence hall designated by the department.

(b) A trainee shall return to his residence hall at curfew times designated by the commissioner, Sunday through Thursday evenings, 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, or probation.**

(c) A trainee shall observe "lights out" by 11:30 p.m. Sunday through Thursday 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 trainee shall be responsible for cleaning his area. Each morning, prior to leaving for class training, a trainee shall ensure his room is clean and free of trash, with beds made and the room ready for inspection. **Penalty: verbal warning, written reprimand or loss of privileges.**

(e) Doors shall be locked whenever a room is unoccupied. **Penalty: verbal warning, written reprimand or loss of privileges.**

(f) A hot plate shall not be used in the residence hall. **Penalty: verbal warning, written reprimand or loss of privileges.**

(g) All residence hall rooms, closets, and containers therein may be inspected by department staff for purposes of safety, sanitation**,** and rule violations.

(h) A trainee residing at the residence hall shall not:

1. Have any person of the opposite sex in his room without the permission of the department. **Penalty: verbal warning, written reprimand, loss of privileges, probation, or suspension.**

2. Have a visitor in his room after 9 p.m. **Penalty: verbal warning, written reprimand, or loss of privileges.**

3. Keep pets, animals, or birds of any kind in his room. **Penalty: verbal warning, written reprimand, or 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 trainee 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 trainees of the Department of Criminal Justice Training, Certified Court Security Officers Academy, we will not lie, steal or cheat nor tolerate any among us who do. We will keep our private lives honorable as an example to all. We will be exemplary in obeying the laws of the Commonwealth and the administrative regulations of the Department of Criminal Justice Training. Whatever we see or hear of a confidential nature **or**[~~of~~] confided to us in our official capacity shall be kept confidential unless revelation is necessary in the performance of duty. We will never allow personal feelings, prejudices, ill will or friendships to influence our decisions. We know that each of us is individually responsible for standards of professional performance. Therefore, we will make the utmost effort to improve our level of knowledge and competence. We recognize the badge of our office as a symbol of public faith and accept it as a public trust to be held so long as we are true to the ethics of the police service. We will constantly strive to achieve these ideals, dedicating ourselves to our chosen profession - law enforcement. **Penalty: verbal warning, written reprimand, loss of privileges, probation, suspension, or expulsion.**

(2) The class shall elect an honor code representative during the first week of the academy.

(3) All trainees 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.

Section 8. Department's Responsibilities to Trainee's Agency. In order to keep the agency advised of the trainee's progress and performance in the certified court security officers academy so that the agency may adequately assess the trainee's ability to perform required duties, the department shall provide the following to the sheriff of the trainee's agency:

(1) A trainee performance report which shall be completed at the end of the first week and shall include trainee conduct, demonstrated leadership abilities, examination scores, and overall effort on performance, observed social/interpersonal skills, and appearance.

(2) Immediate notice of specific nonperformance, misconduct**,** or lack of progress.

(3) Immediate notice of any off-campus activity **that**[~~which~~] reflects negatively on the profession, including the following:

(a) Parking a marked police vehicle [~~parked~~] 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.

Section 9. Summary Discipline. Except for summary discipline, a penalty shall not be imposed upon a trainee unless charges have first been brought by the legal officer.

(1) The following department staff members shall 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 believe by a preponderance of the evidence that the trainee 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, written reprimand, or loss of privileges.

(2) Before imposing a penalty summarily, the staff member shall give the trainee 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 trainee with the opportunity to give an explanation.

Section 10. Removal from the Academy Pending an Initial Appearance Before the Commissioner. (1) When a request for charges is filed against a trainee, the commissioner or director may remove the trainee from some or all training until the trainee'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 trainee would be dangerous or disruptive if not removed; or

(b) The trainee may be charged with misconduct serious enough to authorize expulsion.

(2) A trainee who has been removed from the academy 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 for believing that a trainee has violated a conduct or honor code requirement identified in this administrative regulation may file a complaint with the section supervisor. This complaint shall be in writing setting forth the facts upon which the complaint is based.

Section 12. Investigation by Section Supervisor. (1) If the section supervisor receives a complaint of or witnesses apparent misconduct, he shall take statements and otherwise investigate the 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 trainee.

1. The request for charges shall describe the alleged misconduct and designate the specific conduct requirements violated.

2. All pertinent evidence and documents including the complaint, and statements of the trainee and witnesses shall be forwarded to the legal officer.

Section 13. Review by Legal Officer; Placing Charges. (1) The legal officer shall review the request for charges and the supporting evidence and documents.

(2) The legal officer may make or cause further inquiry into the matter for additional information.

(3) The legal officer shall either:

(a) File any charges against the trainee **that**[~~as~~] he believes are justified by the evidence; or

(b) Deny the request for charges if the evidence does not support any charges.

(4) If the legal officer declines to file charges, he shall provide the commissioner with a statement of his reasons for not filing charges.

(5)[~~(4)~~] The charging document shall:

(a) Be in writing;

(b) Particularly describe the alleged misconduct so as to reasonably inform the trainee of the nature of the allegation;

(c) State the time, date, and place the trainee 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 trainee at least one (1) hour before his initial appearance before the commissioner.

Section 14. Initial Appearance Before the Commissioner. (1) The initial appearance before the commissioner shall be held no more than three (3) training days after the charges have been served on the trainee. If the trainee, after receiving proper notice, fails to appear, the commissioner may proceed in his absence and the trainee 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 trainee; and

2. Explain to the trainee:

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 trainee **that he shall answer the charges by:**

1. Admitting the charges are true;

2. Denying the charges are true but waiving a hearing; or

3. Denying the charges are true and requesting a hearing.[~~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 trainee of the penalty **that** [~~which~~] shall be imposed if the trainee admits the charges or waives a hearing.

(d) The trainee shall be requested to answer the charges.

(e) If the trainee chooses to waive his rights and admits the charges or denies the charges but waives a hearing:

1. He shall be permitted to make a statement of explanation; and

2. The commissioner shall impose a penalty.

(f) If the trainee denies the charges and requests a hearing, or refuses to answer the charges, the commissioner shall set a date for the hearing, notice of which shall be provided in writing to the trainee.

(3) The commissioner may remove the trainee from some or all training until the hearing if:

(a) He has reasonable grounds to believe the trainee would be dangerous or disruptive if not removed; or

(b) The trainee 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.

JOHN W. BIZZACK, Commissioner

APPROVED BY AGENCY: October 12, 2007

FILED WITH LRC: October 12, 2007 at noon

CONTACT PERSON: Stephen D. Lynn, Assistant General Counsel, Department of Criminal Justice Training, Funderburk Building, 521 Lancaster Avenue, Richmond, Kentucky 40475-3102, telephone (859) 622-3073, fax (859) 622-5027.

EDUCATION CABINET
Kentucky Board of Education
Department of Education
(As Amended at ARRS, January 7, 2008)

701 KAR 5:130. Drug testing of teachers involved in illegal use of controlled substances.

RELATES TO: KRS 160.380, 161.175, 161.790, **218A.010(5)**

STATUTORY AUTHORITY: KRS 156.070, 161.175

NECESSITY, FUNCTION, AND CONFORMITY: KRS 161.175 requires the Kentucky Board of Education to promulgate an administrative regulation relating to drug testing as a condition of retaining employment for certified employees determined to have engaged in misconduct involving the illegal use of controlled substances. This administrative regulation establishes criteria and procedures for drug testing of a teacher disciplined and determined to have engaged in misconduct involving the illegal use of controlled substances.

Section 1. Definitions. (1) "Controlled substance" **is defined by KRS 218A.010(5)** [~~means a substance defined and regulated by KRS Chapter 218A~~].

(2) "Has been determined **through** [~~in~~] an administrative or judicial proceeding" means discipline for teacher misconduct involving the illegal use of controlled substances for which there was a right to request a hearing under KRS 161.790; and

(a) For which the teacher did not timely submit notice of intention to answer the charges;

(b) Which was the subject of a notice of intention to answer the charges which the teacher withdrew; or

(c) Which is affirmed or left undisturbed in whole or in part as a result of a final administrative or judicial order, opinion, or judgment.

Section 2. Conditions of Drug Testing. (1)**(a)** A teacher who has been determined through an administrative or judicial proceeding to have engaged in conduct involving the illegal use of controlled substances shall be subject to random and periodic drug testing at least three (3) times within a period not to exceed twelve (12) months from the date of the determination.

(b) A superintendent shall [~~have the discretion to~~] determine the length of the drug testing period within the maximum time permitted, except two (2) of the tests shall be within two (2) weeks of each other.

(2) Testing policies or practices shall provide for:

(a) Reliability of test results;

(b) Employee privacy during taking of samples;

(c) Security of samples; and

(d) Protection of confidentiality throughout the testing process and in handling of results.

(3) This administrative regulation shall not preclude or supplant other lawful employee drug testing policies or procedures.

(4) A teacher subject to drug testing under this administrative regulation shall be provided with a copy of **applicable** board of education policies [~~issued under this administrative regulation~~] and shall be notified the teacher **shall be**[~~is~~] subject to drug testing as a condition of continued employment.

(5) A teacher subject to drug testing who refuses to complete any part of the drug testing process shall be subject to disciplinary action under KRS 161.175 and 161.790.

(6) A positive result may be grounds for immediate reassignment of duties or disciplinary action including termination under KRS 161.175 and 161.790.

(7) Results of drug testing shall be:

(a) Confidential;

(b) Separate from the personnel file; and

(c) Subject to release to third parties only:

1. Upon written consent of the individual;

2. Upon lawfully issued administrative or court order or compulsory process (such as subpoena);

3. As needed to address work-related health or safety risks; or

4. To be used in administrative or court action.

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 NOLAND, Interim Commissioner

JOE BROTHERS, Chairperson

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.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Kentucky Workers' Compensation Funding Commission
(As Amended at ARRS, January 7, 2008)

803 KAR 30:020. Payment of audit expenses by taxpayer.

RELATES TO: KRS **342.122,** 342.1231[~~(6)~~]
STATUTORY AUTHORITY: KRS 342.1223(2)(g), (3)(f), 342.1231(6)
NECESSITY, FUNCTION, AND CONFORMITY: KRS 342.1223(2)(g) requires the Kentucky Workers' Compensation Funding Commission to conduct periodic audits of all entities subject to the special fund assessments imposed by KRS 342.122. KRS 342.1231(6) requires that all expenses incurred by the Kentucky Workers' Compensation Funding Commission in conducting audits shall be paid in accordance with administrative regulations promulgated by the Kentucky Workers' Compensation Fund Commission. [~~In addition to identifying those audit expenses that shall be paid by taxpayers,~~] This administrative regulation identifies the audit expenses that shall be paid by taxpayers, specifies the manner in which audit expenses will be billed to taxpayers and paid by them, and[~~. This administrative regulation also~~] specifies the procedure by which taxpayers may protest audit expenses billed to them.

Section 1. Definitions. (1) [~~The definition of "taxpayer" is governed by KRS 342.1231(7).~~
~~(2)~~] "KWCFC" means the Kentucky Workers' Compensation Funding Commission.
(2) "Taxpayer" is defined by KRS 342.1231(7).

Section 2. (1) All necessary and reasonable expenses incurred by the KWCFC in conducting an audit shall be reimbursed to the KWCFC by the taxpayer audited.
(2) Expenses to be reimbursed shall include the following costs of:
(a)1. Meals;
2. Lodging;
3. Transportation;
4. Parking; **and**
5. Incidentals, such as:
a. Paper;
b. Fax;
c. Phone calls;
d. Baggage claims;
e. Tolls;
f. Tips; and
g. Valet services, if[~~when~~] necessary; and
(b) Labor spent on audits, including time spent:
1. In advance preparation for the audit;
2. On travel;
3. Finalizing the audit; and
4. Preparing written reports and correspondence to the taxpayer.

Section 3. (1) KWCFC employees shall be reimbursed for all out-of-pocket expenses they incur while conducting audits.
(2) Except for air transportation, meals and mileage, expenses shall be reimbursed at actual cost to employees.
(3) Air fare shall be reimbursed at a rate not to exceed the cost of coach class.
(4) Meals shall be reimbursed at actual cost not to exceed forty-five (45) dollars per day.
(5) Mileage for the use of privately owned auto shall be reimbursed at the rate established in 200 KRS 2:006, Section 7(4)(a) [~~of twenty-two (22) cents per mile~~].

Section 4. **(1) A summarized bill** [~~Summarized bills~~] consisting of totals for "labor", "travel" and "all other" expenses shall be submitted to the taxpayer as soon as practicable after completion of the audit.
(2) An itemized bill[~~Itemized bills~~] shall be available upon request.
(3) The taxpayer shall pay the bill for audit expenses within thirty (30) days of receipt of the summarized bills.
(4)(a) In order to protest the bill or portion thereof, the taxpayer shall pay the bill in full and file a written protest within thirty (30) days of receipt of the summarized bill.
(b) All protests under this section shall be governed by the procedures set out in KRS 342.1231.

WINSLOW HALE, Executive Director
APPROVED BY AGENCY: November 15, 2007
FILED WITH LRC: November 15, 2007 at 11 a.m.
CONTACT PERSON: Frank Dickerson, General Counsel, Kentucky Workers Compensation Funding Commission, #42 Millcreek Park, Frankfort, Kentucky 40602, phone (502) 573-3505, fax (502) 573-4923.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS. January 7, 2008)

810 KAR 1:021. Backside Improvement Fund [~~Commission~~].

RELATES TO: KRS 230.218
STATUTORY AUTHORITY: KRS 230.218[~~, 230.260~~]
NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.218 **requires the Kentucky Horse Racing Authority to promulgate administrative regulations to establish requirements for using the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations in Kentucky.**[charges the Kentucky Horse Racing Authority with the task][~~The Backside Improvement Commission shall have the purpose and mission~~][~~ of providing and administering funds for the improvement of backside facilities at eligible thoroughbred horse racing facilities located in the Commonwealth of Kentucky. This administrative regulation sets forth requirements and procedures for disbursement of Authority~~][~~commission~~][~~funds~~].

Section 1. **Definitions.**[~~(1) Definition of backside facilities.~~] "Backside facilities" means those facilities located at thoroughbred horse racing associations **in Kentucky** where horses are stabled and quartered [~~tracks which serve the primary function of stabling and quartering of horses~~] and where stable employees work and live.

Section 2.[~~(2)~~] All monies disbursed by the Kentucky Horse Racing Authority pursuant to KRS 230.218 [~~Backside Improvement Commission~~] shall be used solely for improvements to backside facilities as defined in **Section 1 of this administrative regulation** [~~subsection (1) of this section~~].

Section **3.**[~~2.~~] (1) An application [~~All applications~~] for monies under the auspices of the Kentucky Horse Racing Authority for backside improvement [~~Backside Improvement Commission~~] shall be submitted to the main office of the Kentucky Horse Racing Authority. [~~on a yearly basis and shall be filed with the Backside Improvement Commission on a date set by the commission.~~]
(2) An application [~~All applications~~] shall include the following:
(a) A prioritized list of all proposed projects;
(b) A full written and graphic description of each proposed project, with written justification of the need for each [~~complete with justification therefore~~];
(c) An itemized cost estimate of each proposed project; and
(d) Any contract in existence relating to the proposed [~~dealing with~~] improvements.
(3)(a) Except for the circumstances addressed in paragraph (b) of this subsection, an application shall be approved or denied at the first regularly scheduled Authority meeting that occurs after the application has been submitted.
(b) If the application is submitted within seven (7) calendar

days before a regularly scheduled Authority meeting, the approval or denial of the application shall be deferred until the next meeting.

(4) Approval of the application shall be based on the likelihood of the project proposal to promote, enhance, and improve the conditions of the backside of eligible racing associations in Kentucky, including the living and working quarters of backside employees.

[~~(3) Each year, on a date set by the commission, the Backside Improvement Commission shall meet to consider all applications and shall approve for funding those projects it deems most justified.~~]

Section **4.**[~~3.~~] All disbursements of monies and other transactions between the Kentucky Horse Racing Authority [~~Backside Improvement Commission~~] and the horse racing association [~~facility~~] involved shall be according to the terms and conditions of the project proposal as approved by the Authority. [~~Backside Improvement Commission's individual project contract.~~]

WILLIAM STREET, Chairman
LAVOYED HUDGINS, Deputy Commissioner
For TIM LEDONNE, Commissioner
LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
APPROVED BY AGENCY: November 14, 2007
FILED WITH LRC: November 14, 2007 at 4 pm
CONTACT PERSON: John L. Forgy, Kentucky Horse Racing Authority, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511. phone 859-246-2040, fax: 859-246-2039.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department Of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, January 7, 2008)

810 KAR 1:090. Kentucky Thoroughbred Development Fund.

RELATES TO: KRS 230.225(7)(b), 230.400, 138.510
STATUTORY AUTHORITY: KRS 230.400
NECESSITY, FUNCTION AND CONFORMITY: KRS 230.400 establishes the Kentucky Thoroughbred Development Fund. KRS 230.400(7) authorizes the Authority to promulgate administrative regulations **as may be necessary to carry out the provisions and purposes of KRS 230.400**[~~establishing the conditions and criteria for the distribution of monies from this fund~~]. This administrative regulation establishes standards for eligibility and the administration of payments from this fund.

Section 1. Definitions. (1) "Allowance race" means an overnight thoroughbred race for which eligibility and weight to be carried is determined according to specified conditions which include age, gender, earnings, and number of wins. "Allowance race" **shall**[~~shall include~~] allowance optional claiming races if the horse is entered under allowance conditions and not eligible to be claimed, but **excludes**[~~shall exclude~~] starter allowance races.

[~~(2) "Association" means an entity licensed to conduct live thoroughbred racing in the Commonwealth of Kentucky.~~

~~(3) "Handicap race" means a thoroughbred race in which the weights to be carried by the horses are assigned by the racing secretary or handicapper for the purpose of equalizing the chances of winning for all horses entered.~~]

(2)[~~(4)~~] "Intra-state wagering" means monies wagered at a Kentucky thoroughbred association on thoroughbred races conducted at another Kentucky association.

(3)[~~(5)~~] "Inter-state wagering" means monies wagered from a Kentucky thoroughbred association on thoroughbred races conducted outside of Kentucky.

(4)[~~(6)~~] "KHRA" means the Kentucky Horse Racing Authority.

(5)[~~(7)~~] "KTDF" means the Kentucky Thoroughbred Development Fund.

(6)[~~(8)~~] "KTDF Advisory Committee" means the committee established by KRS 230.400(2) to advise and assist the KHRA in the development of a supplemental purse program pursuant to KRS 230.400(3)(a).

(7)[~~(9)~~] "KTOB" means the Kentucky Thoroughbred Owners and Breeders, Inc.

(8)[~~(10)~~] "Live racing handle" means the monies wagered by individuals present on association grounds on thoroughbred races physically conducted on association grounds.

(9)[~~(11)~~] "Nonclaiming maiden race" means a thoroughbred race in which:

(a) None of the runners have been previously declared a winner; and

(b) None of the runners is eligible to be claimed.

(10)[~~(12)~~] "Nonlive racing handle" means the monies wagered at an association located in Kentucky on thoroughbred races not physically conducted at the association's grounds.

[~~(13) "Stakes race" means a race in which nomination, entry and/or starter fees contribute to the purse.~~]

Section 2. KTDF Monies Earned. (1) One Live Thoroughbred Association.

(a) Live racing handle. An association conducting live racing shall earn KTDF money to be deposited in the KTDF account for that association in the amount of 0.75 percent of the total live racing handle pursuant to KRS 138.510(1).

(b) Nonlive racing handle. An association conducting live racing shall earn KTDF money to be deposited in the KTDF account for that association in the amount of two (2) percent of the total nonlive racing handle pursuant to KRS 138.510(2)**, (3), and (4)**[~~and (3)~~].

(2) More than one (1) live; thoroughbred association. Unless there is an agreement among the thoroughbred associations conducting live racing to the contrary, if two (2) or more thoroughbred associations are conducting live racing on the same day, the monies earned from the handle for that day shall be divided as follows:

(a) The association conducting the live racing shall earn KTDF money to be deposited in the KTDF account for that association in the amount of 0.75 percent of that association's live racing handle pursuant to KRS 138.510(1).

(b) The Intra-state wagering monies shall be allocated to that Kentucky thoroughbred track on which the wagering is placed for purposes of calculating that track's KTDF earnings.

(c) Inter-state wagering monies originating from an association conducting live thoroughbred racing shall be allocated to that association for purposes of calculating that track's KTDF earnings.

(d) Inter-State wagering monies from all other Kentucky associations shall be divided evenly among the associations conducting live racing.

Section 3. KTDF Reconciliation. (1) Each association shall file with the KHRA a copy of the pari-mutuel tax form filed with the Department of Revenue, along with a copy of the check submitted for each report. These reports shall be filed weekly.

(2) Each association shall report to the KHRA the actual KTDF purse distribution no later than fifteen (15) calendar days after the last day of a live race meeting.

(3) KHRA shall on a monthly basis reconcile the weekly reports submitted by the association with the Department of Revenue's reports and deposits.

(4) If at the close of a live race meet, an association has a balance of monies earned for that meet which has not been distributed in actual KTDF purse distribution, then the association may choose one of the following options to distribute the remaining balance, subject to the approval of the KTDF Advisory Committee and KHRA:

(a) Use KTDF monies previously earned to supplement purses at future live racing meets held by that association; or

(b) Use KTDF monies previously earned to supplement purses already distributed at the last live racing meet held by the association to the recipients of the original purse allocations.

(5) Reasonable and customary administrative charges for time spent reconciling the KTDF account shall be charged to each association by the KHRA based on the percentage of funds generated by each association for the previous calendar year.

(6) An association, at its option, may pay advertising charges billed to the association by the KTOB from the association's KTDF available balance.

(7) Each association shall sign an agreement stating that it accepts and agrees with the reconciliation prior to reimbursement of any KTDF funds.

Section 4. Purse Structure. Each association shall submit its KTDF purse structure proposal to the KTDF Advisory Committee for approval at least forty-five (45) days prior to the opening day of the live racing meet. The KTDF Advisory Committee shall review the proposed purse structure and make a recommendation to the KHRA whether or not to approve the proposed purse structure based upon the best interests of Kentucky racing.

WILLIAM STREET, Chairman
LAVOYED HUDGINS, Deputy Commissioner
For TIM LEDONNE, Commissioner
LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
APPROVED BY AGENCY: October 15, 2007
FILED WITH LRC: October 15, 2007 at 9 a.m.
CONTACT PERSON: John L. Forgy, Kentucky Horse Racing Authority, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(As Amended at ARRS, January 7, 2008)

811 KAR 1:085. Conduct of racing.

RELATES TO: KRS 230.215, 230.260(1), 230.310
STATUTORY AUTHORITY: KRS 230.215(2), 230.260(3)
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 requirements for the conduct of racing.

Section 1. Definitions. (1) "High nerving" means a neurectomy at or above the fetlock, including the volar, palmar, or plantar nerves.

(2) "Low nerving" or "posterior low nerving" means a palmar digital neurectomy.

(3) "Nerved horse" means a horse in which the nerve cells in a foot have been removed or desensitized by surgical, physical, or chemical means.

Section 2. A licensee shall not: (1) Refuse to comply with an order or ruling of a member or employee of the authority or a racing official or judge,

(2) Interfere with the performance of the duty of a person specified in subsection (1) of this section;

(3) Threaten, strike, or harass an owner, trainer, driver or attendant of a horse, or an employee of the association or authority;

(4) Sexually harass an owner, trainer, driver or attendant of a horse, or an employee of the association or Authority; or

(5) Use force or intimidation against an owner, trainer, driver or attendant of a horse, or an employee of the association or Authority.

Section 3. (1) A person or association shall not offer any money, benefit, or other inducement to any licensee, employee of the Authority, or officer of a racing association to affect the entries to a race, the running of a race, or the outcome of a race.

(2) An action prohibited by subsection (1) of this section shall be immediately reported to the judges who shall promptly inform the racing association and the Authority.

Section 4. (1) An owner, trainer, **agent,** or driver of a horse shall not threaten or join with others in threatening not to race, or not to declare in, because of the entry of a certain horse or a particular stable, thereby compelling or attempting to compel the racing secretary to reject an eligible entry.

(2) An action prohibited by subsection (1) of this section shall be immediately reported to the Authority.

Section 5. An owner, agent, or driver who has entered a horse shall not demand of the association a bonus of money or other special award or consideration as a condition for starting the horse.

Section 6. (1) A driver shall not place a wager, or cause a wager to be placed on his **or her** behalf, or accept a ticket or winnings from a wager on a race, except:

(a) A race on the horse he is driving; and

(b) Through the owner or trainer of the horse he is driving.

(2) An owner or trainer who places a wager for his driver shall:

(a) Maintain a complete record of the wager; and

(b) Make the record available for examination by the judges upon request.

Section 7. Duty to Report Fraudulent Proposal. A person shall immediately report to the presiding judge the details of an offer, promise, or request for a bribe or wager intended to affect the outcome of a race.

Section 8. Financial Responsibility. (1)(a) A licensee's failure to satisfy a final civil judgment rendered against the licensee by a court of law for goods, supplies, services, or fees furnished to the person and used in the course of the licensed occupation, shall constitute a failure to meet the financial responsibility requirements of KRS 230.310.

(b) Lack of a showing of legal and just cause for not satisfying a final civil court judgment shall be considered inconsistent with the best interests of racing and the maintenance of honesty, integrity, and high quality of racing and shall constitute cause for refusal to issue or renew a license, or for suspension of a license.

(2) A licensee who contests in a hearing before the Authority judges, or in a hearing before an Authority hearing officer, a denial, nonrenewal, or suspension of a license, shall not be permitted to collaterally attack the validity of a certified copy of a final civil court judgment introduced into evidence at the hearing.

(3)(a) A licensee who is the subject of a complaint, pursuant to this section, relating to financial responsibility that results from an unsatisfied judgment shall, as a condition of the grant, reinstatement, or renewal of the license, be required to pay the costs of any proceeding held before the Authority that results from the judgment.

(b) Costs shall include the cost of time spent by the hearing officer and the attorney for the Authority, and any fees and incidental expenses incurred in adjudicating the matter.

(c) An imposition of costs pursuant to this section shall be subject to approval by the full Authority and shall be limited to $500 per individual case.

(d) A licensee shall not be required to pay costs if the evidence at the hearing shows that the licensee did not fail to meet the financial responsibility requirements of KRS 320.310.

Section 9. Nerved Horses. (1) A horse that has been nerved shall be:

(a) Designated "nerved" on its U.S. Trotting Association registration and electronic eligibility; and

(b) Certified as nerved by a licensed veterinarian.

(2) **If**[~~When~~] a horse is nerved, the owner of the horse at the time it was nerved shall cause the information required by subsection (1) of this section to be entered on the horse's registration and electronic eligibility certificates.

(3) High nerving.

(a) High nerving shall not be permitted in a horse to be raced.

(b) An incision of nerves at or above the fetlock shall be evidence that a horse has been high nerved, even if partial or complete feeling is present at the front of the coronary band of the foot.

(4) Low nerving.

(a) Only low nerving by surgery, freezing, or other physical or chemical means[~~, or the injection of alcohol or snake venom, or~~

~~other chemical means~~] shall be permitted on a horse to be raced.

(b) Only the posterior digital nerve and middle branches to the palmar part of the foot may be desensitized.

(c) Low nerving shall be performed below the fetlock.

(d) The dorsal branches shall be preserved so the horse has feeling at the coronary band at the front of the foot on both sides of the midline of the foot.

(5) A lack of feeling at the coronary band on the front of the foot shall be prima facie evidence that a horse has been nerved in violation of the provisions of this section.

(6) A trainer or owner shall not be permitted to enter or start a horse that is high nerved.

(7) A low nerved horse shall be permitted to start, if the fact that it has been low nerved is published on the bulletin board in the association's racing office.

Section 10. Spayed Mares. If a mare has been spayed:

(1) It shall be noted on the:

(a) Registration certificate;

(b) Electronic eligibility certificate; and

(c) Program when the mare races; and

(2) The owner shall:

(a) Notify the United States Trotting Association that the mare has been spayed; and

(b) Return the mare's papers to the United States Trotting Association for correction.

Section 11. (1) An owner, trainer, driver, attendant or other person representing a horse which has previously tested positive for equine infectious anemia shall not knowingly cause it to be declared into any race.

(2) An owner, trainer, driver, attendant or other person shall not transfer, or attempt to transfer, a horse with equine infectious anemia without first notifying the prospective purchaser or transferee of the fact that the horse had previously tested positive for equine infectious anemia.

Section 12. Penalties. (1) A person or association track that violates Section 4, 8, or 10 of this administrative regulation shall have committed a Category 2 violation and shall be subject to the penalties set forth in 811 KAR 1:095, Section 4(2).

(2) A person or association that violates Section 3 or 7 of this administrative regulation shall have committed a Category 3 violation and shall be subject to the penalties set forth in 811 KAR 1:095, Section 4(3).

(3) A person or association that violates Section 1, 2, 5, 6, 9, 11, or 12 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
LAVOYED HUDGINS, Deputy Commissioner
For TIM LEDONNE, Commissioner
LLOYD R. CRESS, Deputy Secretary
For TERESA J. HILL, Secretary
APPROVED BY AGENCY: November 14, 2007
FILED WITH LRC: November 14, 2007 at 4 pm
CONTACT PERSON: John L. Forgy, Kentucky Horse Racing Authority, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone 859-246-2040, fax 859-246-2039.

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy
Division of Certificate of Need
(As Amended at Interim Joint Committee on Health and Welfare, December 17, 2007)

900 KAR 5:020. State Health Plan for facilities and services.

RELATES TO: KRS 216B.010-216B.130
STATUTORY AUTHORITY: KRS 194A.030, 194A.050(1), 216B.010, 216B.015(27), 216B.040(2)(a)2a
NECESSITY, FUNCTION, AND CONFORMITY: KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. The State Health Plan is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. This administrative regulation establishes the State Health Plan for facilities and services.

Section 1. The 2007-2009 State Health Plan as amended October 15[~~July 13~~], 2007 [~~2006 Update to the 2004-2006 State Health Plan as amended January 31, 2006~~] shall be used to (1) Review a certificate of need application pursuant to KRS 216B.040; and
(2) Determine whether a substantial change to a health service has occurred pursuant to KRS 216B.015(28)(a) and 216B.061(1)(d).

Section 2. Incorporation by Reference. (1) The 2007-2009 State Health Plan as amended **December 17** [~~October 15~~][~~July 13~~], 2007 [~~2006 Update to the 2004-2006 State Health Plan as amended May 12, 2006~~] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Certificate of Need, 275 East Main Street, fourth[~~third~~] floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARK D. BIRDWHISTELL, Secretary
APPROVED BY AGENCY: October 12, 2007
FILED WITH LRC: October 12, 2007 at 4 p.m.
administrative regulation to:
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 Mental Health and Mental Retardation Services
Division for Mental Health and Substance Abuse
(As Amended at ARRS, January 7, 2008)

908 KAR 2:220. Peer specialist services.

RELATES TO: KRS **200.503(2), 202A.011(12), 210.005(2), (3),** 210.010, 210.040, 210.370-485
STATUTORY AUTHORITY: KRS 12.455, 194A.030, 194A.050, 210.450
NECESSITY, FUNCTION AND CONFORMITY: KRS 210.450 authorizes the secretary of the Cabinet for Health and Family Services to promulgate regulations governing qualifications of personnel, standards for personnel management operations and consultation in ascertaining local needs for community mental health and mental retardation programs. This administrative regulation establishes the minimum eligibility and training requirements for peer specialists.

Section 1. Definitions. (1) "Applicant" means an individual seeking to complete the peer specialist training.

(2) "Application" means completing the Kentucky Peer Specialist Training Application form and the Kentucky Peer Specialist Training Short - Essay Form and submitting them to the Department for Mental Health and Mental Retardation Services.

(3) "Certificate" means a document verifying completion of the training requirements for peer specialists as outlined in this administrative regulation.

(4) "Child with a severe emotional disability" is defined by KRS 200.503(2).

(5) "Client" means an individual who receives services from any organization outlined in Section 8 of this administrative regulation.

(6) "Community Mental Health-Mental Retardation Board" **means the board established by KRS 210.380 and governed** [~~is defined~~] by KRS 210.370 to 210.485.

(7) "Department" means the Department for Mental Health and Mental Retardation Services (DMHMRS).

(8) "Paraprofessional" means an individual who does not meet

the educational requirement for a mental health professional and who is working under the supervision of a Qualified mental health professional.

(9) "Peer specialist" means a paraprofessional who has fulfilled the requirements of this administrative regulation.

(10) "Qualified mental health professional" or "QMHP" is defined by KRS 202A.011(12).

(11) "Severe mental illness" means the conditions defined by KRS 210.005 (2) and (3).

Section 2. Eligibility. An applicant shall:

(1) Have a current or past diagnosis of severe mental illness or a severe emotional disability;

(2) Have received or be receiving treatment; and

(3) Have a minimum educational requirement of a high school diploma or General Educational Development (GED) certificate.

Section 3. Department's Responsibilities. **The department shall:** [~~It shall be the responsibility of the department to:~~]

(1) Make application forms available through:

(a) Written or verbal request to DMHMRS;

(b) The DMHMRS website;

(c) Community Mental Health - Mental Retardation Boards;

(d) DMHMRS state operated or contracted facilities; and

(e) Consumer and family organizations;[~~.~~]

(2) Provide notification of trainings to include:

(a) Date;

(b) Time; and

(c) Place;[~~.~~]

(3) Provide training from a standard curriculum with the following core competencies:

(a) The shift from maintenance to recovery;

(b) The emergence of psychosocial rehabilitation as the road to recovery;

(c) The role and conduct of a peer specialist in the recovery process;

(d) Using one's recovery story;

(e) The power of negative program environments;

(f) Creating program environments that promote recovery;

(g) Beliefs and values that promote and support recovery;

(h) Impact of diagnosis on one's self-image;

(i) Mental illness, diagnosis and medications;

(j) Dissatisfaction as an avenue for change;

(k) Facing one's fears;

(l) Combating negativity;

(m) Problem solving;

(n) The role of spirituality in recovery and stress reduction exercises;

(o) Creating a wellness recovery action plan;

(p) Stages in the recovery process;

(q) Power, conflict, and integrity in the workplace;

(r) Effective listening and the art of asking questions;

(s) Determining one's recovery goals;

(t) Using support groups to promote and sustain recovery;

(u) Accomplishing one's recovery goals;

(v) The building blocks of the recovery process; and

(w) Co-occurring mental health and substance use disorders;[~~.~~]

(4) Provide each peer specialist a certificate of successful completion of the program;[~~.~~]

(5) Maintain documentation of the:

(a) Application;

(b) Competency examinations; and

(c) Examination results; **and**[~~.~~]

(6) Maintain a database of names of peer specialists.

Section 4. Peer Specialist Responsibilities. **To become a peer specialist, an applicant** [~~An individual seeking to provide peer specialist services~~] shall:

(1) Complete and submit an application for training to DMHMRS;

(2) Complete the DMHMRS peer specialist training program;

(3) Successfully complete the DMHMRS peer specialist examination; and

(4) Complete and maintain documentation of a minimum of six (6) hours of job related training or education in each subsequent year of employment.

Section 5. Request to Waive the DMHMRS Training Program. (1) An applicant may request to waive the DMHMRS Training Program. **An applicant requesting a waiver shall provide the following:**[~~under the following provisions:~~]

(a) Completion of the application;

(b) Documentation of completion of a peer specialist program sponsored by another state with the core competencies of the DMHMRS training; and

(c) Documentation that the training has occurred within five (5) years of the application date.

(2) DMHMRS shall review all requests to waive the training requirement and may:

(a) Grant, in writing, the request based on the documentation provided by the applicant; or

(b) Deny, in writing, the request should the applicant fail to demonstrate compliance with any portion of this administrative regulation.

(3) If an applicant is denied a training waiver, he or she may apply to complete the DMHMRS peer specialist training in accordance with Section 3 of this administrative regulation.

Section 6. Supervision of Peer Specialist. Peer specialist services shall be provided under the supervision of a QMHP; and Face-to-face supervisory meetings shall occur no less frequently than once every two (2) weeks.

Section 7. Scope of Services. A peer specialist shall:

(1) Be a paraprofessional whose primary responsibility is to help clients achieve their own needs and goals;

(2) Provide services which are structured scheduled activities that promote socialization, recovery, self-advocacy, preservation, and enhancement of community living skills for adults with severe mental illness or a child with a severe emotional disability; and

(3) Openly share their recovery stories with clients.

Section 8. Employment. A peer specialist may be employed by a:

(a) Community Mental Health - Mental Retardation Board; or

(b) State operated or contracted facility.

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

(a) "Kentucky Peer Specialist Training Application", 2007 edition; and

(b) "Kentucky Peer Specialist Training Short - Essay Form", 2007 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Mental Health and Mental Retardation Services, 100 Fair Oaks Lane, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN M. BURT, Commissioner
MARK D. BIRDWHISTELL, Secretary

APPROVED BY AGENCY: August 2, 2007

FILED WITH LRC: August 10, 2007 at 11 a.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 Protection and Permanency
(As Amended at ARRS, January 7, 2008)

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

RELATES TO: KRS 2.015, 199.011, 199.640, 199.645-

199.670, 202B.010(12), 214.034(4), Chapter 424, 600.020, 610.110(6), Chapter 615, 620.140(1)(d), 42 U.S.C. 670-679b [~~615.010, 615.030, 615.040~~]

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5), 199.645[~~, 615.050~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) **requires**[~~authorizes~~] the secretary of the Cabinet for Health and Family Services to **promulgate**[~~establish~~] administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet. KRS 199.640(5) and 199.645 require the cabinet [~~requires the cabinet for Health and Family Services~~] to promulgate administrative regulations relating to standards of care and service for child-caring facilities. This administrative regulation establishes standards of care and service for residential child-caring facilities.

Section 1. Definitions. (1) "Cabinet" is defined by KRS 199.011(2). [~~means the Cabinet for Health and Family Services.~~]

(2) "Child" is defined by [~~at~~] KRS 199.011(4)[~~,~~] 600.020(8), and may include:

(a) A person age eighteen (18) or older whose commitment to the cabinet has been extended or reinstated by a court in accordance with 610.110(6) or 620.140(1)(d); or.

(b) A child who meets the exceptions to the age of majority in accordance with KRS 2.015.

(3) "Child-caring facility" is defined by [~~at~~] KRS 199.011(6).

(4) "Child-caring program" means the method of delivering a child-caring service.

(5) "Community resources" means a service or activity available in the community that supplements those provided by the child-caring facility in the care and treatment of a child.

(6) "Crisis intervention unit" means a unit operated to serve a child in need of short term intensive treatment and to avoid risk of placement to a higher level of care.

(7) "De-escalation plan" means a treatment method used to decrease the intensity of emotional conflict or aggressive behavior.

(8) "Executive director" means the person employed by the board of directors to be responsible for the administration and management of a child-caring facility.

(9) [~~"Family residential treatment program" means intensive professional assessment and treatment-oriented services provided by a residential treatment facility to a family unit in order to prevent out-of-home placement, or to facilitate family reunification.~~

~~(10)~~] "Group home" is defined by [~~at~~] KRS 199.011(10).

(10) [~~(11)~~] "Individual treatment plan" or "ITP" means a plan of action developed and implemented to address the needs of a child.

(11)[~~(12)~~] "Latching device" means an instrument used to secure a seclusion room door that does not require the use of a key or combination.

(12)[~~(13)~~] "Living unit" means a building or part of a building in which a child resides, containing sixteen (16) or fewer beds.

(13) "Physical management" means a technique used by a specially-trained staff member for the purpose of restricting a child's freedom of movement in order to maintain a safe environment for the child and others.

(14) "Qualified mental health professional" is defined by KRS 600.020(47).

(15) "Qualified mental retardation professional" is defined by KRS 202B.010(12).

(16)[~~(14)~~] "Residential child-caring facility" means an institution or group home providing twenty-four (24) hour care.

(17)[~~(15)~~] "Residential treatment program" means an intensive professional treatment-oriented service provided by a residential facility.

(18)[~~(16)~~] "Seclusion" means the temporary placement of a child in a room in a residential treatment facility to prevent harm to the child or others.

(19)[~~(17)~~] "Treatment" means individualized management and care of a child, utilizing professionally credentialed and certified staff and a component of the treatment environment to assist the child in resolving [~~his~~] emotional conflict or **a** behavioral disorder.

(20)[~~(18)~~] "Treatment director" means an individual who oversees the day-to-day operation of the treatment program.

(21)[~~(19)~~] "Treatment team" means a representative group of people who provide services to the child and the child's family.

Section 2. Administration and Operation. (1) Licensing procedures. Licensing procedures for a residential child-caring facility shall be in compliance with 922 KAR 1:305 for a child-caring facility.

(2) A residential child-caring facility shall meet the requirements of 922 KAR 1:300, Sections 3 through **8**[~~7~~].

Section 3. Residential Child-caring Facility Services. (1) The child-caring program services for a residential child-caring facility shall be in compliance with 922 KAR 1:300, Section 7.

(2) Unless a child is a member of a family group placed in a facility, a child under six (6) shall not be placed in the residential child-caring facility unless that facility is also licensed to provide emergency shelter service as established in 922 KAR 1:380.

(3) An exception to subsection (2) of this section may be made for a child age three (3) to six (6), if:

(a)1. For a child who is in the custody of the cabinet, the commissioner or designee and the residential child-caring facility agree that there is no less restrictive placement available to meet the child's mental health, physical, or behavioral needs; or

2. For a child who is not in the custody of the cabinet, a qualified mental health professional or qualified mental retardation professional and the child's custodian agree that there is no less restrictive placement available to meet the child's mental health, physical, or behavioral needs; and

(b) The residential child-caring facility provides:

1. Adequate space for the child that is protected from children who are age ten (10) and older;

2. Sight and sound segregation of the child from children who are age ten (10) and older while the child engages in:

a. Sleeping;

b. Personal hygiene; and

c. Toiletry; and

3. Staff supervision that supports the child's ITP.

Section 4. Residential Treatment Program. The [~~following~~] additional requirements **in subsections (1) through (4) of this section** shall apply to a residential child-caring facility providing intensive treatment services.

(1) Professional treatment services.

(a) The facility shall secure needed services for a child who has an assessed need for a psychological, psychiatric, or other professional treatment service not provided by the residential child-caring facility.

(b) The admission decision shall be the responsibility of a treatment team comprised of clinical, social service, and other disciplines designated by the residential child-caring facility's treatment director.

(c)1. After assessment and development of the ITP in accordance with 922 KAR 1:300, Section 7, the treatment team shall identify services to meet the needs of the child and his family.

2. The services shall:

(a) Be provided by the residential child-caring facility or arranged through contract with another qualified residential child-caring facility or child-placing agency, as established in 922 KAR 1:310, or a treatment professional; and

b. [~~shall~~] Include, as developmentally appropriate, a minimum of weekly:

(i)[~~1.~~] Individual counseling from a social worker or other treatment professional; and

(ii)[~~2.~~] Group counseling conducted by a trained social worker or other treatment professional as determined appropriate by the treatment team and under the supervision of the treatment director.

(d) Other services identified after the assessment and development of the ITP by the treatment team may include:

1. Psychiatric counseling;

2. Specialized therapy recognized by a mental health credentialing authority; or

3. Family counseling.

[~~(e) A residential child-caring facility shall become accredited by a nationally recognized accreditation organization before October 2004 or within two (2) years of initial issuance of a license for~~

~~treatment.~~]

(2) Staffing requirement.

(a) Staff-to-child ratios shall be in accordance with 922 KAR 1:300, Section 3(5)(b).[~~1. The child-caring facility shall maintain a staff-to-child ratio of at least one (1):~~

~~a. Child care staff member to six (6) children during the child's waking hours;~~][~~,~~][~~ and~~

~~b. [One (1)] Child care staff member for every twelve (12) children in a living unit during nonwaking hours.~~

~~2. At least one (1) staff member in each living unit shall remain awake during children's sleeping hours.~~]

(b) The treatment director shall:

1. Hold at least a master's degree in a human service discipline; and

2. Have at least five (5) years experience in mental health treatment of children with emotional or behavioral disabilities and their families and be responsible for the:

a. Supervision;

b. Evaluation; and

c. Monitoring of the:

(i) Treatment program;

(ii) Social work; and

(iii) Other treatment staff.

(c) A residential child-caring facility providing a treatment service for more than thirty (30) children shall employ a separate treatment director other than the executive director.

(d)1. A residential child-caring facility providing a treatment service for thirty (30) or fewer children may utilize the executive director in a dual role as treatment director[~~,~~] if at least fifty (50) percent of his duties are spent supervising the treatment program.

2. If an employee serves as both executive director and treatment director, the higher staff qualification **requirements** shall apply.

(3) Seclusion.

(a) When seclusion is used, a residential child-caring facility shall:

1. Before a child is placed in seclusion, develop and maintain clearly-written policy and procedures governing the placement of a child in seclusion, including a requirement for a de-escalation plan in the child's ITP that is consistent with accreditation standards;

2. Provide a copy of the policy and procedures to staff members responsible for placement of a child into seclusion; [~~and~~]

3. Require a staff member who uses seclusion [~~as part of the forty (40) hour annual training program established in 922 KAR 1:300, Section 3,~~] to complete at least sixteen (16) hours of training in approved methods of de-escalation, physical management, and the use of seclusion[~~,~~] from a nationally-recognized [~~accreditation~~] organization approved by the cabinet. This training shall count toward the forty (40) hours of annual training required by 922 KAR 1:300 and shall include the following topics[~~, to include~~]:

a. Assessing physical and mental status, including signs of physical distress;

b. Assessing nutritional and hydration needs;

c. Assessing readiness to discontinue use of the intervention; and

d. Recognizing when medical or other emergency personnel are needed.

4. Use seclusion [~~(b) Seclusion shall be used~~] only in an emergency or crisis situation when:

a. [~~1.~~] A child is in danger of harming himself or another; and

b. [~~2.~~] The effort made to de-escalate the child's behavior prior to placement was ineffective;[~~.~~]

5. Prohibit the use of seclusion for: [~~(c) Seclusion shall not be used for:~~]

a. [~~1.~~] Punishment;

b. [~~2.~~] Discipline; or

c. [~~3.~~] Convenience of staff;[~~.~~]

6. Provide that [~~(d)~~] Approval from the treatment director or treatment staff designee [~~as established in 922 KAR 1:300, Section 3,~~] is [~~shall be~~] obtained prior to or within fifteen (15) minutes of the placement of a child in seclusion.

7. Place no [~~(e)~~] more than one (1) child [~~shall not be placed~~] into the same seclusion room at a time; [~~.~~]

8. Remove [~~(f)~~] an object that may be used for self harm [~~shall be removed~~] from a [~~the~~] child before the child [~~he~~] is placed in seclusion; [~~.~~]

9. Not remove a child's clothing, except for belt and shoes, while the child is placed in seclusion;

10. [~~(g) Except for a belt and shoes, a child's clothing shall not be removed while he is placed in seclusion.~~

~~(h)~~] Within a twenty-four (24) hour period of time, not to allow a child to remain in latched seclusion for more than:

a.[~~the maximum amount of time that a child remains in latched seclusion shall not exceed the following:~~

~~1. Age nine (9) and younger,~~] Fifteen (15) minutes if the child is age nine (9) and younger; and

b. [~~2. Age ten (10) and older,~~] One (1) hour, if the child is age (10) and older;

11.[~~(i)~~] If a child's behavior is stabilized, release the child [~~the child shall be released~~] from seclusion prior to the time period specified in this section;[~~.~~]

12. Discontinue seclusion if a child displays adverse side effects including:

a. Illness;

b. Severe emotional or physical stress; or

c. Physical damage to self or items in seclusion;

13. Provide a child in seclusion with food, water, and access to a lavatory; and

14. Use a room for seclusion that is:

a. Lighted, ventilated, and maintained at a temperature consistent with the rest of the child-care facility;

b. Internally observable if the door is closed;

c. At least fifty-six (56) square feet in size; and

d. Free from an object that allows the child to do self-harm.

(b) [~~(j)~~] If a child requires repeated placement in seclusion, [~~a treatment team meeting shall be conducted by~~] the treatment director to reassess the child's ITP, including referring the child to a higher level of care.

(c) [~~(k)~~] A staff member shall observe visually a child who is in seclusion every five (5) minutes.

(d) Staff shall have visual contact with a child in latched seclusion at all times.

(e) [~~(l) Seclusion shall be discontinued if a child displays adverse side effects including:~~

~~1. Illness;~~

~~2. Severe emotional or physical stress; or~~

~~3. Physical damage.~~

~~(m) A child in seclusion shall be provided with food, water, and access to a lavatory.~~

~~(n)~~] Staff shall document, in the child's record, the following information regarding seclusion of a child:

1. An intervention to de-escalate the child's behavior prior to placement;

2. Date and time of placement;

3. Date and time of removal;

4. Reason for placement;

5. Name of each staff member involved;

6. Treatment director's or designee's approval;

7. Five (5) minute visual observation by staff of the child's placement; and

8. Intervention provided by treatment staff when the child leaves seclusion.

(f) [~~(o) A room used for seclusion shall be:~~

~~1. Lighted, ventilated, and maintained at a temperature consistent with the rest of the child-care facility;~~

~~2. Internally observable if the door is closed;~~

~~3. At least fifty-six (56) square feet in size; and~~

~~4. Free from an object that allows the child to do self-harm.~~

~~(p)~~] Immediately upon the child's exit from seclusion, treatment staff shall provide therapeutic intervention.

(4) Incident report.

(a) [~~(q)~~] Exclusive of weekends and holidays, within twenty-four (24) hours [~~forty-eight (48) hours~~] of the physical management of a child, including a child's placement in seclusion, designated treatment staff shall complete an incident report that shall:

1. Undergo an administrative review no later than seventy-two (72) hours after the use of physical management;

2. Document an assessment by the treatment director or des-

ignee that shall include consideration of the:

a. Necessity of the physical management or seclusion;

b. Congruence of the physical management or seclusion with the residential child-caring facility's policy and procedures; and

c. Need for a corrective action;

3. Contain documentation of written feedback provided by the treatment director or designee to all treatment staff involved in the incident; and

4. Be signed by the treatment director or designee and the program director or designee.

(b) The residential **child-caring facility**[~~child-placing agency~~] shall establish a system to track the frequency, location, and type of critical incidents involving physical management of a child that occurs, including seclusion. [~~an incident report shall be:~~

~~1. Completed by designated treatment staff;~~

~~2. Reviewed no later than one (1) working day after its use; and~~

~~3. Signed by the treatment director or designee and the program director or designee.~~

~~(r) Staff shall have visual contact with a child in latched seclusion at all times.~~]

Section 5. Crisis Intervention Unit. (1) An emergency service provided in a crisis intervention unit shall include the following:

(a) A mental status evaluation and physical health questionnaire of the child upon admission;

(b) A treatment planning process;

(c) Procedure for crisis intervention; and

(d) Discharge and aftercare planning processes.

(2) A program shall have a written policy concerning the operation of a crisis intervention unit.

(a) Staffing.

1. At least one (1) direct-care staff member shall be assigned direct-care responsibility for:

a. Four (4) children during normal waking hours; and

b. Six (6) children during normal sleeping hours.

2. Administrative oversight of the program shall be provided by a staff member who shall be a:

a. Treatment director; or

b. Person qualified to be executive director.

(b) A licensed psychiatrist shall be available to evaluate, provide treatment, and [~~to~~] participate in the treatment planning.

(c) Intake and service.

1.a. Upon admission, the crisis intervention program shall provide the child and his parent, guardian, or other legal representative with a clearly written and legible statement of rights and responsibilities; or

b. If unable to read the statement of rights and responsibilities, the statement shall be read to the child and his parent, guardian, or other legal representative.

2. Written policy and procedure developed in consultation with professional and direct-care staff shall provide:

a. For behavior management of a child, including the use of time-out; and

b. An explanation of behavior management techniques to a child and his parent, guardian, or other legal representative.

(3) The crisis intervention [~~stabilization~~] unit shall prohibit the use of:

(a) Seclusion; or

(b) **Mechanical restraints**[~~Physical management~~] [~~Mechanical restraint~~].

Section 6. [~~Family Residential Treatment Program. The following additional requirements shall apply to one (1) pilot family residential treatment program in Fayette County for providing intensive family in-residence treatment services.~~

~~(1) The child-caring facility may provide services for a family when deemed appropriate following the completion of a comprehensive family and risk assessment to include consideration of:~~

~~(a) The child's permanency plan;~~

~~(b) History of abuse or neglect;~~

~~(c) History of violent and aggressive behavior;~~

~~(d) History of domestic violence;~~

~~(e) History of substance abuse;~~

~~(f) History of mental health problems;~~

~~(g) Developmental history of child;~~

~~(h) History of family needs;~~

~~(i) Whether parenting skills are adequate;~~

~~(j) Quality of caregiver to child relationship;~~

~~(k) Medical history of each family member; and~~

~~(l) Legal history of each family member.~~

~~(2) Staff qualifications and training. An intensive family residential treatment program shall employ or have on contract a therapist with the appropriate licensure or certification and evidence of training in the following areas:~~

~~(a) Family dynamics and family therapy;~~

~~(b) Substance abuse;~~

~~(c) Domestic violence; and~~

~~(d) Attachment issues.~~

~~(3) Staff that have direct contact and supervision of a family shall have orientation and training in the following:~~

~~(a) Attachment and nurturing issues;~~

~~(b) Parenting skills;~~

~~(c) Basic knowledge of child development;~~

~~(d) Identification of signs of domestic violence, substance abuse, child abuse and neglect; and~~

~~(e) Adult intervention strategies and conflict resolution.~~

~~(4) The training requirements listed in subsection (3) of this section may be included as part of the forty (40) hours of annual training established in 922 KAR 1:300, Section 3(6)(o).~~

~~(5) Except for adults, staffing requirements established in Section 4(2)(a) of this administrative regulation shall be maintained on the family living unit.~~

~~(6) Unless there is imminent danger to staff, child, or an adult member of a family, physical restraint shall not be used.~~

~~(7) The living unit shall be a distinct and separate part of the facility or housed in a separate building and shall be monitored by staff or electronic surveillance on a twenty-four (24) hour basis.~~

~~(8) A family treatment plan shall be developed for each family with the needs of each family member addressed and a description of how those needs will be met.~~

~~(9) A family member with a history of aggressive behavior or sexual acting-out shall be assessed by the treatment team prior to admission.~~

~~(10) The treatment team shall develop a safety plan with each family to ensure the safety of all residents at the facility.~~

~~(11) Sleeping arrangements shall be specified in the family's treatment plan.~~

~~(12) Facility policy shall ensure the safety of staff, family members, and residents.~~

~~Section 7.~~] Group Home. The following additional requirements shall apply to a group home program:[-]

(1) Documentation of evidence of publication of a "notice of intent" in an area newspaper, in accordance with KRS Chapter 424, advertising that:

(a) A public hearing shall be held if requested by citizens in the community or an appropriate local governmental entity; and

(b) Information obtained at the hearing shall be made available to the public and the cabinet; [.]

(2) A staff-to-child ratio in accordance with 922 KAR 1:300, Section 3(5)(b); and [~~of one (1) child-caring staff member for each four (4) children. An on-duty staff member who is away from the group home with a child shall be included for the computation of this ratio.~~]

(3) Documentation of the use of community resources and efforts to encourage a child to participate in community activities.

MARK A. WASHINGTON, Commissioner
MARK D. BIRDWHISTELL, Secretary

APPROVED BY AGENCY: November 14, 2007

FILED WITH LRC: November 15, 2007 at 10 a.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.

ADMINISTRATIVE REGULATIONS AMENDED AFTER PUBLIC HEARING OR RECEIPT OF WRITTEN COMMENTS

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department for Natural Resources
Division of Oil and Gas Conservation
(Amendment After Comments)

805 KAR 1:110. Underground injection control.

RELATES TO: KRS **353.180(3), 353.510, 353.520, 353.550, 353.570(1), (2), 353.590, 353.992, 40 C.F.R. 146.6, 42 U.S.C. 300j-6** [~~353.520~~]

STATUTORY AUTHORITY: KRS 353.540, 353.550, 353.560, 353.592

NECESSITY, FUNCTION, AND CONFORMITY: KRS 353.540 authorizes the Department of Mines and Minerals to administer and enforce the provisions of KRS 353.500 to 353.720. The waste of oil and gas is prohibited by KRS 353.520, which provides that [~~such~~] prohibited waste includes the unreasonable damage to underground[~~,~~] fresh or mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production, or handling of oil and gas**;**[~~,~~] the unnecessary or excessive surface loss or destruction of oil or gas or their constituents**;** and the drowning with water of any stratum or part thereof capable of providing oil or gas in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices. [~~Further,~~] KRS 353.592 authorizes the department to develop a regulatory program for the purpose of accepting primary responsibility for the administration of the Underground Injection Control Program. [~~Therefore, it is the purpose of~~] this administrative regulation **establishes requirements for** [~~to regulate~~] the drilling, casing, operation, plugging, construction, conversion, and maintenance of Class II wells and **the protection of** [~~It is the purpose of this administrative regulation~~] [~~to protect~~] fresh water zones from contamination associated with the production of oil and gas.

Section 1. Definitions. The definitions contained in KRS 353.510 and the following additional definitions shall apply to this administrative regulation:

(1) "Administrator" means the regional administrator for Region IV of U.S. EPA.

(2) "Aquifer" means an underground geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.

(3) "Area of review" means that area within not less than a fixed radius of one-fourth (1/4) mile around an injection well, **except that**[~~: provided, however, that~~] at the option of the permit applicant, the area of review may be deemed to be the zone of endangering influence calculated in accordance with 40 C.F.R. **146.6** [~~146.06~~].

[~~(3) "Aquifer" means an underground geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.~~]

(4) "Casing" means a pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and [~~thus~~] prevent the walls from caving, to prevent loss of drilling mud or fluids into porous ground[~~,~~] or to prevent water, gas, or other fluid from entering or leaving the hole.

(5) "Cementing" means the operation **in which** [~~whereby~~] a cement slurry is displaced around the casing's annulus using approved engineering methods.

(6) "Class II well" means a well which injects fluids**:**[~~,~~]

(a) Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste when injected;

(b) For enhanced recovery of oil or natural gas; or

(c) For storage of hydrocarbons which are liquid at standard temperature and pressure. [~~Which are brought to the surface in connection with conventional oil, natural gas, or coalbed methane production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection; or~~

~~(b) For enhanced recovery of oil or natural gas; or~~

~~(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.~~]

(7) "Commercially producible" means a well which **may** [~~can~~] be used commercially for the production of oil and gas[~~,~~] or for Class II injection.

(8) [~~"Confining bed" means a body of impermeable or distinctly less permeable material stratigraphically adjacent to one or more aquifers.~~

~~(9)~~] "Confining zone" means a geological formation, group of formations, or part of a formation that is capable of limiting fluid movement above an injection zone.

(9)[~~(10)~~] "Contaminant" means any physical, chemical, biological, or radiological substance or matter in water.

(10)[~~(11)~~] "Date of primacy" means the effective date of the Administrator's approval of Kentucky's Underground Injection Control (UIC) Program[~~,~~] made pursuant to Section 1425 of the Safe Drinking Water Act **as codified in 42 U.S.C. 300h-4.**

[~~(12) "Department" means the Kentucky Department for Natural Resources.~~

~~(13) "Director" means the Director of the Kentucky Division of Oil and Gas Conservation.~~]

(11)[~~(14)~~] "Division" means the Kentucky Division of Oil and Gas Conservation.

(12) "Endangerment"[~~(15) "Endanger"~~] means that an injection operation may result in the presence of a contaminant in ground water, which supplies or **may** [~~can~~] reasonably be expected to supply any public water system, and that the presence of that contaminant, or any contaminant may result in **violation of** [~~system not complying with~~] any national primary drinking water regulation or may otherwise adversely affect the health of persons.

(13)[~~(16)~~] "EPA" means the United States Environmental Protection Agency.

(14) "Flow rate" means the volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, or turbine or passes along a conduit or channel.

(15) "Fluid" means any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or other form or state.

(16)[~~(17)~~] "Formation breakdown pressure" means indicated values from data recorded prior to and during squeeze cementing, acidizing, or hydraulic fracturing treatments performed by appropriate service companies. These breakdown pressure values are frequently reported as the surface gauge pressure which shall, through appropriate engineering calculations, be modified to reflect the pressure at which an exposed formation fractures and allows fluid to be injected into the formation.

(17)[~~(18) "Formation fluid" means fluid present in a formation under natural conditions as opposed to introduced fluids, such as drilling mud.~~

~~(19) "Flow rate" means the volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, turbine, or passes along a conduit, or channel.~~

~~(20) "Fluid" means any material or substance which flows or moves whether in a semi-solid, liquid, sludge, gas, or other form or state.~~

~~(21)~~] "Freshwater" **means** [~~is defined as~~] an underground source of drinking water [~~(USDW)~~].

(18)[~~(22)~~] "Freshwater zone" means underground source of drinking water.

(19)[~~(23)~~] "Ground water" means water below the land surface in an aquifer's zone of saturation.

(20)[~~(24)~~] "Injection well' means a well into which fluids are

being injected.

(21)[~~(25) "Instantaneous Shut-In Pressure" (ISIP) means the pressure observed (recorded) at the wellhead immediately after the fracturing treatment. ISIP is that static pressure required to hold a fracture open, to inject fluids into an established fracture system under dynamic conditions if there were no pipe or perforation frictional pressure losses influencing the observed (recorded) surface pressure.~~

~~(26)~~] "Injection zone" means a geological formation, group of formations, or part of formation receiving fluids through a well.

(22)[~~(27) "Lithology" means the description of rocks on the basis of their physical and chemical characteristics.~~

~~(28)~~] "Mechanical integrity" means a condition of injection wells which exists if there is **not** [~~no~~] leakage in the well's casing, tubing, or packer and **if there is not** [~~no~~] fluid movement into an underground source of drinking water through vertical channels adjacent to the well bore.

(23)[~~(29)~~] "Owner or operator" means the company or **person having** [~~person(s) which have~~] secured a permit **for:**

(a) A new or converted well; or

(b) A rule authorized well in operation prior to the effective date or primacy, as defined in subsection (10) of this section. [~~from the division and responsible for any facility or activity.~~]

(24)[~~(30)~~] "Packer" means a device lowered into a well to produce fluid–tight seal.

(25)[~~(31)~~] "Plugging" means the act or process of stopping the flow of water, oil or gas into or out of a formation through a borehole or well penetrating that formation by the placement of cement plugs in the wellbore.

(26)[~~(32)~~] "Project" means a group of wells in a single operation.

(27)[~~(33)~~] "Public water system" means a system for the provision to the public of piped water for human consumption, if **the** [~~such~~] system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals.

(28)[~~(34) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.~~

~~(35) "Step-rate" means water or other fluid injection type testing performed specifically to determine the formation breakdown pressure of the injection zone prior to the initiation of the enhanced recovery project.~~

~~(36) "Stratum" means a single sedimentary bed or layer, regardless of thickness that consists of generally the same kind of rock material.~~

~~(37) "Surface casing" means the first string of well casing to be installed in the well to protect freshwater zones and provides support for deeper casing strings and rig stabilization.~~

~~(38)~~] "Underground source of drinking water **or "USDW"** [~~(USDW)"~~] means an aquifer or its portion**, which is not an exempted aquifer and which**:

(a)[~~1. Which~~] supplies any public water system; or

(b)[~~2. Which~~] contains a sufficient quantity of groundwater to supply a public system; and

1.[~~a.~~] Currently supplies drinking water for human consumption; or

2.[~~b.~~] Contains less [~~fewer~~] than 10,000 mg/l total dissolved solids**.**

(29) "Well" means a borehole drilled, or proposed to be drilled, for the purpose of:

(a) Producing natural gas or petroleum, or one through which natural gas or petroleum is being produced; or

(b) Injecting water, gas, or other fluid or one into which water, gas, or other fluid is being produced.[~~; and~~

~~(b) Which is not an exempted aquifer.~~]

[~~(2) "Aquifer" means geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of water to a well or spring.~~

~~(3) "Public water system" means a system for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves at least twenty-five (25) individuals.~~

~~(4) "Class II well" means a well which injects fluids:~~

~~(a) Which are brought to the surface in connection with conventional oil or natural gas production and may be commingled with waste waters from gas plants which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection; or~~

~~(b) For enhanced recovery of oil or natural gas; or~~

~~(c) For storage of hydrocarbons which are liquid at standard temperature and pressure.~~

~~(5) "New Class II well" means a Class II well on which drilling or conversion commenced later than thirty (30) days after the date of primacy.~~

~~(6) "Existing Class II well" means all Class II wells other than new Class II wells.~~

~~(7) "Date of primacy" means the effective date of the Administrator of the Environmental Protection Agency's approval of Kentucky's Underground Injection Control (UIC) Program, made pursuant to section 1425 of the Safe Drinking Water Act.~~

~~(8) "Area of review" means that area within not less than a fixed radius of one-fourth (1/4) mile around an injection well; provided, however, that at the option of the permit applicant, the area of review may be deemed to be the zone of endangering influence calculated in accordance with 40 C.F.R. 146.06, which is adopted and incorporated herein by reference.~~

~~(9) "Endanger" means that an injection operation may result in the presence in underground water, which supplies or can reasonably be expected to supply any public water system, of any contaminant and that the presence of that contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.~~

~~(10) "Freshwater" is defined as a USDW.~~

~~(11) "Project" means a group of wells in a single operation.~~]

Section 2. General. (1) **A person shall not** [~~No person shall~~] drill a Class II well without first obtaining a permit to drill pursuant to KRS 353.570(1) and (2).

(2) **A person shall not** [~~No person shall~~] inject fluids to the subsurface through a Class II well without the authorization of the division **in** [~~director~~][~~. Such authorization shall take~~] the form of a permit issued pursuant to Section 11[8] of this administrative regulation [~~or of a permit by rule conferred in accordance with Section 4 of this administrative regulation~~].

(3) The owner or operator of a Class II well **shall** [~~is required to~~] maintain financial responsibility and resources to close, plug, and abandon the underground injection operation pursuant to the requirements in Section 8 of this administrative regulation [~~in a manner prescribed by the director~~].

(4) The fee requirements for an application to drill a new Class II injection well pursuant to KRS 353.590**(2)(a)** shall suffice for and be applicable to the permit to inject.

(5) The permit to operate any Class II well may be transferred to a successor only after notice is given to the **division on the Well Transfer for UIC Wells, Form ED-26, and** [~~director. Such notice, filed on form ED-26, incorporated by reference,~~] shall include at least the following:

(a) The original operator's company name and address**;**[~~.~~]

(b) The successor's company name and address**;**[~~.~~]

(c) The permit number of the well**;**[~~.~~]

(d) The Carter Coordinate location**;**[~~.~~]

(e) The farm name and well number**;**[~~.~~]

(f) Signatures of the original operator and the successor[~~,~~] or that of their official **representatives; and** [~~representative(s).~~]

(g) A statement that the successor assumes all responsibility for the well[~~.~~] and provides financial responsibility pursuant to Section 8 of this administrative regulation.

(6)[~~(h)~~] A Class II well with an outstanding noncompliance **shall** [~~will~~] not be transferred, unless the successor is willing to correct deficiencies and **submit** [~~submits~~] a corrective action plan which is approved by the division **pursuant to subsection (11) of this section**.

(7) A Class II well[~~(6) All Class II wells~~] shall be plugged in the manner established in 805 KAR 1:060 and 805 KAR 1:070, whichever is applicable.

(8) An injection permit shall not[~~(7) No injection permit shall~~] be issued unless the applicant demonstrates [~~An applicant for an~~

~~injection permit shall be required to satisfy the director~~] that the Class II well will not **cause the endangerment of** [~~endanger~~] a USDW.

(9)(a)[~~(8)~~] [~~No permit by rule shall be interpreted as authorizing injection through a Class II well which endangers a USDW.~~

~~(9)~~] If the [~~division determines~~] [~~director concludes~~] [~~that~~] casing and cementing of a Class II well [~~authorized by rule~~] is inadequate and [~~that~~] movement of fluids **cause the endangerment of a** [~~endangers~~] USDW, the division[~~. The director~~] shall require [~~an individual permit or notify~~] the owner or operator of **a** [~~such~~] well to take [~~of~~] necessary corrective action. [~~Any such~~]

(b) Corrective action shall [~~must~~] be completed within ninety (90) days [~~one (1) year~~] of notification from the division to the owner or operator.

(c) Injection shall not be [~~No injection is~~] authorized until the corrective action has been completed and **[a]** mechanical integrity [~~test~~] has been **demonstrated** [~~conducted~~].

(10)(a)[~~(9)~~] [~~(10)~~] In administering and applying this administrative regulation, the division [~~director~~] shall, **as practicable** [~~to the maximum practicable extent~~], take into account the varying geologic, hydrological, and historical conditions in different areas within the state.

(b) The division [~~director~~] may, **if** [~~where~~] consistent with other provisions of this section, upon **submittal of the Class II Well Permit Application for Underground Injection Control, Form ED-14** [~~application~~] and after notice and hearing, grant a variance from any requirement **subsection (8) of this section** [~~of this administrative regulation~~] upon a **demonstration** [~~showing~~] that alternate prudent engineering practices will protect a USDW.

(11) The division may modify, suspend, or revoke a Class II well permit if the injection operation is altered in a way that does not adequately protect the USDW or if a mechanical integrity failure or downhole condition compromises the injection system.

Section 3. Exempted Aquifers. An aquifer or a portion thereof which meets the criteria established in this section for a USDW may be determined by the division [~~director~~] to be an "exempted aquifer" if it meets the following criteria:

(1) It does not currently serve as a source of drinking water; and

(2) It cannot now and will not in the future serve as a source of drinking water because:

(a) It is mineral, hydrocarbon, or geothermal energy producing, or **may** [~~can~~] be demonstrated to contain minerals or hydrocarbons that, considering their quantity and location, are expected to be commercially producible;

(b) It is situated at a depth or location which makes recovery of water for drinking water purposes economically or technologically impractical;

(c) It is so contaminated that it would be economically or technologically impractical to render that water fit for human consumption; or

[~~(d) It is located over a Class III mining area subject to subsidence or catastrophic collapse; or~~]

(d)[~~(3)~~] The total dissolved solids content of the groundwater is more than 3,000 mg/l, and less than 10,000 mg/l and it is not reasonably expected to supply a public water system.

Section 4. [~~Permit by Rule. (1) All existing Class II wells are granted a permit by rule and authorized to inject fluids to the subsurface provided that the owner or operator:~~

~~(a) Maintains compliance with all applicable requirements of Sections 5 and 7 of this administrative regulation; and~~

~~(b) Within one (1) year from the effective date of this administrative regulation, files an area plat or plats showing all of the Class II wells subject to the permit by rule. The plat(s) submitted must show the existing Class II wells and all lessors' and lessees' names and boundaries, and shall be prepared and certified as accurate and correct by a licensed Kentucky Land Surveyor.~~

~~(2) All new Class II wells, constructed as part of an existing injection project, may be operated by rule after the following information has been submitted to and approved by the director:~~

~~(a) The application to operate by rule shall be submitted on forms provided by the director and shall be identical to application forms used for new Class II wells (Section 8 of this administrative regulation).~~

~~(b) All the requirements of Section 8 of this administrative regulation shall apply except subsections (1)(c)7 and 8 and (3) of this section.~~

~~(c) The plat submitted with said application to inject into a new Class II well in an existing project shall satisfy the applicable requirements of Section 8 of this administrative regulation and shall also show the proposed well location in the existing project, and that its location falls within an area having wells conforming to a geometric pattern already established.~~

~~(3) Injection of fluids to the subsurface shall not be made until a permit to inject is issued.~~

~~Section 5.~~] Requirements Applicable to [~~All~~] Class II Well Permits. Authorization to inject fluids through **a Class II well** [~~all Class II wells~~] [~~(whether by rule or by individual permit)~~] shall be conditioned upon compliance with the following requirements:

(1)**(a)** The owner or operator [~~permittee~~] shall promptly notify the director in writing of any modification in the manner in which the injection operation is conducted or of any mechanical failure or downhole problem encountered in the operation of the Class II **well** [~~wells~~] or upon recognition of a failure in an injection system.

(b) The [~~Said~~] well or wells which appear to be leaking shall be shut down immediately and correction procedures shall be initiated within fifteen (15) days, or the permit to inject may be revoked **under appropriate conditions**.

(c) The prescribed notice to the director shall describe all proposed modifications or corrective actions and shall be subject to the approval of the director.

(2) The owner or operator [~~permittee~~]shall afford the director, or his authorized representative(s) upon proper presentation of credentials, access to Class II wells and related facilities for the purpose of conducting inspections, witnessing mechanical integrity tests, corrective action operations and plugging procedures, and testing samples of injected fluids.

(3)**(a)** The owner or operator [~~permittee~~]shall regulate the injection pressure in [~~such~~] a manner **so** that the pressure in the injection zone does not initiate new fractures or propagate existing fractures in the confining zone **that** [~~which~~] would cause the movement of injected fluids into a USDW.

(b) The **division** [~~director~~] may, **if** [~~when~~] necessary to ensure [~~insure~~] compliance with this requirement, establish limitations on the wellhead pressure at which **a Class II well** [~~Class II wells~~] may be operated.

(c) Any [~~such~~] limitation shall be included as a permit condition or through an order issued after notice and opportunity for hearing.

(4)**(a)** The owner or operator [~~permittee~~] shall provide for the mechanical integrity of the well by operating without [~~significant~~] leaks in the casing, tubing, or packer and without [~~significant~~] fluid movement into a USDW through vertical channels adjacent to the well bore.

(b) The owner or operator [~~permittee~~] shall, upon request of the division [~~director~~], conduct tests of the mechanical integrity of the Class II **well** [~~wells~~], utilizing a method approved by the division as required in Section 6 of this administrative regulation [~~director~~]. [~~Otherwise, tests shall, as nearly as practicable, be scheduled at five (5) year intervals and the permittee shall certify the test results to the director in writing within fifteen (15) days subsequent to the test.~~]

(c) Each Class II well shall be tested for mechanical integrity at least every five (5) years pursuant to Section 6(6) of this administrative regulation.

(d) An [~~Any~~] alternative mechanical integrity test authorized by the division shall be approved by the administrator.

(5)**(a)** The owner or operator [~~permittee~~] shall monitor and record injection pressures rates and volumes at least monthly and shall submit on **the Annual Disposal or Injection Well Monitoring Report, Form ED-18** [~~forms~~] provided by the division [~~director~~], an annual report of the results of [~~such~~] monitoring to the division [~~director~~].

(b) The owner or operator [~~permittee~~] shall retain all **these** [~~such~~] records on file for a period of five (5) years.

(c) The owner or operator of hydrocarbon storage or enhanced recovery wells may monitor them by manifold monitoring on a field or project basis rather than on an individual well basis if **the** [~~such~~] facilities consist of more than one (1) injection well, **operated** [~~operate~~] with a common manifold, and provided the owner or operator demonstrates to the division [~~director~~] that manifold monitoring is equivalent [~~comparable~~] to individual well monitoring.

[~~(6) For purposes of this section, a permittee shall include the owner or operator of a well authorized by rule under Section 4 of this administrative regulation.~~]

Section 5. [~~6.~~] Construction Requirements for [~~All~~] [~~New~~] Class II Wells. (1)**(a) A** [~~All~~] [~~new~~] class II injection **well** [~~wells~~] proposed to be constructed after the effective date of primacy shall be constructed in accordance with applicable provisions of KRS 353.570(1) and (2) and 805 KAR 1:020 in a manner that **shall** [~~will~~] prevent injected fluids from escaping to a USDW.

(b) Existing Class II wells authorized **by** [~~under~~] EPA are exempt from this requirement unless the division determines that corrective action is necessary to prevent injected fluids from escaping to a USDW.

(c)1. A freshwater string of casing **shall** [~~must~~] extend fifty (50) feet below the freshwater depth stated on the permit or the base of the deepest fresh water, whichever is greater.

2. All freshwater casing strings shall have cement circulated to fill the annular space of **the casing.** [~~outside~~] [~~said casing.~~]

3. This [~~Such~~] casing shall be cemented, using approved engineering methods to assure the circulation [~~return~~] of the cement to the surface.

4. The long string of casing shall [~~must~~] extend at least from the surface to immediately above the injection interval, and **shall** [~~must~~] have a minimum of 300 feet of cement behind the lowermost 300 feet of casing.

5. If the fresh water is not protected by a separate string of casing, then the long string shall [~~must~~] be cemented with circulation of cement back to surface [~~from top to bottom~~].

(d) Tubing shall be installed in the casing with a packer set at a depth not to exceed fifty (50) feet above the injection zone.

(e) The owner or operator shall provide a detailed description of the casing plan on **the Casing and Cementing Plan for UIC Wells,** Form ED-25, [~~incorporated herein by reference,~~] and submitted with the **Class II Well Permit Application for Underground Injection Control, Form ED-14** [~~application~~] for permit to inject.

(f) The casing plan shall be approved by the director and shall include a listing of the casing size, type, grade, depth of each casing string, and the class and volume of the cement to be used.

(2)**(a) An** [~~Any~~] active oil and gas well[~~,~~] or an abandoned or plugged well reopened for the purpose of conversion to a [~~new~~] Class II injection well, shall satisfy the requirements for cementing of [~~new~~] **a Class II well** [~~Class II wells~~].

(b) If perforation of existing casing is required to satisfy the [~~current~~] cementing requirements [~~administrative regulations~~] during the conversion of **the well** [~~said well(s)~~] to a [~~new~~] Class II well, a tubing and packer shall be installed in the existing casing to the area immediately above the injection interval, not to exceed fifty (50) [~~100~~] feet above **the** [~~said~~] injection interval.

(3) **A** [~~All~~] [~~new~~] Class II disposal **well** [~~wells~~] shall be designed to ensure [~~insure~~] that disposal zones are hydraulically isolated from USDW.

(4) The owner or operator shall provide the division with all required geophysical logs and **results of** [~~other~~] tests conducted during the drilling and completion of **a** Class II **well that** [~~wells which~~] specifically relate to the USDW,[~~(s) and~~] the confining zone adjacent to it, and the injection and adjacent formations, and shall include the following:

(a) A **geophysical log** [~~log(s)~~] marked to indicate all fresh water zones, the confining **zone** [~~zone(s)~~] and the injection interval;

(b) A geologic description of the confining and injection **zone** [~~zone(s)~~] that shall include the lithologic description, geologic name, and thickness; **and**

(c)**1.** A report describing the nature of fluids and formation pressure in the injection zone.

2. This information may be obtained from geophysical logs, physical examinations of samples and cores, and chemical analysis, [~~etc.~~] and shall be prepared by a professional geologist registered in the state of Kentucky.

3. The owner or operator may substitute information from nearby wells if [~~they are~~] comparable to the injection well, and in the case of an area permit, **if** sufficient information **is available** from wells within the field to adequately describe the whole field.

Section 6. [~~7.~~] Mechanical Integrity Requirements for [~~all~~] Class II Injection Wells.

(1)(a) Operators [~~All operators~~] shall demonstrate mechanical integrity of new and existing Class II injection wells.

(b) The owner or operator shall submit a plan to demonstrate mechanical integrity with the application for permit to inject.

(2) An injection well is determined to have mechanical integrity if:

(a) There are **not** [~~no~~] leaks in the casing, tubing, or packer; **and**[~~, and,~~]

(b) There is **not** [~~no~~] fluid movement into an underground source of drinking water through vertical channels adjacent to the injection well bore.

(3) One (1) of the following methods shall be used to **evaluate** [~~confirm~~] the absence of **significant** leaks under **subsection (2)(a)** [~~paragraph (2)(a)~~] of this section:

(a) **Following an initial pressure test, monitoring of the tubing and casing annulus pressure with sufficient frequency to be representative, as determined by the division, while maintaining an annulus pressure different from atmospheric pressure measured at the surface;**

(b) A pressure test shall be performed with liquid or gas; or

(c) Records of monitoring demonstrating the absence of significant changes in the relationship between injection pressure and injection flow rate for the following Class II enhanced recovery wells:

1. Existing wells completed without a packer provided that a pressure test has been performed and the data is available and provided further than one (1) pressure test shall be performed at a time when the well is shut down and if the running of the test does not cause further loss of significant amounts of oil or gas; or

2. Existing wells constructed without a long string casing but with surface casing, which terminates at the base of fresh water, provided that local geological and hydrological features allow this construction and provided further that the annular space shall be visually inspected. For these wells, the division shall prescribe a monitoring program, which shall verify the absence of significant fluid movement from the injection zone into an USDW. [~~Regular monitoring of annular pressure provided that an initial pressure test has been run; or~~

~~(b) Pressure test with a liquid or gas; or~~

~~(c) Records of monitoring showing the absence of change in the relationship between injection pressure and injection flow rate for Class II enhanced recovery wells.~~]

(4) One (1) of the following methods shall be used to confirm the absence of fluid movement under subsection (2)(b) of this section:

(a) The results of a temperature log or noise log, cement bond log; [~~or~~]

(b) Cementing records demonstrating the presence of adequate cement to prevent **a** [~~such~~] migration; or

(c) [~~Such~~] other methods approved by the administrator.

(5)**(a)** The mechanical integrity test shall be performed on the annulus of the tubing and casing.

(b) A minimum pressure of 300 psi shall be applied to the annulus of the tubing and casing.

(c) The well is considered to have mechanical integrity if, at the end of thirty (30) minutes, there is no more than a plus or minus of three (3) percent change of the test pressure on the gauge.

(d) A [~~All~~] mechanical integrity **test** [~~tests~~] shall be witnessed and approved by a division field inspector.

(e) The **division** [~~director~~] may require higher test pressures to be used when the anticipated injection pressure will be high.

(f) The test results shall be filed on **the Certificate of Mechanical Integrity**, Form ED-22[, incorporated herein by reference]. [The following methods are considered sufficient to establish mechanical integrity:

(1) All permittees of new or converted Class II injection wells shall perform mechanical integrity test(s) of the installation(s) prior to injection to ensure there are not leaks in the system(s). The test pressure must exceed the maximum anticipated injection pressure by at least 100 psi. Pressure and rate sensitive devices must be used to ensure there are no significant changes in pressure or volume of fluids injected. The test results shall be filed on forms approved by the director.]

(6)**(a)**[(2)] The owner or operator [permittee] of **a Class II well** [all Class II wells][, both new and existing,] shall schedule [as nearly as practicable] at five (5) year intervals or less, mechanical integrity **test** [test(s)] as described in subsection (5) of this section.

(b) The owner or operator shall certify the test results to the division in writing within fifteen (15) days of completion of the test.

(7)**(a)** The owner or operator shall not perform mechanical integrity **test of a** [test(s) of any] Class II well without giving written notice to the division within fifteen (15) calendar days prior to the proposed test date.

(b) The division shall then notify the owner or operator of the earliest possible date available to test the well.

Section 7. Area of Review for Class II Wells. The owner or operator shall supply the following information **if** [when] applying for a permit to inject pursuant to Section 11 of this administrative regulation:

(1) A description of the area of review which shall be determined by:

(a) A fixed radius of one-fourth (1/4) mile around the injection well,[;] or one-fourth (1/4) mile around the permit area boundary; or

(b) The zone of endangering influence calculated in accordance with 40 C.F.R. 146.6 for an area of review less than one-fourth (1/4) mile. [The use of a mathematical model will not be allowed by the division until approval is granted by the administrator. If a request is made by the owner or operator to use such a mathematical model for determining the area of review a copy of all such material provided to the division shall be forwarded to the administrator for review and approval, and if approval is not granted by the administrator the method described in (1)(a) of this section shall be used.]

(2) [The owner or operator of Class II wells shall submit] A map showing the following information within the area of review:

(a) Existing producing wells, injection wells, abandoned wells, dry holes, and water wells;[; and]

(b) Surface and subsurface mines, quarries and other pertinent surface features including residences, roads, and faults; and

(c) The distribution manifold applying injection fluid to all wells in the area of review including all system monitoring points, for those injection wells, if operating from a common manifold;[.]

(3) The following data for [any] wells within the area of review [shall be submitted]:

(a) A tabulation of data, reasonably available from public records or otherwise known to the applicant, including a description of well type, construction, date drilled, location, depth, record of plugging **or** [and/or] completion, and **applicable** [any] additional information; and

(b) The record of completion and plugging for each well which penetrates the injection zone, and any other wells within the area of review wells which would be affected by any proposed increase in pressure if the injection **well** [well(s)] is to be operated over the fracture pressure of the injection formation; **and**[.]

(4)**(a) For** [The owner or operator of any] wells in the area of review which are improperly sealed, completed, or abandoned, [shall submit] a corrective action plan which consists of steps or modifications as [are] necessary to prevent movement of fluid into underground sources of drinking water.

(b) The division **shall** [may] consider the following criteria and factors during evaluation of the corrective action plan:

1.[(a)] Nature and volume of injected fluids;

2.[(b)] Nature of native fluids or by-products of injection;

3.[(c)] Potentially affected population;

4.[(d)] Geology;

5.[(e)] Hydrology;

6.[(f)] History of injection operations;

7.[(g)] Completion and plugging records;

8.[(h)] Plugging procedures **upon** [at the time of] abandonment; and

9.[(i)] Hydraulic connections with underground sources of drinking water.

Section 8. Financial Responsibility. (1) The owner or operator of all Class II wells shall demonstrate financial responsibility to plug and abandon **a well** [said well(s)].

(a) Financial responsibility of existing Class II wells prior to the date of primacy shall be submitted to the division pursuant to Section 9 of this administrative regulation.

(b) The owner **or** [of] operator of **a** Class II **well** [wells] authorized by a permit to inject pursuant to **this administrative regulation** [these regulations] shall, **upon** [at the time of] application, demonstrate financial responsibility and submit the plugging abandonment plan in accordance with 805 KAR 1:060 or 805 KAR 1:070.

(2)**(a)** The owner or operator shall provide financial coverage to adequately plug the well pursuant to the individual well bond requirements of KRS 353.590(5).

(b)1. If [In the event that] the division issues a letter of violation, forfeits the individual bond, and subsequently plugs the well, the owner or operator shall be responsible for any additional costs expended by the division for plugging the well which exceeds the bond amount.

2. These costs, if not paid, shall be recovered by civil suit pursuant to KRS 353.180(3).

3. In addition to the recovery of costs, the owner or operator shall be subject to penalties as prescribed in KRS 353.992.

Section 9. Transitional Requirements for Owner or Operators of Class II Wells.

(1)**(a)** The division shall accept **a** Class II well **permit** [permits], including rule authorized wells, issued under the authority of the EPA administered program. **Rule authorized wells shall be deemed permitted by the division, provided the owner or operator satisfies the requirements this section.**

(b) The division shall**:**

1. Accept records from EPA of all authorized wells**;** and [shall]

2. Create an inventory of approved existing wells.

(c) The financial responsibility demonstration required in Section 8 of this administrative regulation and the submission of the plugging and abandonment plan in Section 10 of this administrative regulation shall be completed within ninety (90) days following the effective date of primacy.

(d) If the existing bond posted with EPA meets the requirements of Section 8 of this administrative regulation and is transferable to the division, the transfer of **the** [said] bond shall be accepted by the division.

(2)**(a)** The owner or operator of **a** Class II **well having a mechanical integrity test** [wells having mechanical integrity test(s)] approved by EPA shall remain on the same schedule of mechanical integrity tests, upon the effective date of primacy.

(b) A copy of all documents showing approval by EPA of the **well's** [well(s)] mechanical integrity[,] and a copy of all forms, test data, and logs required by and submitted to EPA shall be submitted to the division within ninety (90) days of the effective date of primacy.

(3) The owner or operator **with a pending application** [of pending application(s)] submitted for Class II wells under the EPA program[,] may transfer **a pending application** [such pending application(s)] to the division[,] and shall satisfy the permitting requirements in Section 11 of this administrative regulation upon the effective date of primacy.

[(4) The owner or operators of Class II wells which have been shut-in under approval from EPA may be allowed to keep such wells shut-in up to the time limit allowed by EPA, if a copy of EPA authorization is forwarded to the division within ninety (90) days of the effective date of primacy.]

Section 10. Plugging and Abandonment of Class II Wells. **(1) A Class II well** [~~All Class II wells~~] shall be plugged in accordance with 805 KAR 1:060 or 805 KAR 1:070, whichever is applicable.

(2) The owner or operator shall notify the division in writing thirty (30) days prior to plugging and shall schedule with the division inspector a time and date for performing the plugging procedure.

(3) The inspector shall schedule the earliest date available.

(4) Upon completion of the plugging, the owner or operator shall file a plugging affidavit on Form ED-38.

(5) After cessation of operations of two (2) years, the owner or operator shall plug and abandon the well in accordance with the plan, unless a notice is sent to the division describing actions or procedures that the owner or operator shall take to ensure that the well will not cause the endangerment of a USDW during the period of temporary abandonment. These actions and procedures shall include compliance with the technical requirements applicable to active injection wells unless waived by the division. [~~The following methods may be used:~~

~~(a) Subsection (1) of this section shall suffice; or~~

~~(b) For existing Class II wells, and new wells at least five (5) years old, the applicant may, subject to approval of the director, in lieu of the test described in subsection (1) of this section file historical injection records only on an individual well basis. Said records must show weekly volume and pressure rates in tabular or graphic form that reflect rate of volume or pressure variation within the injection system for a period of five (5) years or the life of the well, whichever is shorter, and must be certified by the operator as correct and accurate.~~]

Section 11. [~~8.~~] Requirements for a Permit to Inject into [~~New~~] **a Class II Well.** [~~Class II Wells. (1)~~] All persons seeking **a permit to inject into** [~~to permit~~] a Class II well shall, after the effective date of primacy, comply with the requirements of this section.

(1) A person shall not inject fluids into [~~No person shall inject fluids to~~] the subsurface through a [~~new~~] Class II well without obtaining a permit to inject.

(2) An application **for a permit** to inject [~~This permit shall be issued under the authorization of the director. Existing wells satisfying the requirements of Section 4 of this administrative regulation shall be permitted by rule. To obtain a permit to inject, an applicant shall submit to and have approved by the director an application. The application~~] shall be submitted on form ED-14 [~~forms provided by the director~~] and shall include [~~such information as the director deems necessary for the issuance of the permit, including all of the following~~]:

(a) A statement by the **owner or** operator as to whether the well **will** [~~is to~~] be used for enhanced recovery, hydrocarbon storage, or for disposal purposes;[~~.~~]

(b) The approximate depth [~~depths~~] of the deepest known freshwater zone [~~zones~~].

(c) **In accordance with 805 KAR 1:030,** a location plat for a permit to inject into a Class II injection well [~~shall be prepared in accordance with 805 KAR 1:030~~].

(d) An area of review map [~~shall be~~] prepared on a **7.5 minute quadrangle** topographic map and **including** [~~and certified as accurate and correct by a registered Kentucky Land Surveyor. Said plat~~] [~~shall include the following information~~]:

1. The location of all known freshwater wells;

2. The location and completion **or** [~~and/or~~] plugging record of all wells, whether producing or plugged;

3. The location of hazardous waste[~~,~~] treatment or disposal facilities;

4. The location of rivers or streams;

5.The location of quarries and surface and subsurface mines;

6. The location of faults; and

7. The location of permanent residences;[~~.~~]

(e) A schematic diagram of the well showing the following:

1. The total depth of the plugback of the well;[~~.~~]

2. The depth of the injection or disposal interval;[~~.~~]

3. The geological name of the injection or disposal zone;[~~.~~]

4. The geological name, thickness, and description of the confining zone;[~~.~~]

5. The vertical distance separating the uppermost extremity of the injection zone from the base of the lowest USDW;[~~.~~]

6. The depth of the top and the bottom of the casing and the cement;[~~.~~]

7. The size of the casing and tubing and the depth of the packer; **and**[~~.~~]

8. The depth to the base of the lowermost underground source of drinking water;[~~.~~]

(f) For the conversion of an existing well, a copy of the completion report and any available geophysical log of the well;[~~.~~]

(g) Proposed operating data as follows:

1. The geological name, depth, and location of the source of the injection fluid;[~~.~~]

2. A standard laboratory analysis of a representative sample of the fluid to be injected under the proposed Class II permit,[~~.~~] with the following parameters**, as contained in 40 C.F.R. 136.3 and 40 C.F.R. Part 261 Appendix III**:

a. Barium if sulfate is less than 500 mg/l;

b. Calcium;

c. Total Iron;

d. Magnesium;

e. Sodium;

f. Bicarbonate;

g. pH;

h. Specific Gravity;

i. Carbon Dioxide;

j. Total Dissolved Solids; and

k. Hydrogen Sulfide if H_2S odor is detected.

3. A material safety data sheet **for** [~~shall be provided for any~~] inhibitors **if** added to the injection fluid for control of scaling, corrosion, or bacterial growth;[~~.~~]

4.**a.** The nature of the annulus fluid to be used in the annulus between the tubing and casing.

b. This description **shall** [~~should~~] include the type of fluid to be used and the corrosivity of the annulus fluid.

c. The amount of inhibitor to be added shall be listed;[~~.~~]

5. The proposed maximum injection rate and pressure. The owner or operator shall limit injection pressure to either a value:

a. That does not exceed a maximum injection pressure at the wellhead calculated to assure that the pressure during injection does not initiate new fractures or propagate existing fractures in the confining zone adjacent to an underground source of drinking water and will not cause the movement or injection of fluids into an underground source of drinking water; or

b. For wellhead pressure calculated by using the following formula:

Pmax = (0.733 psi/ft - (.433 psi/ft (Sg)))d,

Where: Pmax = Maximum injection pressure (psia) at the wellhead;[~~.~~]

Sg = Specific gravity of the injected fluid; **and**[~~.~~]

d = Depth to the top of the injection zone in feet;[~~.~~]

(h) The location and description of each underground source of drinking water through which the well would penetrate;[~~.~~]

(i) A description of the current or proposed casing program on **the Casing and Cementing Plan for UIC Wells,** Form ED-25, including the following:

1. Casing size, weight, and type;[~~.~~]

2. Cement volume and type; **and**[~~.~~]

3. Packer type;[~~.~~]

(j) A description of all proposed stimulation programs;[~~.~~]

(k) A description of proposed plans to cope with all shut-ins or well failures, so as to prevent migration of fluids into any underground source of drinking water;[~~.~~]

(l) If a manifold monitoring program is utilized**, a description of the program and a demonstration** [~~describe the program and demonstrate~~] equivalence to individual well monitoring.

(m) A corrective action plan**, which shall** [~~must~~] be submitted for all **well** [~~well(s)~~] within the area of review as required in Section 7(4) of this administrative regulation;[~~.~~]

(n) A demonstration of financial responsibility as required in Section 8(2) **of this administrative regulation** and a plugging and abandonment plan as required in Section 10 of this administrative regulation; **and**[~~.~~]

(o) The plan by the **owner or** operator of mechanical integrity.

Each well shall be tested for mechanical integrity using the method as described in Section 6(5) **of this administrative regulation.**

(3) An [~~(2)~~] application [~~1. All plats shall be submitted on a sheet eight and one-half (8 1/2) x fourteen (14) inches. This sheet may be on paper, tracing cloth, training paper or equivalent.~~

~~2. The names of all lessees and lessors contiguous to the tract on which the injection shall occur.~~

~~3. The Carter Coordinate Location and the elevation of the well site.~~

~~4. The geologic name and depth of the injection zone.~~

~~5. At least two (2) surface features, by bearing and distance from the proposed well site, which appear on the U.S.G.S. seven and one-half (7 1/2) minute topographic map of the area.~~

~~6. The name of said topographic map and county.~~

~~7. The location of all known freshwater wells within the area of review.~~

~~8. The location and completion and/or plugging record of all wells, whether producing or plugged, within the area of review.~~

~~(d) Information showing that injection will not initiate fractures through the overlying strata shall include, but not be limited to the following:~~

~~1. A fluid injection rate of 1,000 barrels or less for a period of twenty-four (24) hours, or an equivalent rate for any fraction of twenty-four (24) hours, must maintain a minimum separation thickness of 200 feet between the lowest base of known fresh water, and the top of the proposed injection interval per well.~~

~~2. A fluid injection rate of more than 1,000 barrels for a period of twenty-four (24) hours, or an equivalent rate for any fraction of twenty-four (24) hours, must maintain a minimum separation thickness of 500 feet between the lowest base of known fresh water, and the top of the proposed injection interval per well.~~

~~3. The director may allow lesser thickness than required in subparagraphs 1 and 2 of this paragraph if the applicant furnishes certified evidence to the director that lesser thickness will not initiate fractures into the USDW.~~

~~(e) The Well Log and Completion Report and a copy of all geophysical logs.~~

~~(f) A certificate that shall include the following:~~

~~1. The identification of the well by permit number, operator's name, lease name, well number, Carter Coordinate Location, elevation and county.~~

~~2. The entire casing and cementing record, any packers and other special downhole equipment, and cement bond logs, if run.~~

~~3. The anticipated maximum bottom hole pressure (psi) and volume in barrels or cubic feet per day.~~

~~4. The identification of the injection zone by geological name and depth (top and bottom of zone), the number of perforations, if applicable, or the interval of open hole.~~

~~5. The certification by the operator of mechanical integrity. Each well shall be tested for mechanical integrity using method(s) approved by the director prior to being placed in service and the test results shall be certified to the director in writing. The director may require less information from the applicant where the information is readily available, or from up-to-date instate files, or where, based upon demonstrable knowledge available to the director about the proposed operation, the director proposes to permit the operation without requiring corrective action or alternatives to it.~~

~~(2) Applications~~] for permit shall be signed by the owner or operator of the injection well, including corporate officers, general partners, sole proprietors, or other persons authorized to execute [~~such~~] documents on behalf of the applicant.

(4)[~~(3)~~] With respect to an application, **Class II Well Permit Application for Underground Injection Control, Form ED-14,** for a Class II well, **an applicant shall personally or by certified mail submit** [~~an applicant must serve~~] a written notification describing the proposed well **to** [~~personally or by certified mail on~~] each of the following persons, if the described property is located within one-quarter (1/4) mile of the proposed well:

(a) The owner or operator of each well for oil and gas purposes, including a well having temporary abandonment status under this **administrative** regulation or not yet in production;[~~.~~]

(b) The permittee of an underground mine permitted under KRS Chapter 350**; and**[~~.~~]

(c) Each owner of rights to surface or subsurface property that the well penetrates.

(5)(a)1.[~~(4)~~] The notification required under this subsection shall specify that a person who wishes to object to issuance of the permit **shall** [~~may~~], within **thirty (30)** [~~fifteen (15)~~] days of receipt of the notification, submit written comments or request a hearing.

2. The notification shall include the address to which written comments or the hearing request **shall** [~~must~~] be forwarded and where additional information may be obtained.

(b)1. In addition to the notification required under this subsection, the applicant shall cause a notice of a permit application to be placed in a newspaper of general circulation in the county where the proposed well is located.

2. Individual and publication notices shall include:

a. The name and address of the applicant;[~~.~~]

b. The location of the proposed well;[~~.~~]

c. The geological name and depth of the injection zone;[~~.~~]

d. The maximum injection pressure; and[~~.~~]

e. The maximum rate of barrels each day.

3. The notice shall specify that a person who wishes to object to issuance of the permit may, within **thirty (30)** [~~fifteen (15)~~] days of publication of the notification, submit written comments or request a hearing.

4. The notification shall include the address to which the written comments or hearing requests **shall** [~~must~~] be forwarded, how a person may receive written notice of the proceedings, and where additional information concerning the proposed permit **may** [~~can~~] be obtained.

5. Proof of service of the notification required in this subsection **shall** [~~must~~] be delivered to the division before a permit for a Class II well **shall** [~~can~~] be issued.

(6)(a)[~~(4)~~] The owner or operator shall verbally notify [~~An applicant for permit under this section shall provide public notice of the permit application by causing a notice of the application to be posted in the county courthouse of the county in which the Class II well is proposed to be located. Such notice shall describe the proposed action, and advise interested parties that additional information may be obtained from the director, that a public hearing may be requested, and that comments on the proposed action and requests for public hearing must be submitted to the director within fifteen (15) days of posting of the notice. The applicant shall provide a copy of the public notice to the director accompanied by an affidavit as to the manner in which public notice of the application was provided. If a significant degree of public interest is indicated, the director shall conduct a public hearing on the application. At the conclusion of the public comment period (including any public hearing) the director shall take final action on the permit application.~~

~~(4) The permit to inject shall be issued before injection is allowed.~~

~~(5) The permittee shall notify verbally~~] field inspectors five (5) days before all mechanical integrity tests are performed.

(b) A written notice shall be given to the division fifteen (15) [~~director five (5)~~] days before **the** [~~said~~] tests are performed as required in Section 6(7) of this administrative regulation.

(7)(a)[~~(5)~~][~~(6)~~] The permit to inject into **a** [~~all~~] Class II injection **well** [~~wells~~] shall remain valid for the life of the well or project.

(b) The [~~However, the~~] permit may be terminated if the well or project is in violation of this administrative regulation and applicable provisions of KRS Chapter 353 [~~the law~~].

(c) The owner or [~~well~~] operator **shall** [~~must~~] comply with the requirements of all applicable administrative regulations.

Section 12. Completion and Monitoring Reports. (1) The owner or operator shall upon completion of construction of a Class II well file with the division a [~~"~~]Certificate of Completion for an Injection Well[~~"~~], Form ED-23, [~~incorporated herein by reference~~] within ninety (90) days of final construction.

(2)**(a)** The owner or operator shall file an annual report of monthly monitoring of injection fluid volumes, injection pressure, and casing annulus pressure on Form ED-18, [~~incorporated herein by reference,~~] on the **twenty-eighth day of January for the previous twelve (12) months.** [~~28th day of January for the previous 12 months.~~]

(b) The owner or operator shall retain all [~~such~~] records on file

for a period of five (5) years.

(c) The owner or operator of **a** liquid hydrocarbon storage or enhanced recovery **well** [~~wells~~] may monitor them by manifold monitoring on a field or project basis rather than on an individual well basis if **the facilities:** [~~such facilities~~]

1. Consist of more than one (1) injection well;[~~.~~]

2. Operate with a common manifold; **and**[~~, and~~]

3. Provided the owner or operator demonstrates to the director that manifold monitoring is equivalent to individual monitoring.

(3)[~~(7)~~] The owner or operator permittee of **a** [~~all~~] Class II injection **well** [~~wells~~] shall notify the director in writing within thirty (30) days of the termination of operations at which time the permit to inject shall expire.

Section 13. Workover of Class II Wells. **(1)** The owner or operator **shall** [~~must~~] notify the division within ninety (90) days of **a**[~~any~~] well workover, logging, or testing that may reveal downhole conditions.

(2) The owner or operator shall submit a ["]Well Rework Report ["], Form ED-4, documenting the activity within thirty (30) days following the completion of the rework.

(3) If the packer unseats [~~Should the packer unseat~~] during the workover, a mechanical integrity test shall be conducted under the provisions of Section 6 of this administrative regulation.

(4) Injection shall not be [~~No injection is~~] allowed until an approved mechanical integrity test has been performed.

Section 14. Procedures for Public Participation in Enforcement Actions. Upon receiving a complaint from the public, interested parties or others, the division shall:

(1) Investigate and provide written response to all citizens complaints submitted **regarding** [~~in regards to~~] any concerns for **the endangerment of** [~~endangering~~] an underground source of drinking water;[~~.~~]

(2) Not oppose intervention by any citizen when permissive intervention is authorized pursuant to KRS 353.180(3).

(3) Publish notice of and provide at least thirty (30) days for public comment on any proposed settlement of a division enforcement action beyond the forfeiture of a bond for a Class II well.

Section 15. **Confidentiality of Information. (1) Information submitted to the division pursuant to this administrative regulation may be claimed as confidential by the submitter. A claim of confidentiality shall be asserted upon submission in the manner prescribed on the application form or instructions. Other submissions shall be stamped with the words "confidential business information" on each page containing confidential information. If a claim is not made at the time of submission, the division may make the information available to the public without further notice.**

(2) Claims of confidentiality shall not apply to:

(a) The name and address of any permit applicant or permittee;

(b) Information regarding the existence, absence, or level of contaminants in drinking water; and

(c) Records directly by statute to be disclosed or published.

Section 16. Penalties. **An** [~~Any~~] owner or operator in **violation of** [~~noncompliance with~~] the requirements of this administrative regulation **shall be** [~~is~~] subject to the penalties established in KRS 353.992.

Section **17.**[~~16.~~] Primacy. The provisions of this administrative regulation shall become effective upon the date of primacy**, on or after which a Class II well**[~~. On or after said date, Class II wells~~] shall be subject to the requirements of this administrative regulation and shall be exempt from **Sections** [~~Section~~] 4, 5, and 6 of 805 KAR 1:020.

Section **18.**[~~17.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Well Rework Report," Form ED-4, August 2007; [~~and~~]

(b) "Class II Well Permit Application for Underground Injection Control," Form ED-14 August 2007; [~~and~~]

(c) "Annual Disposal or Injection Well Monitoring Report," Form ED-18, August 2007; [~~and~~]

(d) "Certification of Mechanical Integrity," Form ED-22, August 2007; [~~and~~]

(e) "Certificate of Completion for an Injection Well," Form ED-23, October 2007; [~~and~~]

(f) "Casing and Cementing Plan for UIC Wells," Form ED-25, October 2007; [~~and.~~]

(g) "Well Transfer for UIC Wells," Form ED-26, October 2007; and

(h) "Affidavit to Time and Manner of Plugging and Filling Well," Form ED-38, October 2007.

(2) These forms may be inspected, copied, and obtained, subject to applicable copyright law, at the Division of Oil and Gas Conservation, 1025 Capital Center Drive, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. [~~Section 9. Date of Applicability. The provisions of this administrative regulation shall become applicable upon the date of primacy. On and after said date, Class II wells shall be subject to the requirements of this administrative regulation and shall be exempt from Sections 4, 5 and 6 of 805 KAR 1:020.~~]

ROBERT D. VANCE, Secretary

APPROVED BY AGENCY: January 10, 2008

FILED WITH LRC: January 11, 2008 at 9 a.m.

CONTACT PERSON: Richard Wahrer, Office of Technical and Administrative Support, Department for Natural Resources, #2 Hudson Hollow, Frankfort, Kentucky 40601, phone (502) 564-6940, fax (502) 564-5698, e-mail Richard.Wahrer@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Marvin Combs, Assistant Director

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes provisions for the construction, implementation and injection of produced fluids, including gases, into underground formations for the enhanced recovery of oil and gas or for the disposal of fluids that are produced during oil and gas production operations.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement a state program to regulate underground injection of fluids in a manner that will protect groundwater and promote the maximum recovery of oil and gas within the Commonwealth.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 353.592 authorizes the department to develop and promulgate a regulatory program for the purpose of accepting primary responsibility for administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub.L. 93-523 as amended). This amended administrative regulation addresses the elements listed in KRS 353.592(1-5) and fulfills the intent of developing an effective regulatory Underground Injection Control Program.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: Compliance with the requirements of this administrative regulation will ensure the protection of underground sources of drinking water.

(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: Amended portions of this administrative regulation will address all aspects of the elements listed in the authorizing statutes enabling the implementation of an effective program that would allow state assumption of the Underground Injection Control Program from the Environmental Protection Agency.

(b) The necessity of the amendment to this administrative regulation: The existing administrative regulation was found to be deficient by the Environmental Protection Agency when the Division of Oil and Gas made an application for state primacy in 1984. The changes that are proposed in the amended administrative regulation will correct these deficiencies and fulfill the requirements for an effective state program pursuant to Section 1425 of the Safe

Drinking Water Act (Public Law 93-523 as amended).

(c) How the amendment conforms to the content of the authorizing statutes: See response in question 1(c) of this Regulatory Impact Analysis. Each section of the authorizing statute under KRS 353.592 (1)-(5) is addressed in the amended administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: The changes made in the amended administrative regulation provide clarity and better define the requirements to construct, implement and inject into a Class II well. The previous administrative regulation lacked requirements for financial responsibility, transition of existing wells authorized by the Environmental Protection Agency and notice requirements necessary for an effective program.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The regulated entities will be oil and gas operators, with the number affected dependent on the number of companies which will develop new installation of Class II underground injection wells following the implementation of this amended administrative regulation. The Department for Natural Resources, Division of Oil & Gas Conservation will be charged with compliance oversight.

(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: Companies will be required to apply for injection well permits with the state rather than to the Environmental Protection Agency. This will greatly benefit the oil and gas industry in the state since they are currently required to permit the wells to be drilled by the state but also are subject to permitting and additional bonding requirements with the Environmental Protection Agency. Upon receiving primacy of the Class II program, the Division of Oil & Gas Conservation will permit the wells for injection and inspect them to ensure they are in compliance with the administrative regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): The proposed amendments to this administrative regulation will not result in increased costs to the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): With the assumption of the Underground Injection Program, the oil and gas operators will be required to post an individual well bond per the state schedule. State bonding costs are anticipated to be less than existing Environmental Protection Agency bonds. The inspection and enforcement personnel of the Division of Oil and Gas Conservation will be more responsive and sensitive to the regional needs of the oil and gas industry of the Commonwealth.

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

(a) Initially: $175,000 for start-up costs for vehicles, computers, other associated equipment and funding of 3 additional personnel.

(b) On a continuing basis: $175,000 annually for the administration of the program.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Upon receiving primacy for the Underground Injection Control Program, the division will be eligible for an annual grant from the Environmental Protection Agency for the cost of administration of the program.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or state funding will be needed to implement this administrative regulation.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This amended administrative regulation does not establish any fees for permits for Class II underground injection control wells.

(9) TIERING: Is tiering applied? Tiering is not applied because the requirement to permit injection wells must apply equally to all oil and gas production operations.

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 and local governments (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Division of Oil and Gas Conservation of the Department for Natural Resources.

3. Identify each state and federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. As outlined in KRS 353.592 the department is authorized to develop and promulgate a regulatory program for the purpose of accepting primary responsibility for administration of the Underground Injection Control Program under Section 1425 of the Safe Drinking Water Act (Pub.L. 93-523 as amended). This amended administrative regulation addresses and fulfills the intent of developing an effective as, but no more stringent than, regulatory Underground Injection Control Program currently under the jurisdiction of the Environmental Protection Agency.

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 will not be generated from the implementation of this amended 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 costs associated with attaining primacy of the Underground Injection Control Program are estimated to be $175,000. The Commonwealth of Kentucky will be eligible for an annual grant from the Environmental Protection Agency for the cost of administration of this Program.

(d) How much will it cost to administer this program for subsequent years? Costs associated with administering the Underground Injection Control Program are estimated to be $175,000 per year. The Commonwealth of Kentucky will be eligible for an annual grant from the Environmental Protection Agency for the cost of administration of this Program.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 40 C.F.R. Parts 144 and 146

2. State Compliance Standards. KRS 353.540, KRS 353.550, KRS 353.560, and KRS 353.592.

3. Minimum or uniform standards contained in the federal mandate. 40 C.F.R. Parts 144 and 146

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. This administrative regulation will parallel the federal rules which govern this subject matter.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. NA

Cabinet for Health and Family Services
Office of Health Policy
Division of Health Policy Development
(Amended After Comments)

902 KAR 19:020. Data reporting by health care providers.

RELATES TO: KRS 216.2920-216.2929
STATUTORY AUTHORITY: KRS 216.2925

NECESSITY, FUNCTION, AND CONFORMITY: KRS 216.2925 mandates the Cabinet for Health and Family Services to promulgate administrative regulations requiring specified health care providers to provide the cabinet with data on cost, quality and outcomes of health care services provided in the Commonwealth. This administrative regulation establishes the data elements, forms, and timetables the cabinet requires to carry out this mandate.

Section 1. Definitions. (1) "Agent" means any entity with which the cabinet may contract pursuant to carrying out its statutory mandates and may designate to act on behalf of the cabinet to collect, edit or analyze data from providers.

(2) [~~"Ambulatory surgeries" mean surgeries performed on an ambulatory or outpatient basis in a hospital or freestanding ambulatory surgery center, in accordance with Section 2(2)(b) of this administrative regulation.~~

~~(3)~~] "Cabinet" means the Cabinet for Health and Family Services or its agent.

(3)[~~(4)~~] "Coding and transmission specifications" or "Inpatient and Outpatient Data Coordinator Manual for Kentucky" [~~"UB-92 Submission Manual"~~] means document containing the technical directives the cabinet issues concerning technical matters subject to frequent change, including codes and data for uniform provider entry into particular character positions and fields of the standard billing form [~~UB-92~~] and uniform provider formatting of fields and character positions for purposes of electronic data transmissions.

(4)[~~(5)~~] "Hospitalization" means the inpatient medical episode identified by a patient's admission date, length of stay and discharge date, and identified by a provider-assigned patient control number unique to that inpatient episode, and shall not include inpatient services a hospital may provide in swing, nursing facility, skilled, intermediate or personal care beds, and hospice[~~, and major ambulatory surgeries notwithstanding that these may occur in hospitals~~].

(5) "Outpatient services" mean services performed on an outpatient basis in a hospital or freestanding licensed health facility, in accordance with Section 2(2) of this administrative regulation.

(6) "Provider" means a hospital, ambulatory facility, clinic, or other entity of any nature providing hospitalizations, mammograms, or outpatient services as defined in the Inpatient and Outpatient Data Coordinator Manual for Kentucky. Licensed outpatient facilities that are a Medicare provider based entity of a hospital and report under the hospital's provider number shall be separately identifiable through a sub-id [~~ambulatory surgeries~~].

(7) "Record" means the documentation of a hospitalization or outpatient service [~~ambulatory surgery~~] in the format as defined by the Inpatient and Outpatient Data Coordinator Manual for Kentucky as approved by the Statewide Data Advisory Committee [~~of a UB-92 whether constituted as a paper form or~~] on a computer readable electronic medium.

(8) "Standard Billing Form"-Institutional 837 or Professional 837[~~"UB-92"~~] means the uniform billing form identified by the Center for Medicare and Medicaid Services [~~the federal Health Care Financing Administration as HCFA Form 1450~~], as recommended by the National Uniform Billing Committee and adopted by the Kentucky Uniform Billing Committee for use by hospitals and other providers in billing for hospitalizations outpatient [~~and ambulatory~~] encounters.

Section 2. Data Collection. (1) Hospitalization records. Hospitals shall document every [~~on a UB-92 record a~~] hospitalization they provide on a Standard Billing Form, and shall, from every record, copy and provide to the cabinet not less than the data specified in Section 9 of this administrative regulation.

(2) Outpatient services. [~~Ambulatory surgeries and mammography records.~~]

(a) Hospitals, clinics, ambulatory facilities and other entities of any nature providing outpatient services [~~ambulatory surgeries or mammograms~~] shall document on a Standard Billing Form [~~UB-92 record,~~] the outpatient services [~~ambulatory surgeries and mammograms~~] they provide, as defined in Section 1 of this administrative regulation, and shall, from every record, copy and provide to the cabinet not less than the data specified in Section 9 of this administrative regulation.

(b)[~~1. An emergency room visit shall be included as an ambulatory surgery if the patient:~~

~~a. Had a surgical procedure listed in paragraph (c) of this subsection; and~~

~~b. Utilized a surgical suite (including endoscopy rooms).~~

~~2. If the procedure was done in the emergency room, and not a surgical suite, the patient record shall not be submitted.~~

~~(c)~~] The required outpatient services [~~ambulatory surgery~~] procedure codes are defined in the Inpatient and Outpatient Date Coordinator Manual for Kentucky. [shall be as follows:]

[~~ICD-9-CM Procedure Codes~~
~~01.00 through 86.99~~
~~87.37 (mammography)~~
~~88.40 through 88.60~~
~~98.50 through 98.59~~]

(3) Data collection on patients. Providers shall submit required data on every patient as provided in Section 9 of this administrative regulation, whether a bill is to be generated or the services are to remain unbilled.

Section 3. Data Finalization and Submission. (1) Submission of final data. Data shall be deemed final for purposes of submission to the cabinet as soon as a record is sufficiently final that the provider could submit it to a payor for billing purposes, regardless whether the record has actually been submitted to a payor.

(a) Finalized data shall not be withheld from submission to the cabinet on grounds that it remains subject to adjudication by a payor.

(b) Data on hospitalizations shall not be submitted to the cabinet before a patient is discharged or before the record is sufficiently final that it could be used for billing.

(2) Submission responsibility.

(a) If a patient is served by a mobile health service, specialized medical technology service, or another situation where one (1) provider provides services under contract or other arrangement with another provider, responsibility for providing the specified data to the cabinet shall reside with the entity that bills for the service or would do so if a service is unbilled.

(b) Charges for physician services occurring within a hospital shall be reported to the cabinet.

1. Responsibility for reporting the physician charge data shall rest with the hospital if the physician is an employee of the hospital.

2. A physician charge contained within a record generated by a hospital shall be clearly identified in a separate field within the record so that the cabinet may ensure comparability when aggregating them with other hospital records that do not contain any physician charges.

(3) Transmission of records.

(a) Records submitted to the cabinet shall be uniformly completed and formatted according to coding and transmission specifications set forth by the Inpatient and Outpatient Data Coordinator Manual for Kentucky [~~issued by the cabinet~~].

(b) All providers [~~Hospitals~~] shall submit records on computer-readable electronic media[~~, and other providers with capability to submit records on computer-readable electronic media shall do so~~].

(c) Providers shall provide back-up security against accidental erasure or loss of the data until incomplete or inaccurate records identified by the cabinet, if any, have been corrected and resubmitted.

[~~(d) A provider who submits records in the form of paper copies shall deliver the copies to the cabinet, or send them in secure packaging by mail postmarked no later than the due date established in Section 4 of this administrative regulation.~~

~~(e) Personal identification fields including the patient's name, Social Security number, street address and four (4) digit zip code suffix if any (but not city or five (5) digit zip code) shall be rendered unreadable on paper copies before the copies are submitted to the cabinet, and shall not be included with electronically submitted data.~~]

(4) Verification and audit trail for electronic data submissions.

(a) Each provider shall maintain a date log of data submissions

and the number of records contained in each submission, and shall make the log available for inspection upon request by the cabinet.

(b) The cabinet shall periodically, by electronic message or mail, verify to each provider the receipt of the provider's data transmissions and the number of records in each transmission.

(c) A provider shall immediately notify the cabinet of a discrepancy between the provider's date log and a verification notice.

Section 4. Data Submission Timetable. (1) Quarterly submissions. Providers shall submit data at least once for each calendar quarter. A quarterly submission shall:

(a) Contain data, which during that quarter became final as specified in Section 3(1) of this administrative regulation; and

(b) Be submitted to the cabinet not later than forty-five (45) days after the last day of the quarter.

1. If the 45th day falls on a weekend or holiday, the submission due date shall become the next following working day.

2. Calendar quarters shall be January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31.

(2) Submissions more frequent than quarterly. Providers may submit data after records become final as specified in Section 3(1) of this administrative regulation, and at a frequency a provider deems convenient for accumulating and submitting batch data.

Section 5. Data Corrections. (1) Editing. Data received by the cabinet shall upon receipt, be edited to ensure completeness and validity of the data for further processing. Computer editing routines shall identify for correction every record in which the submitted contents of required fields are not consistent with the cabinet's coding and transmission specifications contained in the Inpatient and Outpatient Coordinator Manual for Kentucky.

(2) Time permitted for corrections. The cabinet shall allow providers thirty (30) days in which to submit corrected copies of initially submitted data the cabinet identifies as incomplete or invalid as a result of edits.

(a) The thirty (30) days shall begin on the date of the cabinet's notice informing the provider that corrections are required.

(b) Providers shall submit corrected data by electronic transmission or postmarked mailing within the thirty (30) days.

(c) Corrected data submitted to the cabinet shall be uniformly completed and formatted according to the cabinet's coding and transmission specifications contained in the Inpatient and Outpatient Coordinator Manual for Kentucky.

(d) The cabinet shall grant a provider an extension of time to submit corrections, if the provider has formally informed the cabinet of significant problems in performing the corrections and has formally requested, in writing, an extension of time beyond the thirty (30) day limit.

(3) Percentage error rate.

(a) When editing data upon its initial submission, the cabinet shall identify and return to the provider for correction every record in which one (1) or more required data elements fails to pass the edit.

(b) When editing data that a provider has submitted, the cabinet shall check for an error rate in each field of zero percent.

(c) The cabinet may return for further correction any submission of allegedly corrected data in which the provider fails to achieve a corrected error rate of 100 percent in each field of the data elements.

(d) For the first data submission, the cabinet shall not count as errors any data for patients admitted prior to thirty (30) days following official release of coding and transmission specifications contained in the Inpatient and Outpatient Coordinator Manual for Kentucky.

Section 6. Fines for Noncompliance. (1) A provider failing to meet quarterly submission guidelines as established in Sections 4 and 5 of this administrative regulation shall be assessed a fine of $500 per violation.

(a) The cabinet shall notify a noncompliant provider by certified mail, return receipt requested, of the assessment of the fine and documentation of the reporting deficiency.

(b) A provider shall have thirty (30) days from the date of the notification letter, to pay the fine which shall be made payable to the Kentucky State Treasurer and returned by certified mail to the Kentucky Cabinet for Health and Family Services, Office of Health Policy [~~Department for Public Health, Health Policy Development Branch~~], 275 East Main Street, 4 W-E [~~HS 1E-B~~], Frankfort, Kentucky 40621.

(c) Fines during a calendar year shall not exceed $1,500 per provider.

(2) Providers experiencing extenuating circumstances or hardships may request from the cabinet, in writing, a data submission extension or waiver, to be awarded in extreme cases only.

(b) Providers shall notify the Office of Health Policy [~~Development Branch~~] on or before the last day of the data reporting period to receive an extension or waiver for that period.

(c) Extensions and waivers shall be extended to providers on a case-by-case basis, at the discretion of the cabinet and shall not exceed a continuous period of greater than six (6) months.

(d) A provider shall not apply for more than three (3) extensions or waivers during a calendar year.

Section 7. Appeals. (1) A provider notified for noncompliance and assessed a fine pursuant to Section 6(1) of this administrative regulation shall have the right of appeal within thirty (30) days of the date of the notification letter.

(a) If the provider believes the action by the cabinet is unfair, without reason, or unwarranted, and the provider wishes to appeal, he shall appeal in writing to the Secretary of the Cabinet for Health and Family Services, 5th Floor, 275 East Main Street, Frankfort, Kentucky 40621.

(b) Appeals shall be filed in accordance with KRS Chapter 13B.

(2) Upon receipt of the appeal, the secretary, or his designee, shall issue a notice of hearing no later than twenty (20) days before the date of the hearing. The notice of the hearing shall comply with KRS 13B.110. The secretary shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(3) The hearing officer shall issue a recommendation in accordance with KRS 13B.110. Upon receipt of the recommended order following consideration of any exceptions filed pursuant to KRS 13B.110(4), the secretary shall enter a final decision pursuant to KRS 13B.120.

Section 8. Working Contacts. (1) By January 1 of each calendar year, a provider required by this administrative regulation to submit data shall report by letter to the cabinet the names and telephone numbers of a designated working contact person and a back-up person to facilitate technical staff follow-up in dealing with daily working details by employees of the cabinet.

(a) A provider's designated contact and back-up shall not be the chief executive officer unless no other person employed by the provider has the requisite technical expertise.

(b) The designated working contact shall be the person responsible for review of the provider's data for accuracy prior to the publication by the cabinet.

(2) If the chief executive officer, designated contact person, or back-up person changes during the year, the name of the replacing person shall be reported immediately to the cabinet.

Section 9. Required Data Elements. [~~UB-92 data~~]. (1) Providers shall ensure that each record [~~copy of UB-92 data~~] submitted to the cabinet contains at least the following data elements as provided for on the Standard Billing Form [~~UB-92 form~~].

(2) Asterisks identify elements that shall not be blank and shall contain data or a code as specified in the cabinet's coding and transmission specifications.

(3) Additional data elements as specified in the Inpatient and Outpatient Coordinator Manual for Kentucky shall be required by the cabinet to facilitate proper collection and identification of data.

Required	DATA ELEMENT LABEL
Yes	*Provider Assigned Patient Control Number
Yes	*Provider Assigned Medical Record Number
Yes	*Type of Bill (inpatient, outpatient or other)
Yes	*Federal Tax Number or Employer Identification

	Number (EIN)
Yes	***Facility-specific NPI** [~~Sub-ID~~]
Yes	*Statement Covers Period
Yes	*Patient City and Zip Code
Yes	*Patient Birth date
Yes	*Patient Sex
Yes	*Admission/Start of Care Date
Yes	Admission Hour
Yes	*Type of Admission
Yes	*Source of Admission
Yes	*Patient Status (at end of service or discharge)
No	Occurrence Codes & Dates
No	Value Codes and Amounts, including birth weight in grams
Yes	*Revenue Codes/Groups
Yes	*HCPCS/Rates/Hipps Rate Codes
No	Units of Service
Yes	*Total Charges by Revenue Code Category
Yes	*Payor Identification - Payor Name
Yes	*National Provider Identifier
Yes	*Diagnosis Version Qualifier – ICD version 9.0 or 10.0
Yes	*Principal Diagnosis Code
No	Principal Diagnosis Code present on admission identifier for non-Medicare claims
Yes	*Principal Diagnosis Code present on admission identifier for Medicare claims
Yes	*Secondary and Other Diagnosis Codes if present
No	Secondary and Other Diagnosis code present on admission identifier if present for non-Medicare claims
Yes	*Secondary and Other Diagnosis code present on admission identifier if present for Medicare claims
No	Inpatient Admitting Diagnosis or Outpatient reason for visit
Yes	*External Cause of Injury Code (E-code) if present
No	External Cause of Injury (E-code) present on admission identifier on non-Medicare claims if present
Yes	*External Cause of Injury (E-code) present on admission identifier on Medicare claims if present
Yes	*Principal Procedure Code & Date if present
Yes	*Secondary and Other Procedure Codes & Date if present
Yes	*Attending Physician NPI/QUAL/ID
No	Operating Clinician ID Number/NPI
No	Other Physician NPI/QUAL/ID
Yes	*Race
Yes	*Ethnicity
Yes	*Procedure Coding Method

[~~FIELD #~~	~~DATA ELEMENT LABEL~~
~~3~~	~~*Provider Assigned Patient Control Number~~
~~4~~	~~*Type of Bill (inpatient, outpatient or other)~~
~~5~~	~~*Federal Tax Number or Employer Identification Number (EIN)~~
~~6~~	~~*Statement Covers Period~~
~~11~~	~~Patient Birth Weight (state-reserved field)~~
~~13~~	~~*Patient City and Zip Code~~
~~14~~	~~*Patient Birth date~~
~~15~~	~~*Patient Sex~~
~~16~~	~~Patient Marital Status~~
~~17~~	~~*Admission/Start of Care Date~~
~~18~~	~~Admission Hour~~
~~19~~	~~*Type of Admission~~
~~20~~	~~*Source of Admission~~
~~22~~	~~*Patient Status (at end of service or discharge)~~
~~23~~	~~*Provider Assigned Medical Record Number~~
~~32-35~~	~~Occurrence Codes & Dates~~
~~39-41~~	~~Value Codes and Amounts~~
~~42~~	~~*Revenue Codes/Groups~~
~~46~~	~~Units of Service~~
~~47~~	~~*Total Charges by Revenue Code Category~~
~~50~~	~~*Payor Identification - Payor Name~~
~~67~~	~~*Principal Diagnosis Code~~
~~68-75~~	~~Secondary and Other Diagnosis Codes~~
~~77~~	~~External Cause of Injury Code (E-code)~~
~~79~~	~~*Procedure Coding Method Used~~
~~80~~	~~Principal Procedure Code & Date~~
~~81~~	~~Secondary and Other Procedure Codes & Date~~
~~82~~	~~*Attending Physician Unique Physician Identification Number (UPIN) or alternate number~~
~~83~~	~~Other Physician UPIN or alternate number~~]

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

(a) "Institutional 837 Version/Release 004010X0196A1 - Standard Billing Form", edition 2003; [~~Form UB-92, August 2000; and~~]

(b) "Professional 837 Version/Release 004010/004010A1 - Standard Billing Form", edition 2007; and [~~UB-92 Submission Manual, November 1999.~~]

(c) "Inpatient and Outpatient Data Coordinator Manual for Kentucky", edition **January 2008** [~~2007~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

JANIE MILLER, Secretary

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2007 at 11 a.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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Melissa Adkisson

(a) What this administrative regulation does: This administrative regulation provides clarification and instruction to specified health care providers on the process necessary to submit to the cabinet data on cost, quality and outcomes of health care services provided in the Commonwealth

(b) The necessity of this administrative regulation: This administrative regulation is necessary so that health care providers have a uniform mechanism with timeframes and instructions with which to submit the required data.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of KRS 216.2925 by establishing the data elements, forms, and timetables the cabinet requires to carry our the requirements.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently provides detailed instructions to specified health care providers relating to the data elements, forms and timetables necessary to comply with statute.

(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 change this existing administrative regulation to provide additional data elements, forms, and revised data submission instructions.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary as the existing standard billing form (UB-92) has been revised by the Center for Medicare and Medicaid. The new standard billing form (837) includes additional data elements. In order to continue to use the standard billing form, revisions to the administrative regulation are necessary.

(c) How the amendment conforms to the content of the author-

izing statutes: The amendment continues to conform to the content of the authorizing statues as the statue requires the cabinet to use only a uniform health insurance claim form. Due to the revision of the form, a corresponding revision to the administrative regulation is necessary.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes as it provides detailed instructions on how to submit required data elements on the standard billing form.

(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 approximately 140 acute care hospitals, psychiatric facilities, and outpatient surgery centers.

(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: Each entity will modify they data reporting files to include the additional data elements.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):
These entities currently collect data elements and provide this data to the cabinet. Therefore, these additional data elements should have minimal fiscal impact.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): When entities transition to the 837 they will be able to continue billing for services to Medicare and Medicaid. By submitting additional data elements, the entities will increase their ability to analyze claims data for quality and cost.

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

(a) Initially: Nothing

(b) On a continuing basis: Nothing

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding will be needed to implement. The office of Health Policy already collects data so there is no implementation 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 or funding will be necessary to implement this change in the administrative regulation.

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

(9) TIERING: Is tiering applied? Tiering is not applied. All specified health care providers are treated the same under the statue and the 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 Health Policy within the Cabinet for Health and Family Services 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 216.2925

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 generate any revenue in 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? The amendment will not generate any revenue in the subsequent years.

(c) How much will it cost to administer this program for the first year? Because this is a currently operating program, there is no additional cost associated with the amendment to this regulation in the first year.

(d) How much will it cost to administer this program for subsequent years? Because this is a currently operating program, there are no additional costs associated with the amendment to this regulation 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:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amended After Comments)

922 KAR 2:100. Certification of family child-care [~~child care~~] homes.

RELATES TO: KRS Chapter 13B, [~~13B.005-13B.070, 13B.125,~~] 17.165, 186.020, 194A.050(1), 199.011(2), 199.894(5), 199.896(18), 199.898, 199.8982, 214.036, 314.01(5), 600.020[~~(1)~~], 620.030, 45 C.F.R. 98.2, 49 C.F.R. 571.213.

STATUTORY AUTHORITY: KRS 13B.170, 194A.050(1) 199.8982(1)(f)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 199.8982(1)(f) requires the cabinet to promulgate administrative regulations to establish standards for the issuance, monitoring, release of information, renewal, denial, revocation, and suspension of a certificate of operation, and to impose minimum staff-to-child ratios for a family child-care [~~child care~~] home. The statute authorizes the cabinet to establish minimum safety requirements for operation of a certified family child-care [~~child care~~] home. This administrative regulation establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by certified family child-care [~~child care~~] home providers.

Section 1. Definitions. (1) "Assistant" means a person:

(a) [~~Sixteen (16) years of age or older;~~

~~(b) Under direct supervision of a provider or substitute provider; and~~

~~(c)~~] Who meets the requirements listed in Section 2(5)[~~(4)~~][~~(3)~~] and Section 9(7), (8), and (9) of this administrative regulation; and

(b) Who works either paid or unpaid.

(2) "Cabinet" is defined by the KRS 199.011(2).

(3)[~~(2)~~] "Child" means a person under:

(a) Thirteen (13) years of age; or

(b) Eighteen (18) years of age if the minor has a special need in which supervision is required.

(4)[~~(3)~~] "Corporal physical discipline" is defined by KRS 199.896(18).

[~~(4) "Employee" means a person who:~~

~~(a) Works either paid or unpaid for a certified family child care home provider; and~~

~~(b) Meets the requirements of Sections 2(2)(a), (3), and (6) of this administrative regulation.~~]

(5) "Family child-care [~~child care~~] home" is defined by KRS 199.894(5).

(6) "Health professional" means a person currently licensed as a:

(a) Physician;

(b) Physician's assistant;

(c) Advanced registered nurse or practitioner; or

(d) Registered nurse as defined by KRS 314.011(5) under the supervision of a physician.

(7)[(6)] "Home" means the private primary residence of the certified family child-care [child care] home provider and contiguous property.

(8)[(7)] "Infant" means a child who is less than twelve (12) months of age.

(9) "Parent" is defined by 45 C.F.R. 98.2.

(10) "Parental or family participation" means a family child-care home's provision of information or inclusion of a child's parent in the child-care home's activities such as:

(a) Distribution of a newsletter;

(b) Distribution of a program calendar;

(c) A conference between the provider and the parent; or

(d) Other activity designed to engage a parent in the program's activities.

(11) "Premises" means the building and contiguous property in which child care is provided and certified.

(12)[(8)] "Provider" means an owner, operator, or person who:

(a) Cares for a child in the provider's own home [Provides care for preschool children, school-age children, or both, inside his own home for less than twenty-four (24) hours a day];

(b) Is not required to be licensed under 922 KAR 2:090; and

(c) Meets the requirements of Section 2 of this administrative regulation.

(13) "Related" means the child, grandchild, niece, nephew, sibling, step-child, or child in legal custody of the provider.

(14) "School-age child" means a child attending kindergarten, elementary, or secondary education.

(15) [(9) "Provider's own related children" means:

(a) The provider's own child or children;

(b) A child or children in the provider's legal custody;

(c) The provider's grandchild or grandchildren;

(d) The provider's niece or nieces;

(e) The provider's nephew or nephews;

(f) The provider's stepchild or stepchildren; or

(g) The provider's sibling.

(10) "Substitute provider" means a person who shall:

(a) Be used in the absence of a certified family child care home provider; and

(b) Meet the requirements of Section 10(8) and (9) of this administrative regulation.

(11)] "Toddler" means a child between the age of twelve (12) months and twenty four (24) months.

Section 2. Certification Process. (1) The cabinet or its designee [Department for Community Based Services] shall be responsible for certifying a family child-care [child care] home.

(2) [Effective January 1, 2009,] An [initial] applicant for certification shall:

(a) Be at least eighteen (18) years of age;

(b) [Have a:

1. High school diploma;

2. A General Equivalency Diploma (GED);

3. Qualifying documentation from a comparable education entity; or

4. Commonwealth Child Care Credential as described in 922 KAR 2:250;

(c)][(b)] Submit within ninety (90) days of initiation of the application process:

1. A completed OIG-RCC-4 [DCC-178], Application for Certified Family Child Care Home [Certification];

2. A completed OIG-RCC-6 [DCC-179], Self-Check List; [and]

3. A nonrefundable certification fee pursuant to KRS 199.8982(1)(b);

4. Written documentation from the local authority showing the child-care home is in compliance with local zoning requirements;

5. Documentation of [(c) Meet] the requirements of KRS 199.8982(1)(a); and

6. A OIG-RCC-5, Central Registry Check, to complete a child abuse or neglect check [(d) Submit to a check of the central registry] in accordance with 922 KAR 1:470; and

7. A completed criminal records check for the previous state of residence if the applicant has resided outside the state of Kentucky in the last five (5) years; and

(c)[(d)] Obtain commercial liability insurance of at least $50,000 per occurrence

(3) **Effective January 1, 2009, an initial applicant for certification shall have a:**

(a) High school diploma, general equivalency diploma (GED), or documentation from a comparable educational entity; or

(b) Commonwealth Child Care Credential in accordance with 92 KAR 2:250.

(4) An applicant shall be currently certified by a cabinet-approved agency in infant and child;

(a) Cardiopulmonary resuscitation (CPR); and

(b) First aid.

(5)[(4)][(3)] An adult living in the home of the applicant and the[, an] applicant's assistant [, employee, and substitute] shall submit:

(a) To a criminal records check required by KRS 17.165 within the past year by the Justice Cabinet [Kentucky State Police] or Administrative Office of the Courts;

(b) To a child abuse or neglect check on OIG-RCC-5 [check of the central registry] in accordance with 922 KAR 1:470; and

(c) A copy of the results of a negative tuberculosis skin test or a health professional's statement documenting that the adult. [Written verification from a licensed health care professional or a health department that the individual] is free of active tuberculosis.

(6)[(5)] An applicant of assistant who has been convicted of a non-violent felony or misdemeanor may be approved on case by case basis with consideration given to the:

(a) Nature of the offense;

(b) Length of time that has elapsed since the event; and

(c) Applicant's life experiences after the conviction.

(7)[(6)][(4)] Upon receipt of a completed application for certification, and a nonrefundable certification fee pursuant to KRS 199.8982(1)(b), cabinet staff shall:

(a) Review and process the application; and

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b).

(8)[(7)][(5)] If the requirements of subsections (1) through (7)[(6)] [(2) and (3)] of this section, Section 3, and Sections 9 through 17 of this administrative regulation have been met, an applicant shall be certified as described in KRS 199.8982 [for a two (2) year period].

(9)[(8)][(6)] Within three (3) months of submission to the cabinet of a complete OIG-RCC-4 [DCC-178], an applicant shall:

(a) Demonstrate completion of six (6) hours of cabinet-approved training in accordance with [as required by] KRS 199.8982(1)(a)6; and

(b) Develop and implement a written plan for obtaining nine (9) hours of annual cabinet-approved training as required in Section 9(1) of this administrative regulation.

(10)[(9)][(7)] The family child-care [child care] home certificate shall:

(a) Be displayed in a prominent place, as required by KRS 199.8982(1)(c);

(b) Contain the:

1. [The] Name and address of the child care provider;

2. Maximum number of unrelated children who may be served;

3. Identification number; and

4. Effective and expiration date; and

(c) Be valid for only the:

1. Name of the individual authorized on the certificate to operate a family child child-care [child care]; and

2. Residential address printed on the certificate.

(11)[(10)][(8) Family child care certification shall be renewed every two (2) years. The family child care home provider shall submit at least one (1) month prior to the expiration of certification:

(a) A completed DCC-178, Application for Family Child Care Certification;

(b) A nonrefundable renewal fee pursuant to KRS 199.8982(1)(b);

(c) A physician's statement documenting the family child care home provider's health is satisfactory for continued operation of a family child care home; and

~~(d) Proof that the family child-care home provider continues to meet the minimum requirements specified in Sections 2, 3, and 10 through 14 of this administrative regulation.~~

~~(9)~~] A change of location shall require:

(a) A ten (10) calendar day notice;

(b) A completed OIG-RCC-4 [~~DCC-178, Application for Family Child Care Certification~~]; and

(c)[~~(b)~~] An inspection of the new home.

Section 3. Renewal of Certification. (1) Family child-care certification shall be renewed every two (2) years.

(2) The family child-care home provider shall submit one (1) month prior to expiration of certification:

(a) A completed OIG-RCC-4;

(b) A nonrefundable renewal fee pursuant to KRS 199.8982(1)(b);

(c) A physician's statement documenting that the family child-care home provider's health is satisfactory for continued operation of a family child-care home; and

(d) Proof that the family child-care home provider continues to meet the minimum requirements specified in Sections 2, 3, and 9 through 17 of this administrative regulation.

(3) The cabinet shall:

(a) Review and process the application;

(b) Conduct an unannounced inspection of the home pursuant to KRS 199.8982(1)(b); and

(c) Approve the family child-care home if the requirements in Sections 2, 3, and 9 through 17 of this administrative regulation are met.

Section 4. Denial of Application for Certification. (1) An application for initial certification or renewal of certification as a family child-care [~~child care~~] home provider shall be denied if the applicant, assistant, [~~employee, substitute,~~] or an adult residing in the household [~~who has direct contact with a minor~~] has:

(a) Abused or neglected a child according to a check of the central registry in accordance with 922 KAR 1:470; or

(b) A history of behavior that may impact the safety or security of a child in care including:

1. A criminal conviction of a violent crime or sex crime as defined in KRS 17.165;

2. A conviction for a drug-related felony; or

3. Other behavior or condition indicating inability to provide reliable care to a child.

(2) An application for certification as a family child-care [~~child care~~] home shall be denied if the applicant:

(a) Fails to comply with the minimum certification standards specified in Sections 9 through 17 [~~10 through 14~~] of this administrative regulation and KRS 199.8982; or

(b) Knowingly misrepresents or submits [~~offers~~] false information on the application or other form required by the cabinetor its designee [~~, pursuant to 922 KAR Chapter 2~~].

(3) Effect of previous denial or revocation. [~~:~~]

(a) If an applicant for certification has had a prior certificate or license to operate a child care business denied or revoked, the cabinet shall grant the applicant a certificate to operate a family child-care [~~child care~~] home if:

1. A two (2) year period has expired from the:

a. Date of the prior denial or revocation;

b. Last day of legal remedies being exhausted; or

c. Date of the Final Order from an administrative hearing; and

2. The applicant has:

a. The ability to comply with the provisions of this administrative regulation and KRS 199.8982;

b. Completed, since the time of the prior denial or revocation, sixty (60) hours of cabinet-approved training in developmentally appropriate child care practice; and

c. Not had an application, certificate, or license to operate as a child care provider denied or revoked for:

(I) Conviction of a violent crime or sex crime as defined in KRS 17.165; or

(ii) Abuse or neglect of a child according to a check of the central registry in accordance with 922 KAR 1:470.

(b) If a certificate is granted after the two (2) year period specified in paragraph (a) of this subsection, the provider shall serve a two (2) year probationary period during which the home shall be inspected on at least a quarterly basis.

Section 5.[~~4.~~] Intermediate Sanctions. (1) If the cabinet determines that a certified family child-care [~~child care~~] home provider is in violation of this administrative regulation, the cabinet shall [~~may~~]:

(a) Require the provider to participate in additional training;

(b) Increase the frequency of monitoring by cabinet staff;

(c) Enter into an agreement with the provider detailing the requirements for remedying a violation and achieving compliance; or

(d) Notify or require the provider to notify a parent of a child who may be affected by the situation for which an intermediate sanction has been imposed.

(2) An intermediate sanction shall [~~may~~] result in a [~~nonemergency~~] suspension or revocation of certification if a certified family child-care [~~child care~~] home provider:

(a) Fails to meet a condition of the intermediate sanction; or

(b) Violates a requirement of an intermediate sanction.

Section 6.[~~5. Nonemergency Suspension. (1) If the cabinet determines that a certified family child care home provider is in violation of this administrative regulation or fails to correct a deficiency by the date specified on the corrective action plan, a nonemergency suspension for a period not to exceed sixty (60) calendar days may occur.~~

~~(2) At least thirty (30) calendar days prior to the start date of a nonemergency suspension, a certified family child care home provider shall receive by personal service or through certified mail, return receipt requested, a written notice from the cabinet that:~~

~~(a) Specifies the:~~

~~1. Effective date;~~

~~2. Duration of the suspension; and~~

~~3. Corrective action necessary for reinstatement of the certification;~~

~~(b) Explains the reason for the suspension;~~

~~(c) Advises the family child care home provider of the right to request an appeal prior to the effective date of the nonemergency suspension;~~

~~(d) Specifies that the nonemergency suspension shall be stayed if an appeal is requested;~~

~~(e) Specifies that if the provider does not request an appeal of the nonemergency suspension or if the nonemergency suspension is upheld following the hearing, the provider shall cease operation of the family child care home during the period recommended for suspension;~~

~~(f) Specifies that suspension may lead to revocation; and~~

~~(g) Requires the family child care home provider to surrender the certificate of operation to the cabinet when the suspension becomes effective.~~

~~(3) If a certified family child care home provider's certification has been suspended for a nonemergency reason, the cabinet or designated staff shall make reasonable efforts to:~~

~~(a) Notify a parent of each child in care; and~~

~~(b) Assist the parent in securing alternate child care arrangements.~~

~~(4) By the end of the nonemergency suspension period, certification shall be:~~

~~(a) Reinstated; or~~

~~(b) Revoked for failure to take corrective action necessary for reinstatement of the certification.~~

~~Section 6. Emergency~~] Suspension. The cabinet shall take emergency action in accordance with KRS 13B.125, by issuing an emergency order that results in suspension of the operation of a certified family child-care [~~child care~~] home. (1) An emergency order shall:

(a) Be served to a certified family child-care [~~child care~~] home provider in accordance with KRS 13B.050(2); [~~by:~~

~~1. Certified mail, return receipt requested; or~~

~~2. Personal service;~~] and

(b) Specify the regulatory violation that caused the emergency condition to exist [~~corrective action necessary for reinstatement of certification~~].

(2) Upon receipt of an emergency order, the provider shall

surrender the certificate of operation to the cabinet.

(3) The cabinet or its designee and the provider shall make reasonable efforts to:

(a) Notify a parent of each child in care of the suspended provider; and

(b) Refer [~~Assist~~] a parent for assistance in locating [~~securing~~] alternate child care arrangements.

(4) The provider's certification for operation of a family child-care [~~child-care~~] home shall be revoked if:

(a) The provider does not request a hearing; or

(b) The condition that resulted in the emergency order is [~~has~~] not [~~been~~] corrected.

Section 7. Revocation.(1) A family child-care [~~child-care~~] home provider's certification shall be revoked if the provider:

(a) Knowingly misrepresents or submits [~~offers~~] false information on the application or other form required by the cabinet or its designee [~~pursuant to 922 KAR Chapter 2~~];

(b) Interferes with a cabinet representative's ability to perform an official duty;

(c) Refuses, during the hours of operation, access by a parent or cabinet representative to:

1. A child; or

2. Space in the home used for child care;

(d) Is convicted of a criminal charge that threatens the health, safety, or welfare of a child in care;

(e) Is unable to operate a family child-care [~~child-care~~] home due to a medical condition; or

(f) Is unable to continue to meet the requirements of KRS 199.8982(1) or Sections 2, 3, and Sections 9 through 17 [~~10 through 14~~] of this administrative regulation.

(2) If the cabinet determines that a condition of subsection (1) of this section exists, the cabinet or its designee shall send a written notice of revocation [~~from the cabinet shall be~~] delivered by personal service or through certified mail[~~, return receipt requested,~~] at least thirty (30) calendar days prior to the effective date of the revocation.

(3)The notice of revocation shall:

(a) Explain the reason for the revocation;

(b) Specify that the child care provider shall cease operation as a certified family child-care [~~child-care~~] home upon revocation;

(c) Advise the family child-care [~~child-care~~] home provider of the right to request an appeal on an OIG-RCC-7, Request for Appeal, prior to the effective date of the revocation;

(d) Specify that revocation shall be stayed if an appeal is requested; and

(e) Require the family child-care [~~child-care home~~] provider to surrender the certificate of operation to cabinet staff when the revocation becomes effective.

(4)[~~(3)~~] If a provider's certification has been revoked, the cabinet or its designee and the provider [~~designated staff~~] shall make reasonable efforts to:

(a) Notify a parent of each child in care; and

(b) Refer [~~Assist~~] the parent for assistance in locating [~~securing~~] alternate child care arrangements.

Section 8. Appeal of Denials, Intermediate Sanctions, [~~Nonemergency~~] Suspension, and Revocation. (1) If the cabinet denies certification, imposes an intermediate sanction, suspends certification [~~for a nonemergency situation~~], or revokes certification, the family child-care [~~child-care~~] home provider may request an appeal by completing an OIG-RCC-7 and shall be afforded a hearing in accordance with KRS Chapter 13B.

[~~(2) If an intermediate sanction or nonemergency suspension leads to revocation of certification, no further appeal shall be permitted.~~

~~Section 9. Appeal of Emergency Suspension. (1) A certified family child care home provider may appeal an emergency order suspending operations, in compliance with KRS 13B.125(3).~~]

(2) If a hearing officer's final order from an administrative hearing does not uphold a [~~an emergency~~] suspension, the provider may resume providing child care.

Section 9. [~~10.~~] Standards for the Provider. (1) [~~Upon approval of certification as a family child care home,~~] The provider shall [~~:~~

~~(a) Meet minimum requirements established in KRS 199.8982 and Sections 2, 3, and 10 through 14 of this administrative regulation;~~

~~(b)~~] complete annually at least nine (9) [~~six (6)~~] hours of cabinet-approved child development training beginning with the second year of operation [~~; and~~

~~(c) Obtain commercial liability insurance of at least $50,000 per child, per occurrence~~].

(2) A provider shall not provide care for more unrelated children than the number authorized on the certificate of operation.

(3) If the provider cares for more than four (4) infants, including the provider's own or related infants, the provider shall have an assistant present.

(4) A provider shall not care for more than six (6) children under the age of six (6) years old, including the provider's own or related children.

(5) The maximum number of unrelated children in the care of a certified family child-care [~~child-care~~] home provider shall not exceed six (6) at any one (1) time. A provider may care for four (4) related children in addition to six (6) unrelated children for a maximum child care capacity of ten (10) at any one (1) time.

(6) [~~The certified family child care home provider shall be currently certified in:~~

~~(a) Infant and child cardiopulmonary resuscitation or "CPR" by an agency approved by the cabinet or Board of Emergency Services; and~~

~~(b) Infant and child first aid by an agency approved by the cabinet or Board of Emergency Services.~~

~~(7)~~] If a provider operates the in-home child care business for twenty-four (24) consecutive hours, the provider shall:

(a) Receive an eight (8) hour period of respite after working sixteen (16) consecutive hours; and

(b) Employ an assistant [~~or employee~~] during the period of respite.

(7) Prior to being left alone with a child, an assistant shall be certified by a cabinet-approved agency in infant and child:

(a) CPR; and

(b) First aid.

(8) An assistant [~~A substitute provider~~] shall be:

(a) Eighteen (18) years of age or older;

(b) Under direct supervision of a provider;

(c) Used for providing care in a certified child-care home; and

(d) Used in the absence of the certified provider. [~~Certified by a cabinet-approved agency in:~~

~~1.Infant and child CPR; and~~

~~2. Infant and child first aid.~~]

(9) An assistant [~~A substitute provider~~] used in the absence of the family child-care [~~child-care~~] home provider in excess of fourteen (14) calendar days during a one (1) year period shall demonstrate completion of at least nine (9) [~~six (6)~~] hours of cabinet-approved training in:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; [~~and~~]

(c) Developmentally-appropriate child care practice; and

(d) Early care and education.

Section 10. The General Requirements of [~~11.~~] the Family Child-Care [~~Child-Care~~] Home Environment. (1) The provider's home and each play area used for child care shall:

(a) Be safe; and

(b) Have adequate:

1. Heating and cooling [~~Heat~~];

2. Light; and

3. Ventilation.

(2) Each floor level used for child care shall have at least one (1):

(a) Unblocked exit to the outside;

(b) Smoke detector;

(c) Fire extinguisher; and

(d) Carbon monoxide detector if the home:

1. Uses fuel burning appliances; or

2. Has an attached garage.

(3) New applicants and providers who change location [~~after~~

~~the effective date of this administrative regulation~~] shall:

(a) Meet the requirements of subsection (2)(b) through (d) of this section; and

(b) Have at least two (2) unblocked exits to the outside on each floor level used for child care.

(4) The home and areas accessible to children in care shall be free from items harmful to children including [~~of hazards and~~] the following items [~~shall be inaccessible to a child in care~~]:

(a) Cleaning supplies, poisons, paints, and insecticides;

(b) Knives, scissors, and sharp objects;

(c) Power tools, lawn mowers, hand tools, nails, and other equipment;

(d) Matches, cigarettes, lighters, combustibles, and flammable liquids;

(e) Alcoholic beverages;

(f) Plastic bags; and

(g) Litter and rubbish.

(5) [~~Medication, including medicine that requires refrigeration shall be stored in a container or area with a lock to ensure a child is unable to access the medication within the container or area.~~

~~(6)~~] Guns and ammunition shall be stored away from the presence of children, in separate locked containers, [~~a locked container~~] which, in order to be opened, require [~~requires~~] a:

(a) Key; or

(b) Combination.

(6)[~~(7)~~] Electrical outlets not in use shall be covered.

(7)[~~(8)~~] An electric fan, floor furnace, or freestanding heater or fireplace, shall:

(a) Be out of the reach of a child; or

(b) Have a safety guard to protect a child from injury.

(8)[~~(9)~~] The home shall have:

(a) At least one (1) working land-line telephone on each level used for child care with a residential or commercial line; and

(b) A list of emergency numbers posted by each telephone, including numbers for the:

1. Police;

2. Fire station;

3. Emergency medical care, rescue squad; and

4. Poison control center.

(9)[~~(10)~~] Equipment and toys shall be:

(a) Developmentally appropriate to the age of children in care;

(b) In sufficient quantity for the number of children in care; and

(c) Safe, sound, clean, and in good repair.

(10)[~~(11)~~] Television or video viewing by a child shall be limited to:

(a) Two (2) hours daily;

(b) The planned program activities; and

(c) Developmentally-appropriate child-related content.

(11)[~~(12)~~] Stairs and steps used for children in care shall be:

(a) Solid;

(b) Safe; and

(c) Railed.

(12)[~~(13)~~] If an infant or toddler is in the care of a provider, indoor stairs with more than two (2) steps shall be blocked.

(13) [~~(14) The provider shall:~~

~~(a) Maintain first aid supplies that are easily accessible for use in an emergency, but these supplies shall be inaccessible to the children in care; and~~

~~(b) Wash superficial wounds with soap and water before bandaging.~~

~~(15) First aid supplies shall include a fully-equipped first aid kit containing the following nonexpired items:~~

~~(a) Liquid soap;~~

~~(b) Adhesive bandages;~~

~~(c) Sterile gauze;~~

~~(d) Medical tape;~~

~~(e) Scissors;~~

~~(f) A thermometer;~~

~~(g) Flashlight;~~

~~(h) Cold pack;~~

~~(i) First-aid book;~~

~~(j) Disposable gloves; and~~

~~(k) A CPR mouthpiece.~~

~~(16)~~] Exclusive of the bathroom and storage area, an indoor area, including furnishings, used for child care shall contain at least thirty-five (35) square feet per child for:

(a) Play; and

(b) Activities that meet the developmental needs of the children in care.

(14)[~~(17)~~] An outdoor play area shall be free of hazards.

(15)[~~(18)~~] Each child in an outdoor play area shall be under the direct supervision of the provider[~~, substitute, employee,~~] or assistant.

(16)[~~(19)~~] Outdoor stationary play equipment shall be:

(a) Securely anchored;

(b) Developmentally appropriate;

(c) Age appropriate; and

(d) Safe.

(17)[~~(20)~~] A trampoline shall not be accessible to a child in the care of a provider.

(18)[~~(21)~~] A swimming pool on the premises shall:

(a) Be maintained;

(b) Have a water filtering system;

(c) Be supervised when in use; and

(d) Be inaccessible to children when not in use.

(19) An above-ground pool shall have a stationary wall no less than four (4) feet tall with no hand holds or foot holds.

(20)[~~(22)~~] A fire and tornado drill shall be conducted during hours of operation:

(a) At least monthly; and

(b) Documented.

(21)[~~(23)~~] An earthquake drill shall be conducted during hours of operation:

(a) At least quarterly; and

(b) Documented.

(22)[~~(24)~~] During hours of operation, the provider[~~,~~] and other persons in the home shall:

(a) Be free of the influence of alcohol or a controlled substance, except for use of a controlled substance prescribed by a physician; and

(b) Prohibit smoking in the presence of children in care.

(23)[~~(25)~~]During a provider's absence, an assistant [~~a substitute provider~~] shall be physically present at the home during hours of operation.

(24)[~~(26)~~] A provider shall not be employed outside of the home during regular hours of operation.

(25)[~~(27)~~] The home shall:

(a) Be clean;

(b) Be uncluttered;

(c) Be free of insects and rodents;

(d) Have a water supply that is:

1. **Potable;**

2. Adequate; and

3. From an approved public water supply; and [~~Properly located;~~

~~2. Protected;~~

~~3. Adequate; and~~

~~4. Of a source approved by the local health department; and~~]

(e) Have bathrooms, including toilets, sinks, and potty chairs that are:

1. Sanitary; and

2. In good working condition.

(26) A child shall wash hands with liquid soap and warm running water:

(a) Before and after eating or handling food;

(b) After toileting or diaper change;

(c) After handling animals;

(d) After wiping or blowing nose;

(e) After touching items soiled with body fluids or waste; and

(f) After outdoor and indoor play time.

(27)[~~(28)~~] The provider and an [~~,~~] assistant [~~, substitute, and each~~] shall:

(a) Wash hands with liquid soap and warm running water:

1. Before and after diapering a child;

2. Before and after feeding a child;

3. After toileting or assisting a child with toileting;

4. After handling animals;

5. Before dispensing medication;

6. After caring for a sick child; and
7. After wiping or blowing a child's or own nose.
(b)[~~Assure that a covered, leak-proof container is:~~
~~1. Available for soiled diapers;~~
~~2. Emptied daily; and~~
~~3. Cleaned daily;~~
~~(c) Use sanitary procedures when preparing and serving food;~~
~~(d)~~] Assure that a child shall not share:
1. Cups;
2. Eating utensils;
3. Wash cloths; [~~and~~]
4. Towels; and
5. Toiletry items.
(28) [~~(c) Refrigerate perishable food and beverages.~~
~~(29)~~] The refrigerator shall:
(a) Be in working order; and
(b) **Maintain product temperature at or below forty-five (45) degrees Fahrenheit** [~~Have a working thermometer demonstrating that the refrigerator is maintained at a temperature of forty-five (45) degrees Fahrenheit or below~~].
(29)[~~(30)~~] Except if thawed for preparation or use, frozen food shall be kept at a temperature of zero degrees Fahrenheit as verified by a thermometer in the freezer.
(30) [~~(31) Unless provided as part of the fee for child care, an infant's formula shall be prepared and provided by the parent.~~
~~(32) If more than one (1) bottle-fed child is in the care of the provider, each child's bottle shall be labeled.~~
~~(33)~~] While bottle-feeding an infant, the:
(a) Child shall be held; and
(b) Bottle shall not be:
1. Propped; [~~or~~]
2. Left in the mouth of a sleeping infant; or
3. Heated in a microwave.
(31) **Windows, doors, and outer openings shall be screened** to prevent the entrance of vermin. [~~An open area in the child-care home shall be protected with screening~~] to prevent the entrance of vermin.
(32) [~~(34) Milk or milk products served shall be pasteurized.~~
~~(35) Meals shall:~~
~~(a) Be served in an amount appropriate to the age of the child; and~~
~~(b) Include appropriate types of food according to the age of the child.~~
~~(36) Breakfast shall include:~~
~~(a) Milk;~~
~~(b) Bread; and~~
~~(c) Fruit or vegetable or 100 percent juice.~~
~~(37) A snack shall include two (2) of the following:~~
~~(a) Milk;~~
~~(b) Protein source;~~
~~(c) Fruit or vegetable or 100 percent juice; or~~
~~(d) Bread.~~
~~(38) Lunch and dinner shall include:~~
~~(a) Milk;~~
~~(b) Protein source;~~
~~(c) Two (2) vegetables or a fruit and one (1) vegetable; and~~
~~(d) Bread.~~
~~(39) Windows and doors shall be screened for ventilation.~~
~~(40) A household pet shall be vaccinated for rabies.~~
~~(41)~~] Indoor and outdoor garbage shall be stored in a waterproof container with a tight-fitting cover.
(33)[~~(42)~~] Adequate space shall be provided at rest-time for each child in care more than four (4) hours:
(a) Rest-time area shall be comfortable, clean, safe, and in good repair.
(b) An individual bed, crib, play pen, **two (2) inch thick waterproof mat,** or cot with comfortable, clean, safe bedding shall be provided for each child.
(c) A crib or play pen shall meet the Consumer Products Safety Commission Standards.
(d) [~~(b)~~] Individual linens shall be:
1. Provided for each child; and
2. Changed:
a. At least weekly; or
b. If soiled or wet, immediately.
(34)[~~(43)~~] If overnight care is provided, the caregiver shall:
(a) Remain awake until every child in care is asleep; and
(b) Sleep on the same floor level of the home as an infant or toddler.
(35) [~~; and~~
~~(c)1. Provide an individual bed, crib, playpen, or cot with comfortable, clean, and safe bedding for each child.~~
~~2. The crib or playpen shall meet the Consumer Products Safety Commission Standards.~~
~~(44)~~] A written and posted routine plan shall be established for daily:
(a) Activity;
(b) Opportunity for outdoor play; and
(c) Reading.
(36)[~~(45)~~] A child who is not asleep shall be visually supervised.
(37)[~~(46)~~] Except for a school-aged child whose parent has given written permission and whose whereabouts are known, a child shall not be permitted off the premises without the caregiver.
(38)[~~(47)~~] Use of corporal physical discipline is prohibited, pursuant to KRS 199.896(18).
(39)[~~(48)~~] A child shall be released from the family child-care [~~child care~~] home to:
(a) The child's custodial parent;
(b) The person designated in writing by the parent to receive the child; or
(c) In an emergency, a person designated over the telephone by the parent.
(40)[~~(49)~~] To assure a healthy environment, the provider shall maintain a:
(a) Current immunization certificate for each child within thirty (30) days of enrollment, unless an attending physician or parent objects to the immunization of a child pursuant to KRS 214.036;
(b) Written record [~~DCC-180, Child's Health and Emergency Information~~]:
1. Completed and signed by the child's parent [~~or guardian~~]; and
2. Retained on file on the first day the child attends to [~~and~~] include:
a. The child's name, address, and date of birth;
b. The name of each individual to whom the child may be released;
c. The general status of the child's health;
d. Allergies or restrictions on the child's participation in activities, with specific instructions from the child's parent or physician;
e. The name and phone number of each person to be contacted in an emergency situation;
f. The name and phone number of the child's physician and preferred hospital; and
g. Authorization by the parent [~~or guardian~~] for the provider to seek emergency medical care in the parent's absence.
(41)[~~(50)~~] A provider shall provide immediate notification of a medical emergency to the:
(a) Parent;
(b) Person exercising custodial control; or
(c) Family physician, if the parent or person exercising custodial control is unavailable.
(42)[~~(51)~~] A quiet, separate area that is [~~can be~~] easily supervised shall be provided for a child too sick to remain with other children.
(43) [~~(52) Prescription medication shall not be administered to a child in care, except if authorized by:~~
~~(a) A licensed physician; and~~
~~(b) The daily written request of the parent or guardian.~~
~~(53) Nonprescription medication shall be administered to a child only with written daily request of parent or guardian.~~
~~(54)~~] The provider [~~caregiver~~] shall:
(a) Be able to recognize symptoms of childhood illnesses;
(b) Be able to provide basic first aid;
(c) Maintain a child care program that assures affirmative steps are taken to protect children from abuse or neglect pursuant to KRS 600.020; and
(d) Maintain daily attendance records documenting the arrival

and departure time of each child.

Section 11. Toilet and Diapering Requirements. (1) A toilet room shall:
(a) Have an adequate supply of toilet paper; and
(b) Be cleaned and sanitized daily.
(2) A sink shall be:
(a) Located in or immediately adjacent to toilets;
(b) Equipped with hot and cold running water that allows for hand washing;
(c) Equipped with hot water no more than 110 degrees Fahrenheit;
(d) Equipped with liquid soap and single use, disposable hand drying material;
(e) Equipped with an easily cleanable, covered waste receptacle; and
(f) Immediately adjacent to a changing area used for infants and toddlers.
(3) Each toilet shall:
(a) Be kept in clean condition;
(b) Be kept in good repair;
(c) Be in a lighted room; and
(d) Have ventilation.
(4) Toilet training shall be coordinated with the child's parent.
(5) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.
(6) If a toilet training chair is used, the chair shall be:
(a) Emptied promptly; and
(b) Sanitized after each use.
(7) Diapers or clothing shall be:
(a) Changed when soiled or wet;
(b) Stored in a covered leak proof container temporarily; and
(c) Washed or disposed of at least once a day.
(8) The proper methods of diapering and hand-washing shall be posted at each diaper changing area.
(9) When a child is being diapered the child shall:
(a) Not be left unattended; and
(b) Be placed on a surface that is:
1. Clean;
2. Padded;
3. Free of holes, rips, tears, or other damage;
4. Nonabsorbent;
5. Easily cleaned; and
6. Free of items not used for diaper changing.
(10) Unless prescribed by a physician, individual disposable washcloths shall be used to thoroughly clean the affected area of the child.
(11) Staff shall disinfect the diapering surface after each child is diapered.
(12) If staff wear disposable gloves, the gloves shall be changed and disposed of after each child is diapered.

Section 12. Food Requirements. (1) The provider and assistant shall:
(a) Use sanitary procedures when preparing and serving food;
(b) Refrigerate perishable food and beverages; and
(c) Serve milk or milk products that are pasteurized.
(2) Meals shall:
(a) Be served in an amount appropriate to the age of the child; and
(b) Include appropriate types of food according to the age of the child.
(3) Breakfast shall include:
(a) Milk;
(b) Bread; and
(c) Fruit, vegetable, or 100 percent juice.
(4) A snack shall include two (2) of the following:
(a) Milk;
(b) Protein source;
(c) Fruit, vegetable, or 100 percent juice; or
(d) Bread.
(5) Lunch and dinner shall include:
(a) Milk;
(b) Protein source;
(c) Two (2) vegetables or one (1) fruit and one (1) vegetable; and
(d) Bread.
(6) A weekly menu shall be:
(a) Prepared;
(b) Dated;
(c) Posted in a conspicuous place;
(d) Kept on file for thirty (30) calendar days.
(7) Substitutions to a posted weekly menu shall be noted on the day the meal is served.
(8) Unless provided as part of the fee for child care, an infant's formula shall be:
(a) Prepared;
(b) Labeled; and
(c) Provided by the parent.
(9) Each child's bottle shall be:
(a) Labeled;
(b) Covered; and
(c) Refrigerated.

Section 13. Medication and First Aid. (1) Medication, including medicine that requires refrigeration, shall be stored in a locked container or area with a lock.
(2) Prescription medication shall not be administered to a child in care, without a daily written request of the parent.
(3) Nonprescription medication:
(a) May be given to a child only with the written daily request of the:
1. Parent; or
2. Person exercising custodial control of the child; and
(b) Shall be administered according to the instructions on the label.
(4) Medications shall be:
(a) Labeled; and
(b) Administered according to directions.
(5) The provider shall:
(a) Maintain first aid supplies that are easily accessible for use in an emergency, and these supplies shall be inaccessible to the children in care; and
(b) Wash superficial wounds with soap and water before bandaging.
(6) First aid supplies shall include a fully-equipped first aid kit containing the following nonexpired items:
(a) Liquid soap;
(b) Adhesive bandages;
(c) Sterile gauze;
(d) Medical tape;
(e) Scissors;
(f) A thermometer;
(g) Flashlight;
(h) Cold pack;
(i) First-aid book;
(j) Disposable gloves; and
(k) A CPR mouthpiece.

Section 14. Animals. (1) Animals shall be:
(a) Supervised by an adult when in the presence of children in care; and
(b) Certified as properly **vaccinated** [~~inoculated~~] against rabies.
(2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.
(3) Animals that are considered wild or exotic shall not be allowed in a family child-care home.

Section 15.[~~12.~~] Transportation. (1) If transportation is provided or arranged by the certified family child-care [~~child care~~] home provider, the provider shall:
(a) Have written permission from a parent [~~or guardian~~] to transport his child;
(b) Have a car or van equipped with seat belts;
(c) Require that a child:
1. Be restrained in an appropriate safety seat meeting federal motor vehicle safety standards in 49 C.F.R. 571.213[~~individually~~

~~seat-belted~~];

2. Remain seated while the vehicle is in motion; and

3. If a child is under thirteen (13) years of age,[~~forty (40) inches in height:~~

~~a.~~] be transported in the back seat[~~; and~~

~~b. Restrained in a federally-approved motor vehicle safety seat in good repair~~];

(d) Have a valid driver's license issued by the Division of Motor Vehicles;

(e) Have emergency and identification information about each child in the vehicle if children are being transported; and

(f) Conform to state laws pertaining to vehicles, drivers license, and insurance pursuant to KRS 186.020.

(2) A child shall not be left unattended in a vehicle.

(3) The back of a pickup truck shall not be used to transport a child.

Section 16.[~~13.~~] Records. (1) A certified family child-care[~~child care~~] home provider shall maintain the confidentiality of a child's records.

(2) The cabinet shall provide, upon request, public information pursuant to KRS 199.8982(1)(d) and (e).

(3) The provider shall:

(a) Report an incident of suspected child abuse or neglect pursuant to KRS 620.030(1); and

(b) Provide the cabinet access and information in the completion of the investigation pursuant to KRS 620.030(3).

(4) A certified family child-care home provider shall keep a written daily record of the times a child arrives and departs.

(5) Certified family child-care home providers shall keep all records for five (5) years.

Section 17.[~~14.~~] Certified Family Child-Care[~~Child Care~~] Home Program. The certified family child-care [~~child care~~] home provider shall:

(1) Develop written information that specifies the:

(a) Rate for child care; [~~and~~]

(b) Expected frequency of payment for the program;

(c) Hours of operation; and

(d) Policy regarding:[~~;~~]

1. Late fees;

2. Holidays;

3. Vacation;

4. Illness; and

5. Emergency pick up;

(2) Make available a copy of the certification standards to each parent;

(3) Provide each parent with the name, address, and telephone number of the cabinet for the purpose of registering a complaint if the parent believes the family child-care[~~child care~~] home provider is not meeting the standards;

(4) Post and provide to each parent a copy of children and parent rights, as required by KRS 199.898;

(5) Allow a parent and the cabinet or its designee access to the family child-care home at any time a child is in care;[~~to visit and observe the program during the hours of operation; and~~]

(6) Communicate with each child's parent about the child's:

(a) Development;

(b) Activities;

(c) Likes; and

(d) Dislikes;

(7) Post in a prominent area in the home:

(a) The staff to child ratios described in Section 9 of this administrative regulation;

(b) The planned program of activities;

(c) Each statement of deficiency issued by the cabinet during the current certification period;

(d) Each plan of correction submitted by the certified family child-care home to the cabinet during the current certification period; and

(e) Daily schedule including any trips outside the family child-care home;

(8) Coordinate at least one (1) annual activity involving parental or family participation; and

(9) Maintain a written child care agreement with each child's parent [~~or custodian~~], including the name of each person designated by the parent to pick up the child.

Section 18.[~~15.~~] Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "OIG-RCC-4[~~DCC-178~~], Application for Certified Family Child Care Home" [~~Certification~~], edition 12/07 [~~11/03~~];

(b) "OIG-RCC-5 [~~DCC-180~~], Central Registry Check" [~~Child's Health and Emergency Information~~], edition 12/07[~~11/03~~]; [~~and~~]

(c) "OIG-RCC-6 [~~DCC-179~~], Self Check List", edition 12/07; and (d) "OIG-RCC-7, Request for Appeal", edition 12/07 [~~11/03~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community-Based Services, Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.

MARK CORNETT, Deputy Commissioner
JANIE MILLER, Secretary

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2008 at 11 a.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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Justin Dearinger, (502) 564-3556, ext 4227

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes minimum requirements intended to protect the health, safety, and welfare of children cared for by a certified family child-care home provider.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards for the issuance, monitoring, renewal, denial, revocation, and suspension of a certificate of operation, and to impose staff-to-child ratios for a family child-care home.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the cabinet's authorization under KRS 199.8982(1)(f) to establish standards for the issuance, monitoring, denial, revocation, and suspension of a certificate of operation, impose staff-to-child ratios, and any other requirements necessary to ensure minimum safety in a family child-care home.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statute by describing the requirements of the certification and renewal of certification processes, sanctions, suspension, and denial of certification, appeals processes, and standards for a provider and a provider's home where child care services are offered.

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

(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will raise the minimum age required for assistants to 18; increase training and education requirements for providers and assistants; add an out-of-state background check for applicants residing outside of Kentucky within the past five (5) years; require zoning compliance; reduce liability coverage to $50,000 per occurrence; make additions to posting requirements; require one annual activity involving parental participation; clarify processes relating to responses to a statement of deficiency; revise time frames for informal dispute resolution; revise and clarify general requirements of the home and provider; and revise forms contained in material incorporated by reference. Also definitions are being added from 922 KAR 2:001, the definitions regulation for this chapter which is being repealed.

(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure the health and safety of children cared for in a family child-care home, clarify processes related to deficiencies,

and raise basic licensure standards to more closely reflect national norms.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing requirements for issuance, monitoring, revocation, denial, and suspension of certificates to operate a family child-care home; and establishing minimum requirements to ensure the health, safety, and welfare of children cared for by certified family child care home providers.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by clarifying the requirements for the issuance of a certificate and ongoing operation of a family child-care home. The amendment clarifies procedures and responsibilities contained within the administrative regulation and makes technical requirements to comply with KRS Chapter 13A.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Data from the Office of the Inspector General, Division of Regulated Child Care, indicates as of August 9, 2007, there are 838 family child care home providers 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: This amendment will require family child-care home operators and assistants to obtain three hours of additional training per year and develop a written training plan, assure that the child care home meets local zoning ordinances, post additional documentation and develop written information addressing program activities and policies, ensure that assistants are 18 years old, and coordinate one activity involving parental or family participation per year.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Training is available at no cost to the individual if they are enrolled in the Commonwealth Child Care Credential Scholarship Program. For other participants, the costs average $3-$12 per hour for the additional hours depending on the region. These additional costs may be offset due to insurance requirements changing from $50,000 per child to $50,000 per occurrence, which should save regulated entities money. The cabinet currently contracts with Child Care Resource and Referral Agencies to provide training at low cost to the participants. Technical assistance provided by the Child Care Resource and Referral Agencies will be available to providers regarding the implementation of posting requirements, training plans, and coordination of parental participation activities. Monetary costs for these provisions to the family child care home operator are minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with the amendment, family child care home providers will improve the quality of services provided to children in their care and ensure minimum health and safety and health standards are met. These recommendations were developed with Department staff in response to the National Association of Child Care Resource and Referral Agencies (NACCRRA) report published in March 2007 that ranked Kentucky's standards for child care centers 49th in the nation.

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

(a) Initially: There will be no additional costs to the cabinet as a result of this amendment.

(b) On a continuing basis: There will be no additional costs to the cabinet as a result of this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: There is no additional cost to the cabinet associated with 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: There is no increase in funds or fees 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 establish any fees or directly or indirectly increase any fees. There are fees established for child care licensure in KRS 199.896.

(9) TIERING: Is tiering applied? Tiering is not applied, as this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISION

1. Federal statute or regulation constituting the federal mandate.45 C.F.R. 98.2, 49 C.F.R. 571.213.

2. State compliance standards. KRS Chapter 13B, 17.165, 186.020, 199.011(2), 199.894(5), 199.896(18), 199.898, 199.8982, 214.036, 314.011(5), 600.020, 620.030. KRS 13B.170, 199.8982(1)(f)

3. Minimum or uniform standards contained in the federal mandate. 45 C.F.R. 98.2, 49 C.F.R. 571.213.

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not Applicable.

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 for Community Based Services-Division of Child Care and the Office of the Inspector General-Division of Regulated Child Care are 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.45 C.F.R. 98.2, 49 C.F.R. 571.213, KRS Chapter 13B, 17.165, 186.020, 199.011(2), 199.894(5), 199.896(18), 199.898, 199.8982, 214.036, 314.011(5), 600.020, 620.030, 13B.170, 199.8982(1)(f).

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 generate no revenue for the 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? This administrative regulation will generate no revenue for the state or local government either for subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no new cost associated with this amendment.

(d) How much will it cost to administer this program for subsequent years? There will be no new cost associated with this amendment.

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:

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Community Based Services
Division of Child Care
(Amended After Comments)

922 KAR 2:120. Child-child care center[~~care facility~~] health and safety standards.

RELATES TO: KRS 199.894, 199.896(2), (18), (19), 199.898, 211.350-211.380, 314.011(5), 620.030[~~(1)~~], 16 C.F.R. 1508, 1509, 45 C.F.R. 98.2, 49 C.F.R. 571.213

STATUTORY AUTHORITY: KRS 194A.050(1), 199.896(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, quality for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations and standards for child-care [~~child care~~] centers. This administrative regulation establishes health and safety standards for child-care centers [~~day care facilities~~].

Section 1. Definitions. (1) "Adequate supervision" means that qualified staff devotes full-time attention to a child in care and ensures the child is within scope of vision and range of voice.

(2) "Cabinet" is defined by KRS 199.894.

(3) "Director" means an individual:

(a) Who meets the education and training requirements as specified in 922 KAR 2:110, Section 4;

(b) Whose primary full-time job responsibilities are to ensure compliance with 922 KAR 2:090, 922 KAR 2:110, and this administrative regulation; and

(c) Who is responsible for directing the program and managing the staff at the child-care center.

(4) "Health professional" means a person currently licensed as a:

(a) Physician;

(b) Physician's assistant;

(c) Advanced registered nurse practitioner; or

(d) Registered nurse as defined in KRS 314.011(5) under the supervision of a physician.

(5) "Infant" means a child who is less than twelve (12) months of age.

(6) "Licensee" means an individual, partnership, corporation, or other entity authorized to operate a child-care center.

(7) "Nontraditional hours" means the hours of:

(a) 6 p.m. through 6 a.m., Monday through Friday; or

(b) 6 p.m. on Friday until 6 a.m. on Monday.

(8) "Parent" is defined in 45 C.F.R. 98.2.

(9) "Premises" means the building and contiguous property in which child care is provided.

(10) "Protective surface" means loose surfacing material not installed over concrete which includes the following:

(a) Wood mulch;

(b) Double shredded bark mulch;

(c) Uniform wood chips;

(d) Fine sand;

(e) Coarse sand;

(f) Pea gravel, except for areas used by children under three (3) years of age;

(g) Certified shock absorbing resilient material; or

(h) Other material approved by the cabinet or designee.

(11) "Related" means grandchildren, nieces, nephews, or children in legal custody of the operator of the child-care center.

(12) "School-age" means a child enrolled in kindergarten, elementary, or secondary education.

(13) "Toddler" means a child between the age of twelve (12) months and twenty-four (24) months.

(14) "Type I child-care center" is a child-care center licensed to regularly provide child care services for:

(a) Four (4) or more children in a nonresidential setting; or

(b) Thirteen (13) or more children in a designated space separate from the primary residence of a licensee.

(15) "Type II child-care center" is the primary residence of the licensee in which child care is regularly provided for seven (7), but not more than twelve (12), children including children related to the licensee.

Section 2. Child Care Services. (1) Services described in this administrative regulation shall be maintained during all hours of operation that child care is provided.

(2) Minimum staff-to-child ratios and group size for an operating child-care center shall be maintained as follows:

Age of Children	Ratio	Maximum Group Size*
Infant	1 staff for 5 children	10
Toddler	1 staff for 6 children	12
2 to 3 years	1 staff for 10 children	20
3 to 4 years	1 staff for 12 children	24
4 to 5 years	1 staff for 14 children	28
5 to 7 years	1 staff for 15 children	30
7 and older	1 staff for 25 children (for before and after school)	30
	1 staff for 20 children (full day of care)	30

*Maximum Group Size is applicable only to Type I centers.

(a) In a Type I center, a group shall:

1. Be separately maintained in a defined area unique to the group; and

2. Have specific staff assigned to, and responsible for, the group.

(b) The age of the youngest child in the group shall determine the:

1. Staff-to-child ratio; and

2. Maximum group size.

(c) This subsection and subsection (9) of this section shall not apply during normal school hours to a center:

1. Providing early childhood education to mixed-age groups of children whose ages range from two and one-half (2 1/2) to six (6) years; and

2. Accredited by or affiliated with a nationally-recognized education association that has criteria for group size and staff-to-child ratios contrary to the requirements of this subsection.

(d) If a child related to the director, employee, or person under the supervision of the licensee is receiving care in the center, the child shall be included in the staff-to-child ratio.

(3)(a) Each center shall maintain a child care program that assures each child will be:

1. Provided adequate supervision at all times; and

2. Protected from abuse or neglect.

(b) The program shall include:

1. A procedure to inform child care staff of the laws of the Commonwealth pertaining to child abuse or neglect, as required by KRS 620.030; and

2. Written policy that specifies that the procedures that were taught at the orientation training shall be implemented by each child-care center staff member.

(4) The child-care center shall provide a daily planned program of activities:

(a) Posted in writing in a conspicuous location with each age group and followed;

(b) Geared to the individual needs and developmental levels of each child served;

(c) That provides experience to promote the individual child's physical, emotional, social, and intellectual growth and well-being;

(d) That offers a variety of creative activities including the following:

1. Art;

2. Music;

3. Dramatic play;

4. Stories and books;

5. Science;

6. Block building;
7. Tactile activity;
8. Culture;
9. Indoor or outdoor play in which a child makes use of both small and large muscles;
10. A balance of active and quiet play, including group and individual activity; [~~and~~]
11. An opportunity for a child to:
a. Have some free choice of activities;
b. If desired, play apart from the group at times; and
c. Practice developmentally-appropriate self-help procedures in respect to:
(i) Clothing;
(ii) Toileting;
(iii) Hand-washing; and
(iv) Eating; and
12. Use of electronic viewing and listening devices if the:
a. Material is appropriate to the child using the equipment;
b. Material does not include any violence, adult content viewing, or inappropriate language;
c. Viewing or listening is limited to two (2) hours per day;
d. Viewing or listening is discussed with parents prior to viewing or listening; and
e. Viewing or listening is designed as an educational tool.
(5) A child who does not wish to use the electronic devices during the planned program shall be offered other appropriate activities.
(6) Regularity of routines shall be implemented to afford the child familiarity with the daily schedule of activity.
(7) Sufficient time shall be allowed for an activity so that a child may progress at their own developmental rate.
(8) A child shall not be required to stand or sit for a prolonged period of time:
(a) During an activity;
(b) While waiting for an activity to start; or
(c) As punishment.
(9) If school-age care is provided:
(a) A separate area or room shall be provided in a Type I center; and
(b) Each child shall be provided a snack after school.
(10) A child shall not be subjected to:
(a) Corporal physical discipline pursuant to KRS 199.896(18);
(b) Loud, profane, threatening, frightening, or abusive language; or
(c) Discipline that is associated with:
1. Rest;
2. Toileting; or
3. Food.
(11) If nontraditional hours of care are provided:
(a) Including time spent in school, a child shall not be permitted to spend more than sixteen (16) hours in the child-care center during one (1) twenty-four (24) hour period;
(b) At least one (1) staff member shall be assigned responsibility for each sleeping room;
(c) A child present for an extended period of time during waking hours shall receive a program of well-balanced and constructive activity geared to the child's age level and developmental needs;
(d) A child sleeping three (3) hours or more shall sleep in:
1. Pajamas; or
2. A nightgown;
(e) If a child attends school from the child-care center, the child shall be offered breakfast; and
(f) Staff shall:
1. If employed by a Type I center, remain awake while on duty; or
2. If employed by or is the operator of a Type II center, remain awake until every child in care is asleep.

Section 3. General Requirements. (1) Electronic viewing and listening devices shall only be used in the center as a part of the child's planned program of activity described Section 2(4)(d).
(2) Activity areas, equipment, and materials shall be arranged so that the child's activity can be given adequate supervision by staff.
(3) Computer equipment shall be equipped with a monitoring device which limits access by a child to items inappropriate for a child to view or hear.
(4) A child shall:
(a) Be helped with personal care and cleanliness; and
(b) Wash their hands with liquid soap and warm running water:
1. Upon arrival at the center;
2. Before and after eating or handling food;
3. After toileting or diaper change;
4. After handling animals;
5. After wiping or blowing nose;
6. After touching items soiled with body fluids or wastes; and
7. After outdoor or indoor play time.
(5) Staff shall:
(a) Maintain personal cleanliness;
(b) Conform to hygienic practices while on duty; and
(c) Wash their hands with liquid soap and running water:
1. Upon arrival at the center;
2. After toileting or assisting a child in toileting;
3. Before and after diapering each child;
4. After wiping or blowing a child's or own nose;
5. After handling animals;
6. After caring for a sick child;
7. Before and after feeding a child or eating;
8. Before dispensing medication; and
9. If possible, before administering first aid.
(6) A staff person suspected of being infected with a communicable disease shall:
(a) Not perform duties that may allow for the transmission of the disease until the infectious condition can no longer be transmitted; and
(b) Provide a statement from a health professional, if requested.
(7) The following shall be inaccessible to a child in care:
(a) Toxic cleaning supplies, poisons, and insecticides;
(b) Knives and sharp objects;
(c) Matches, cigarettes, lighters, and flammable liquids;
(d) Plastic bags;
(e) Litter and rubbish;
(f) Bar soap; and
(g) Personal belongings of staff.
(8) Guns and ammunition shall be stored separately in a locked area outside of the designated child care area.
(9) Smoking shall:
(a) Be permitted in accordance with local ordinances;
(b) Be allowed only in outside designated areas; and
(c) Not be permitted in the presence of a child.
(10) While bottle feeding an infant, the:
(a) Child shall be held; and
(b) Bottle shall not be:
1. Propped;
2. Left in the mouth of a sleeping infant; or
3. Heated in a microwave.
(11) Except for an infant, toddler, or a child who attends nontraditional hours of care, a child shall have rest periods not to exceed two (2) hours. A child who does not sleep shall be permitted to play quietly after a reasonable rest period specific to the needs of the child.
(12) Staff in a child-care center shall follow the most current policy of the American Academy of Pediatrics when placing a child to sleep.

Section 4. Premises Requirements. (1) The premises shall be:
(a) Suitable for the purpose intended;
(b) Kept clean and in good repair; and
(c) Equipped with a land-line telephone accessible to a room used by a child.
(2) A child-care center shall be in compliance with the State Fire Marshal and the local zoning laws.
(3) Fire and emergency exits shall be kept clear of debris.
(4) The building shall be constructed to ensure the:
(a) Building is:
1. Dry;

2. Adequately heated;
3. Ventilated; and
4. Well lit, including clean light fixtures:
a. That are in good repair in all areas; and
b. Shielded or have shattered proof bulbs installed; **and**
(b) Following are protected:
1. Windows;
2. Doors;
3. Stoves;
4. Heaters;
5. Furnaces;
6. Pipes; and
7. Stairs.
(5) Exclusive of the kitchen, bathroom, hallway, and storage area, there shall be a minimum of thirty-five (35) square feet of space per child.
(6) Measures shall be utilized to control the presence of:
(a) Rodents;
(b) Flies;
(c) Roaches; and
(d) Other vermin.
(7) An opening to the outside shall be effectively protected against the entrance of vermin by:
(a) Self-closing doors;
(b) Closed windows;
(c) Screening;
(d) Controlled air current; or
(e) Other effective means.
(8) Floors, walls, and ceilings shall be smooth, in good repair, and constructed to be easily cleaned.
(9) The water supply shall be:
(a) **Potable;**
(b) Protected from contamination;
(c) Adequate in quality and volume;
(d) Under sufficient pressure to permit unrestricted use; and
(e) Obtained from an approved public water supply or a source approved by the local health department. [~~Properly located;~~
~~(b) Protected from contamination;~~
~~(c) Adequate in volume; and~~
~~(d) Obtained from a source approved by the local health department.~~]
(10) Groundwater supplies for a center caring for:
(a) More than twenty-five (25) children shall meet the specifications of the Cabinet for Environmental and Public Protection; or
(b) Twenty-five (25) children or less shall secure approval from the:
1. Cabinet for Environmental and Public Protection; or
2. Local health department.
(11) Sewage shall be properly disposed by a method approved by the:
(a) Cabinet for Environmental and Public Protection; or
(b) Cabinet.
(12) **All plumbing shall comply with the State Plumbing Code.** [~~If the adequacy of the plumbing is questioned, consultation shall be sought from the:~~
~~(a) Cabinet for Environmental and Public Protection; or~~
~~(b) Local sanitarian having jurisdiction over the child-care center.~~]
(13) Solid waste shall be kept in a suitable receptacle in accordance with local, county and state law, as governed by KRS 211.350 to 211.380.
(14) If a portion of the building is used for a purpose other than child care, necessary provisions shall be made to avoid interference with the child care program.
(15) The temperature of the inside area of the premises shall be:
(a) Sixty-five (65) to seventy-five (75) degrees Fahrenheit during the winter; or
(b) Sixty-eight (68) to eighty-two (82) degrees Fahrenheit during the summer months.
(16) A kitchen shall not be required if:
(a) The only food served is an afternoon snack to school-age children; and
(b) Adequate refrigeration is maintained.
(17) The Department of Housing, Buildings and Construction, State Fire Marshal's Office, and cabinet shall be contacted concerning a planned new building, addition, or major renovation prior to construction.
(18) An outdoor play area shall be:
(a) Except for an after-school child care program, located on the premises of a public or state-accredited nonpublic school, fenced for the safety of the children;
(b) A minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (5) of this section;
(c) Free from:
1. Litter;
2. Glass;
3. Rubbish; and
4. Flammable materials;
(d) Safe from foreseeable hazard;
(e) Well drained;
(f) Well maintained;
(g) In good repair; and
(h) Visible to staff at all times.
(19) A protective surface shall:
(a) Be provided for outdoor play equipment used to:
1. Climb;
2. Swing; and
3. Slide; and
(b) Have a fall zone equal to the height of the equipment.
(20) If a child-care center does not have access to an outdoor play area, an indoor space shall:
(a) Be used as a play area;
(b) Have a minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (5) of this section;
(c) Include equipment for gross motor skills;
(d) Be well-ventilated;
(e) Be heated; and
(f) Have a protective surface of at least two (2) inches thick around equipment intended for climbing.
(21) Fences shall be:
(a) Constructed of safe material;
(b) Stable; and
(c) In good condition.
(22) Supports for climbing apparatus and large equipment shall be securely fastened to the ground.
(23) Crawl spaces, such as tunnels, shall be short and wide enough to permit access by adults.
(24) A sandbox shall be:
(a) Constructed to allow for drainage;
(b) Covered when not in use;
(c) Kept clean; and
(d) Checked for vermin prior to use.
(25) Bodies of water that shall not be utilized include:
(a) Portable wading pools;
(b) Natural bodies of water; and
(c) Unfiltered, nondisinfected containers.
(26) A child-care center shall have enough toys, play apparatus, and age-appropriate developmental materials to provide each child with a variety of activities during the day, as specified in Section 2 of this administrative regulation.
(27) Storage space shall be provided:
(a) In the form of low open shelves accessible to the children; and
(b) In sufficient quantity for each child's clothing.
(28) Supplies shall be stored so that the adult can reach them without leaving the child unattended.

Section 5. Infant and Toddler Play Requirements. (1) Infant and toddler inside areas shall:
(a) Be separate from an area used by an older child;
(b) Not be an exit or entrance; and
(c) Have adequate crawling space for an infant or toddler away from general traffic patterns of the center.

(2) An infant or toddler may participate in an activity with an older child for no more than one (1) hour.
(3) If a child-care center provides an outdoor play area for an infant or toddler, the outdoor area shall be:
(a) Shaded; and
(b) A separate area or scheduled at a different time than an older child.

Section 6. Sleeping and Napping Equipment. (1) An individual cot, crib, baby bed, or two (2) inch thick waterproof mat shall be provided for a child in attendance for more than three and one-half (3 1/2) hours per day.
(2) A crib shall:
(a) Be equipped with a firm, comfortable waterproof mattress; and
(b) Meet the standards set forth in 16 C.F.R. 1508 and 1509.
(3) Individual sheets and covers shall be:
(a) Provided for a child;
(b) Laundered a minimum of once per week or more often, if necessary; and
(c) Stored in a sanitary manner.
(4) If cots or mats are used, floors shall be free from:
(a) Drafts;
(b) Liquid substances;
(c) Dirt; and
(d) Dampness.
(5) A cot, other equipment, and furnishings shall be spaced twelve (12) inches apart to allow free and safe movement by a person.
(6) A tiered crib shall not be used.
(7) Cots or mats not labeled for individual use by a child shall be sanitized after each use.
(8) Cots or mats shall not be ripped or torn.

Section 7. First Aid and Medicine. (1) First aid supplies shall:
(a) Be available to provide prompt and proper first aid treatment;
(b) Be stored out of reach of a child;
(c) Be periodically inventoried to ensure the supplies are current;
(d) If reusable, be:
1. Sanitized; and
2. Maintained in a sanitary manner; and
(e) Include:
1. Liquid soap;
2. Adhesive bandages;
3. Sterile gauze;
4. Medical tape;
5. Scissors;
6. A thermometer;
7. Flashlight;
8. Cold pack;
9. First aid book;
10. Disposable gloves; and
11. A cardiopulmonary resuscitation mouthpiece protector.
(2) A child showing signs of an illness or condition that may be communicable shall not be admitted to the regular child care program.
(3) If a child becomes ill while at the center:
(a) The child shall be placed in a supervised area isolated from the rest of the children;
(b) The parent or person exercising custodial control shall be contacted immediately; and
(c) Arrangements shall be made to remove the child from the child-care center as soon as practicable.
(4) Prescription medication shall not be administered to a child in care, without a daily written request of the parent.
(5) Nonprescription medication:
(a) May be given to a child only with the written daily request of the:
1. Parent; or
2. Person exercising custodial control of the child; and
(b) Shall be administered according to the instructions on the label.
(6) The child-care center shall keep a written record of the administration of medication, including:
(a) Time;
(b) Date;
(c) Amount; and
(d) Name of staff person giving the medication.
(7) Medication, including refrigerated medication, shall be:
(a) Stored in a separate and locked place, out of the reach of a child;
(b) Kept in the original bottle; and
(c) Properly labeled.
(8) Medication shall not be given to a child if the expiration date on the bottle has passed.

Section 8. Kitchen Requirements. (1) The kitchen shall:
(a) Be clean;
(b) Be equipped for the proper:
1. Preservation;
2. Storage;
3. Preparation; and
4. Serving of food;
(c) Be adequately ventilated to the outside air; and
(d) Except in a Type II center when a meal is not being prepared, not be used for the activity of a child.
(2) A center required to have a food service permit shall be in compliance with 902 KAR 45:005 and this administrative regulation.
(3) A child shall be:
(a) Seated with sufficient room to manage food and tableware; and
(b) Supplied with individual eating utensils designed for use by a child.
(4) Convenient and suitable sanitized utensils shall be:
(a) Provided; and
(b) Used to minimize handling of food during preparation.
(5) A cold-storage facility used for storage of perishable food in a nonfrozen state shall:
(a) Have an indicating thermometer or other appropriate temperature measuring device;
(b) Be in a safe environment for preservation; and
(c) Be forty-five (45) degrees Fahrenheit or below, or 140 degrees Fahrenheit or above.
(6) Except when being thawed for preparation or use, frozen food shall be:
(a) Kept at a temperature of zero degrees Fahrenheit or below; and
(b) If potentially hazardous:
1. Thawed at refrigerator temperatures;
2. Thawed under cool, potable running water;
3. Quick thawed as part of the cooking process; or
4. Thawed by another method satisfactory to the health authority.
(7) Equipment, utensils, and surfaces contacting food shall be:
(a) Smooth;
(b) Free of breaks, open seams, cracks, and chips;
(c) Accessible for cleaning; and
(d) Nontoxic.
(8) The following shall be clean and sanitary:
(a) Eating and drinking utensils;
(b) Kitchenware;
(c) Food contact surfaces of equipment;
(d) Food storage utensils;
(e) Cooking surfaces of equipment; and
(f) Nonfood contact surfaces of equipment.
(9) A single-service article shall be:
(a) Stored;
(b) Handled and dispensed in a sanitary manner; and
(c) Used only once.
(10) Bottles shall be:
(a) Individually labeled;
(b) Promptly refrigerated; and
(c) Covered when not in use.

Section 9. Food Requirements. (1) There shall be at least a

two (2) hour lapse, but no longer than three (3) hours lapse, between each meal or snack.

(2) A child present at meal or snack time shall be served.

(3) The child-care center shall serve:

(a)1. Breakfast; or

2. A mid-morning snack;

(b) Lunch;

(c) A mid-afternoon snack; and

(d) If appropriate, dinner.

(4) A weekly menu shall be:

(a) Prepared;

(b) Dated;

(c) Posted in advance in a conspicuous place;

(d) Kept on file for thirty (30) days; and

(e) Substitutions to a posted weekly menu shall be noted on the day the meal is served.

(5) Breakfast shall include:

(a) Milk;

(b) Bread; and

(c)1. Fruit;

2. Vegetable; or

3. 100 percent juice.

(6) A snack shall include two (2) of the following:

(a) Milk;

(b) Protein;

(c) Bread; or

(d)1. Fruit;

2. Vegetable; or

3. 100 percent juice.

(7) Lunch and dinner shall include:

(a) Milk;

(b) Protein;

(c) Bread; and

(d)1. Two (2) vegetables; or

2. A fruit and one (1) vegetable.

(8) Food shall be:

(a) Clean;

(b) Free from:

1. Spoilage;

2. Adulteration; and

3. Misbranding;

(c) Safe for human consumption;

(d) Withheld from service or discarded if the food is hermetically sealed, nonacidic, or low-acidic food that has been processed in a place other than a commercial food-processing establishment;

(e) Obtained from a source that is in compliance with applicable state and local law;

(f) Acceptable if from an established commercial food store;

(g) Served in a quantity reflecting the developmental stage of the child with additional portions provided upon request of the child; and

(h) Protected against contamination from:

1. Dust;

2. Flies;

3. Rodents and other vermin;

4. Unclean utensils and work surfaces;

5. Unnecessary handling;

6. Coughs and sneezes;

7. Flooding;

8. Drainage; and

9. Overhead leakage.

(9) Food shall be stored on:

(a) Clean racks;

(b) Clean shelves;

(c) Other clean surfaces; or

(d) If maintained in a sanitary condition, food in nonabsorbent containers may be stored on the floor.

(10) Fruits and vegetables shall be washed before cooking or serving.

(11) Meat salads, poultry salads, and cream filled pastries shall be:

(a) Prepared with utensils that are clean; and

(b) Unless served immediately, refrigerated pending service.

(12) An individual portion of food served to a child or adult shall not be served again.

(13) Wrapped food that is still wholesome and has not been unwrapped may be reserved.

(14) Drinking water shall be freely available to a child.

(15) A center may participate in the Child and Adult Care Food Program (CACFP) or provide formula to the child.

(16) A parent who provides formula or breast milk to the center for the child shall prepare the liquid and label its container.

Section 10. Toilet, Diapering, and Toiletry Requirements. (1) A child-care center shall have a minimum of one (1) toilet and one (1) lavatory for each twenty (20) children. Urinals may be substituted for up to one-half (1/2) of the number of toilets required for a male toilet room.

(2) A toilet room shall:

(a)1. Be provided for each gender; or

2. A plan shall be implemented to use the same toilet room at separate times;

(b) Have a supply of toilet paper; and

(c) Be cleaned and sanitized daily.

(3) A sink shall be;

(a) Located in or immediately adjacent to toilet rooms;

(b) Equipped with hot and cold running water that allows for hand washing;

(c) Equipped with hot water no more than 110 degrees Fahrenheit;

(d) Equipped with liquid soap and single use disposable hand drying material;

(e) Equipped with an easily cleanable, covered waste receptacle; and

(f) Immediately adjacent to a changing area used for infants and toddlers.

(4) Each toilet shall:

(a) Be kept in clean condition;

(b) Be kept in good repair;

(c) Be in a lighted room; and

(d) Have ventilation to outside air.

(5) Toilet training shall be coordinated with the child's parent.

(6) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.

(7) If a toilet training chair is used, the chair shall be:

(a) Emptied promptly; and

(b) Sanitized after each use.

(8) Diapers or clothing shall be:

(a) Changed when soiled or wet;

(b) Stored in a covered container temporarily; and

(c) Washed or disposed of at least once a day.

(9) The proper methods of diapering and hand-washing shall be posted at each diaper changing area.

(10) When a child is diapered, the child shall:

(a) Not be left unattended; and

(b) Be placed on a surface that is:

1. Clean;

2. Padded;

3. Free of holes, rips, tears, or other damage;

4. Nonabsorbent;

5. Easily cleaned; and

6. Free of any items not used for diaper changing.

(11) Unless allergic, individual disposable washcloths shall be used to thoroughly clean the affected area of the child.

(12) Staff shall disinfect the diapering surface after each child is diapered. disposed after each child is diapered.

(14) Combs, towels or washcloths, brushes, and toothbrushes used by a child shall be:

(a) Individually stored in separate containers; and

(b) Plainly labeled with the child's name.

(15) Toothbrushes shall be:

(a) Individually identified;

(b) Allowed to air dry; and

(c) Protected from contamination.

(16) Toothpaste used by multiple children shall be dispensed onto an intermediate surface such as waxed paper to avoid cross contamination.

Section 11. Toys and Furnishings. (1) All toys, equipment, and furniture contacted by a child shall be:
(a) Kept clean and in good repair and
(b) Free of peeling, flaking, or chalking paint.
(2) Indoor and outdoor equipment shall:
(a) Be clean, safe, and in good repair;
(b) Meet the physical, developmental needs, and interests of children of different age groups;
(c) Be free from sharp points or corners, splinters, protruding nails or bolts, loose or rusty parts, hazardous small parts, lead-based paint, poisonous material, and flaking or chalking paint; and
(d) Be designed to guard against entrapment or situations that may cause strangulation.
(3) Toys shall be:
(a) Used according to the manufacturer's safety specifications;
(b) Durable; and
(c) Without sharp points or edges.
(4) Toys and other items that are considered mouth contact surfaces by a child not toilet trained shall be sanitized daily by:
(a) Scrubbing in warm, soapy water using a brush to reach into crevices;
(b) Rinsing in clean water;
(c) Submerging in a sanitizing solution for at least two (2) minutes; and
(d) Air dried.
(5) Tables and chairs shall be of suitable size for children.
(6) Chairs appropriate for staff shall be provided to use when feeding, holding, or playing with a child.

Section 12. Transportation. (1) A center shall document conformance to federal and state law pertaining to:
(a) Vehicles;
(b) Drivers; and
(c) Insurance.
(2) A center providing or arranging transportation service shall:
(a) Be licensed and approved by the cabinet or its designee prior to transporting a child;
(b) Have a written plan; and
(c) Have written policies and procedures, including emergency procedures practiced monthly by staff that transport children.
(3) Prior to transporting a child, a center providing transportation services of a child shall notify the cabinet or its designee in writing of the:
(a) Type of transportation offered;
(b) Type of vehicle used for transportation;
(c) Plan for ensuring staff perform duties relating to transportation properly;
(d) Full insurance coverage for each vehicle;
(e) Agency policy and procedures relating to an emergency plan for evacuating the vehicle;
(f) Contracts, agreements, or documents detailing arrangements with any third party for services; and
(g) Safety procedures for:
1. Transporting a child;
2. Loading and unloading a child; and
3. Providing adequate supervision of a child.
(4) A vehicle used to transport children shall be equipped with:
(a) A fire extinguisher;
(b) First aid supplies as described in Section 7 of this administrative regulation;
(c) Emergency reflective triangles; and
(d) A device to cut the restraint system, if necessary.
(5) Transportation provided by licensed public transportation or a school bus shall:
(a) Meet Transportation Cabinet safety inspection requirements; and
(b) Comply with subsections (1) and (2) of this section.
(6) A vehicle used to transport children shall meet the following requirements:
(a) A twelve (12) or more passenger vehicle shall display a current certification of inspection from the Transportation Cabinet on the designated window.
(b) A vehicle that requires traffic to stop while loading and unloading a child shall be equipped with a system of:
1. Signal lamps;
2. Identifying colors; and
3. Cautionary words.
(c) A vehicle shall be equipped with seat belts for each occupant to be individually secured.
(d) A vehicle shall not transport children and hazardous materials at the same time.
(7) The appropriate car safety seat meeting federal motor vehicle safety standards in 49 C.F.R. 571.213 shall be used for each child.
(8) A daily inspection of the vehicle shall be performed and documented for the following:
(a) Tires;
(b) Lights, signals, mirrors, gauges, and wiper blades;
(c) Safety restraints;
(d) Fuel; and
(e) Free of debris.
(9)(a) The staff-to-child ratios set forth in Section 2(2) of this administrative regulation shall apply to vehicle transport, if not inconsistent with special requirements or exceptions in this section.
(b) An individual who is driving with a child in the vehicle shall supervise no more than four (4) children under the age of five (5).
(10) Each child shall:
(a) Have a seat;
(b) Be individually belted or harnessed in the seat; and
(c) Remain seated while the vehicle is in motion.
(11) A child shall not be left:
(a) Unattended at the site of aftercare delivery; and
(b) Unattended in a vehicle.
(12) If the parent or designee is unavailable, a prearranged written plan shall be completed to designate where the child can be picked up.
(13) A child shall not be picked up or delivered to a location that requires crossing the street or highway unless accompanied by an adult.
(14) A vehicle transporting a child shall have the headlamps on.
(15) A vehicle shall be refueled when not being used to transport a child. If emergency refueling or repair is necessary during transporting, all children shall be removed and supervised by an adequate number of adults while refueling or repair is occurring.
(16) If the driver is not in the driver's seat, the:
(a) Engine shall be turned off;
(b) Keys removed; and
(c) Emergency brake set.
(17) Transportation services provided shall:
(a) Be recorded in writing and include:
1. The first and last name of the child transported; and
2. The time each child gets on and the time each child gets off;
(b) Be completed by a staff member other than the driver; and
(c) Be kept for five (5) years.
(18) A driver of a vehicle transporting a child for a center shall:
(a) Be at least twenty one (21) years old;
(b) Complete the background checks as described in 922 KAR 2:110;
(c) Hold a current driver's license which has not been suspended or revoked during the last five (5) years;
(d) Not have had any convictions concerning vehicle operation in the past twelve (12) months; and
(e) Not caused an accident which resulted in the death of a person.
(19) Guns, ammunition, alcohol, or illegal substances shall not be transported in a vehicle transporting children.

Section **13.** [~~12.~~] Animals. (1) Animals shall be:
(a) Supervised by an adult when in the presence of a child in care; and
(b) Certified as properly **vaccinated** [~~inoculated~~] against rabies.
(2) A parent shall be notified in writing if a child has been bitten or scratched by an animal.
(3) Except when used as planned program activity in the control of an animal specialist, an animal that is considered wild or exotic shall not be allowed at a child-care center. [~~Child Care Ser-~~

~~vices. (1) Minimum staff-to-child ratios and group size for an operating child care facility shall be maintained as follows:~~

~~Age of Children~~	~~Ratio~~	~~Maximum Group Size*~~
~~Birth - 1 year~~	~~1 staff for 5 children~~	~~10~~
~~1 to 2 years~~	~~1 staff for 6 children~~	~~12~~
~~2 to 3 years~~	~~1 staff for 10 children~~	~~20~~
~~3 to 4 years~~	~~1 staff for 12 children~~	~~24~~
~~4 to 5 years~~	~~1 staff for 14 children~~	~~28~~
~~5 to 7 years~~	~~1 staff for 15 children~~	~~30~~
~~7 and older~~	~~1 staff for 25 children (for before and after school)~~	~~30~~
	~~1 staff for 20 children (for full day of care)~~	~~30~~

~~*Maximum Group Size is applicable only to Type I facilities.~~

~~(a) In a Type I facility, a group shall:~~

~~1. Be separately maintained in a defined area unique to the group; and~~

~~2. Have specific staff assigned to and responsible for the group.~~

~~(b) The age of the youngest child in the group shall determine the:~~

~~1. Staff-to-child ratio; and~~

~~2. Maximum group size.~~

~~(c) This subsection and subsection (9) of this section shall not apply during normal school hours to a facility:~~

~~1. Providing early childhood education to mixed-age groups of children whose ages range from two and one-half (2 1/2) to six (6) years; and~~

~~2. Accredited by or affiliated with a nationally-recognized education association that has criteria for group size and staff-to-child ratios contrary to the requirements of this subsection.~~

~~(d) If a child related to the director, employee, or person under the supervision of the licensee is receiving care in the facility, the child shall be included in the staff-to-child ratio.~~

~~(2) Each facility shall maintain a child care program that assures each child will be:~~

~~(a) Adequately supervised; and~~

~~(b) Protected from abuse or neglect. The program shall include:~~

~~1. A procedure to inform facility staff of the laws of the Commonwealth pertaining to child abuse or neglect, as required by KRS 620.030; and~~

~~2. Written policy that specifies that the procedures that were taught at the orientation training shall be implemented by each child care facility staff member.~~

~~3) The facility shall provide a planned program of activities:~~

~~(a) Geared to the individual needs and developmental levels of each child served;~~

~~(b) That provide experiences to promote the individual child's physical, emotional, social and intellectual growth and well-being. The daily program shall be under adult supervision and shall provide a variety of creative activities, that may include the following:~~

~~1. Art;~~

~~2. Music;~~

~~3. Dramatic play;~~

~~4. Stories and books;~~

~~5. Science;~~

~~6. Block building;~~

~~7. Tactile activity;~~

~~8. Indoor or outdoor play in which a child makes use of both small and large muscles;~~

~~9. A balance of active and quiet play, including group and individual activity; and~~

~~10. An opportunity for a child to:~~

~~a. Have some free choice of activities;~~

~~b. If desired, play apart from the group at times; and~~

~~c. Practice developmentally-appropriate self-help procedures in respect to:~~

~~(i) Clothing;~~

~~(ii) Toileting;~~

~~(iii) Handwashing; and~~

~~(iv) Eating.~~

~~(4) Activity areas, equipment, and materials shall be arranged so that the child's activity is visible to the supervising staff.~~

~~(5) Regularity of routines shall be implemented to afford the child familiarity with the daily schedule of activity.~~

~~(6) Sufficient time shall be allowed for an activity so that a child may progress at his own developmental rate.~~

~~(7) A child shall not be required to stand or sit for a prolonged period of time:~~

~~(a) During an activity;~~

~~(b) While waiting for an activity to start; or~~

~~(c) As punishment.~~

~~(8) Television or video viewing by a child shall be limited to program related areas.~~

~~(9) If school-age care is provided:~~

~~(a) A Separate area or room shall be provided in a Type I facility;~~

~~(b) Each child shall be provided a snack after school; and~~

~~(c) A separate toilet facility shall be provided for each gender; or~~

~~(d) A plan shall be implemented to use the same toilet facility at separate times.~~

~~(10) A child shall not be subjected to:~~

~~(a) Corporal physical discipline, as prohibited by KRS 199.896(18);~~

~~(b) Loud, profane, threatening, frightening, or abusive language; or~~

~~(c) Discipline that is associated with:~~

~~1. Rest;~~

~~2. Toileting; or~~

~~3. Food.~~

~~(11) If nighttime care is provided:~~

~~(a) A child shall not be permitted to spend more than sixteen (16) hours in the facility during one (1) twenty-four (24) hour period. Time spent in school shall be included in the sixteen (16) hour limit for a school-age child served by the child care facility;~~

~~(b) At least one (1) staff member:~~

~~1. Shall be assigned responsibility; and~~

~~2. Provide adequate supervision for each sleeping room;~~

~~(c) A child present for an extended period of time during waking hours shall receive a program of well-balanced and constructive activity geared to the child's age level and developmental needs;~~

~~(d) A child sleeping three (3) hours or more shall sleep in:~~

~~1. Pajamas; or~~

~~2. A nightgown;~~

~~(e) If a child attends school from the facility, the child shall be offered breakfast;~~

~~(f) Staff shall:~~

~~1. If employed by a Type I facility, remain awake while on duty; or~~

~~2. If employed by or is the operator of a Type II facility, remain awake until every child in care is asleep.~~

~~Section 2. Health and First Aid. The needs of a child shall be met as follows:~~

~~(1) First aid supplies shall:~~

~~(a) Be available to provide prompt and proper first aid treatment;~~

~~(b) Be stored out of reach of a child;~~

~~(c) Be periodically inventoried to ensure the supplies are current;~~

~~(d) If reusable, be:~~

~~1. Sanitized; and~~

~~2. Maintained in a sanitary manner;~~

~~(e) Include:~~

~~1. Liquid soap;~~

~~2. Adhesive bandages;~~

~~3. Sterile gauze;~~

~~4. Medical tape;~~

~~5. Scissors;~~

~~6. A thermometer;~~

~~7. Flashlight;~~

~~8. Cold pack;~~

~~9. First aid book;~~

~~10. Disposable gloves; and~~

~~11. A cardiopulmonary resuscitation mouthpiece protector.~~

~~(2) A child showing signs of an illness or condition that may be communicable shall not be admitted to the regular child care program. If a child becomes ill during the day:~~

~~(a) The child shall be placed in a supervised area isolated from the rest of the children;~~

~~(b) The parent or person exercising custodial control shall be contacted immediately; and~~

~~(c) Arrangements shall be made to remove the child from the child~~

~~care facility as soon as practicable.~~
~~(3) Except as authorized in writing by a licensed physician and with written daily request of the parent or person exercising custodial control, prescription medication or aspirin shall not be given to a child.~~
~~(4) Nonprescription medication:~~
~~(a) May be given to a child only with the written daily request of the:~~
~~1. Parent; or~~
~~2. Person exercising custodial control of the child;~~
~~(b) Shall be administered according to the instructions on the label.~~
~~(5) The child care facility shall keep a written record of the administration of medication, including:~~
~~(a) Time;~~
~~(b) Date;~~
~~(c) Amount; and~~
~~(d) Name of staff person giving the medication.~~
~~(6) Medication, including refrigerated medication, shall be:~~
~~(a) Stored in a separate, locked place, out of the reach of a child;~~
~~(b) Kept in the original bottle; and~~
~~(c) Properly labeled.~~
~~(7) Medication shall not be given to a child if the expiration date on the bottle has passed.~~
~~(8) A child shall be helped with personal care and cleanliness.~~
~~(9) A child shall wash his hands with liquid soap and running water:~~
~~(a) Before eating or handling food; and~~
~~(b) After toileting.~~
~~(10) Staff shall insure that diapering and toilet training is a relaxed, pleasant activity. Toilet training shall be coordinated with a parent or person exercising custodial control of the child.~~
~~(11) An adequate quantity of freshly laundered or disposable diapers and clean clothing shall be available.~~
~~(12) Soiled diapers or wet clothing shall be:~~
~~(a) Changed promptly;~~
~~(b) Stored in a covered container temporarily; and~~
~~(c) Washed or disposed of at least once a day.~~
~~(13) When a child is diapered:~~
~~(a) The child shall be placed on:~~
~~1. A clean washable surface; or~~
~~2. Surface with a disposable covering;~~
~~(b) Individual sanitized washcloths and towels or disposable towels shall be used to thoroughly clean and dry the child's buttocks, unless otherwise prescribed by a physician;~~
~~(c) Staff shall disinfect the surface after each child is diapered;~~
~~(d) If staff wear disposable plastic gloves, gloves shall be changed and disposed of after each child is diapered; and~~
~~(e) Staff shall wash their hands with liquid soap and running water after diapering each child.~~
~~(14) If a training chair is used, the chair shall be:~~
~~(a) Emptied promptly; and~~
~~(b) Sanitized after each use.~~
~~(15) An infant's formula shall be prepared and provided by the parent. An exception may be made for a facility that:~~
~~(a) Participates in the Child and Adult Care Food Program (CACFP); or~~
~~(b) Provides formula as a fringe benefit to the parent.~~
~~(16) Bottles shall be:~~
~~(a) Individually labeled;~~
~~(b) Promptly refrigerated; and~~
~~(c) Covered when not in use.~~
~~(17) A child shall not be fed with a propped bottle.~~
~~(18) Except for an infant or toddler or if the child attends nighttime or extended-hours care, a child shall have rest periods not to exceed two (2) hours. A child who does not sleep shall be permitted to play quietly after a reasonable rest period specific to the needs of the child.~~
~~(19) Drinking water shall be freely available to a child and an individual drinking cup shall be provided.~~
~~(20) Toilet articles like combs, towels or washcloths, brushes and toothbrushes used by a child shall be individual, stored so as to not touch each other, and plainly marked.~~
~~(21) A child present at meal or snack time shall be served.~~
~~(22) The child care facility shall serve:~~
~~(a) Breakfast; or~~
~~(b) A midmorning snack;~~
~~(c) Lunch; and~~
~~(d) A midafternoon snack; and~~
~~(e) If appropriate, dinner.~~
~~(23) There shall be at least a two (2) hour lapse, but no longer than three (3) hours, between each meal or snack.~~
~~(24) Food shall be served in a quantity reflecting the developmental stage of the child. Additional portions shall be provided upon request by the child.~~
~~(25) Food requirements shall be as follows:~~
~~(a) Breakfast shall include:~~
~~1. Milk;~~
~~2. Bread; and~~
~~3. Fruit; or~~
~~4. Vegetable; or~~
~~5. 100 percent juice.~~
~~(b) A snack shall include two (2) of the following:~~
~~1. Milk;~~
~~2. Protein;~~
~~3. Fruit or vegetable or 100 percent juice; or~~
~~4. Bread.~~
~~(c) Lunch and dinner shall include:~~
~~1. Milk;~~
~~2. Protein;~~
~~3. Two (2) vegetables or a fruit and one (1) vegetable; and~~
~~4. Bread.~~
~~(26) If a parent chooses to provide food for his child's meal or snack, or if food is catered, and the food does not meet the nutritional requirements listed in subsection (25) of this section, the facility shall provide additional food that is approved by the parent or person exercising custodial control and necessary to meet the requirements of subsection (25) of this section.~~
~~(27) During each meal:~~
~~(a) A child shall be seated with sufficient room to manage food and tableware; and~~
~~(b) An adult shall be present.~~
~~(28) Individual eating utensils shall be of size or designed for use by a child.~~
~~(29) A weekly menu shall be:~~
~~(a) Prepared;~~
~~(b) Dated;~~
~~(c) Posted in advance in a conspicuous place;~~
~~(d) Kept on file for thirty (30) days; and~~
~~(e) If a substitution is made, the change shall be noted on the menu the day of the meal service.~~
~~Section 3. Health and Sanitation. If a facility is required to have a food service permit, the facility shall be in compliance with 902 KAR 45:005, Food service code, and this section.~~
~~(1) A facility that serves a meal shall have:~~
~~(a) A three (3) compartment sink or similar equipment; and~~
~~(b) Procedures approved by the cabinet for washing and sanitizing dishes, silverware and cooking utensils after use.~~
~~(2) Food shall be:~~
~~(a) Clean;~~
~~(b) Free from:~~
~~1. Spoilage;~~
~~2. Adulteration; and~~
~~3. Misbranding;~~
~~(c) Safe for human consumption;~~
~~(d) Withheld from service or discarded, if the food is hermetically sealed, nonacidic or low-acidic food that has been processed in a place other than a commercial food-processing establishment;~~
~~(e) Obtained from a source that is in compliance with applicable state and local law;~~
~~(f) Acceptable if from an established commercial food store;~~
~~(g) Protected against contamination from:~~
~~1. Dust;~~
~~2. Flies;~~
~~3. Rodents and other vermin;~~
~~4. Unclean utensils and work surfaces;~~
~~5. Unnecessary handling;~~
~~6. Coughs and sneezes;~~
~~7. Flooding;~~
~~8. Drainage; and~~

~~9. Overhead leakage.~~
~~(3) Except when being prepared and served, potentially hazardous food shall be:~~
~~(a) Kept in a safe environment for preservation;~~
~~(b) Forty-five (45) degrees Fahrenheit or below; or~~
~~(c) 140 degrees Fahrenheit or above.~~
~~(4) Except when being thawed for preparation or use, frozen food shall be:~~
~~(a) Kept at a temperature of zero degrees Fahrenheit or below;~~
~~(b) If potentially hazardous:~~
~~1. Thawed at refrigerator temperatures;~~
~~2. Thawed under cool, potable running water;~~
~~3. Quick thawed as part of the cooking process; or~~
~~4. Thawed by another method satisfactory to the health authority.~~
~~(5) A cold-storage facility used for storage of perishable food in a nonfrozen state shall:~~
~~(a) Have an indicating thermometer; or~~
~~(b) Other appropriate temperature measuring device.~~
~~(6) Convenient and suitable sanitized utensils shall be:~~
~~(a) Provided; and~~
~~(b) Used to minimize handling of food during preparation.~~
~~(7) Poultry, pork and their products that have not been treated to destroy bacteria, including trichinae, shall be thoroughly cooked.~~
~~(8) Fruits and vegetables shall be washed before cooking or serving.~~
~~(9) Meat salads, poultry salads, and cream filled pastries shall be:~~
~~(a) Prepared with utensils that are clean; and~~
~~(b) Unless served immediately, refrigerated pending service.~~
~~(10) Food shall be stored in:~~
~~(a) Clean racks;~~
~~(b) Shelves;~~
~~(c) Other clean surfaces; or~~
~~(d) If maintained in a sanitary condition, food in nonabsorbent containers may be stored on the floor.~~
~~(11) An individual portion of food served to a child shall not be served again.~~
~~(12) Wrapped food that is still wholesome and has not been unwrapped may be reserved.~~
~~(13) The following shall be inaccessible to a child in care:~~
~~(a) Toxic cleaning supplies, poisons, and insecticides;~~
~~(b) Knives and sharp objects;~~
~~(c) Matches, cigarettes, lighters and flammable liquids;~~
~~(d) Plastic bags;~~
~~(e) Litter and rubbish; and~~
~~(f) Guns and ammunition, which shall be stored in a locked area.~~
~~(14) Health and disease controls shall be in place as follows:~~
~~(a) If a person is suspected to be infected with a communicable disease for which a reasonable probability for transmission exists due to the individual's job duties, the individual shall not perform these duties until the infectious condition can no longer be reasonably expected to be transmitted. Disagreement between the provider and the individual involved shall be resolved by the individual's physician or the local health department.~~
~~(b) An employee shall:~~
~~1. Maintain personal cleanliness;~~
~~2. Conform to hygienic practices while on duty;~~
~~3. Wash hands in running water with liquid soap:~~
~~a. Thoroughly before starting work;~~
~~b. As often as may be necessary to remove soil and contamination; and~~
~~4. Not resume work after toileting without first washing his hands.~~
~~(c) A facility shall have lavatories located in or immediately adjacent to toilet rooms.~~
~~(d) Food contact surfaces of equipment and utensils used in a facility shall be:~~
~~1. Smooth;~~
~~2. Free of:~~
~~a. Breaks;~~
~~b. Open seams;~~
~~c. Cracks; or~~
~~d. Chips;~~
~~3. Accessible for cleaning; and~~
~~4. Nontoxic.~~
~~(e) The following shall be clean and sanitary:~~
~~1. Eating and drinking utensils;~~
~~2. Kitchenware;~~
~~3. Food contact surfaces of equipment;~~
~~4. Food storage utensils;~~
~~5. Cooking surfaces of equipment; and~~
~~6. Nonfood contact surfaces of equipment.~~
~~(f) A single-service article shall be:~~
~~1. Stored;~~
~~2. Handled and dispensed in a sanitary manner; and~~
~~3. Used only once.~~
~~(g) An effective control measure shall be utilized to minimize the presence on the premises of:~~
~~1. Rodents;~~
~~2. Flies;~~
~~3. Roaches; and~~
~~4. Other vermin.~~
~~(h) An opening to the outer air shall be effectively protected against the entrance of insects by:~~
~~1. Self-closing doors;~~
~~2. Closed windows;~~
~~3. Screening;~~
~~4. Controlled air current; or~~
~~5. Other effective means.~~
~~(i) Floors, walls and ceilings shall be smooth and constructed to be easily cleanable. Walls, windows and ceilings shall be kept clean and in good repair.~~
~~(j) A kitchen shall be adequately ventilated to the outside air.~~
~~(k) The water supply shall be:~~
~~1. Properly located;~~
~~2. Protected from contamination;~~
~~3. Adequate in volume; and~~
~~4. Obtained from a source approved by the local health department.~~
~~(l) Groundwater supplies for a facility caring for:~~
~~1. More than twenty-five (25) children shall meet the specifications of the Cabinet for Environmental and Public Protection; or~~
~~2. Twenty-five (25) children or less shall secure approval from the:~~
~~a. Cabinet for Environmental and Public Protection; or~~
~~b. Local health department.~~
~~(m) Sewage shall be properly disposed of by a method approved by the:~~
~~1. Cabinet for Environmental and Public Protection; or~~
~~2. Cabinet.~~
~~(n) If the adequacy of the plumbing is questioned, consultation shall be sought from the:~~
~~1. Cabinet for Environmental and Public Protection; or~~
~~2. Local sanitarian having jurisdiction over the child care facility.~~
~~(o) Solid waste shall be kept in a suitable receptacle in accordance with local, county and state law, as governed by KRS 211.350 to 211.380, On-site disposal.~~
~~(p) A child care facility shall have adequate and conveniently located toilet and handwashing accommodations.~~
~~(q) Each toilet shall:~~
~~1. Be kept in clean condition;~~
~~2. Be kept in good repair;~~
~~3. Be in a lighted room; and~~
~~4. Have ventilation to outside air.~~
~~(r) A supply of toilet paper shall be available.~~
~~(s) Each lavatory shall have hot and cold running water, under pressure, that allows washing of hands under warm water.~~
~~(t) Water temperature at a lavatory used for hand washing shall not exceed 110 degrees Fahrenheit.~~
~~(u) Liquid soap and a sanitized individual cloth or paper towels shall be provided at each lavatory.~~
~~(v) An easily cleanable, covered waste receptacle shall be available in each toilet and handwashing area.~~
~~Section 4. Transportation. (1) Documentation shall be available to indicate conformance to federal and state law pertaining to:~~
~~(a) Vehicles;~~
~~(b) Drivers; and~~
~~(c) Insurance.~~
~~(2) A facility providing or arranging transportation service shall have a:~~
~~(a) Written plan; and~~

~~(b) Statement of transportation policies and procedures.~~
~~(3) Transportation provided by licensed public transportation or a school bus shall:~~
~~(a) Meet Transportation Cabinet safety inspection requirements; and~~
~~(b) Comply with subsections (1) and (2) of this section.~~
~~(4) The following are requirements for a facility-owned vehicle and its usage:~~
~~(a) A twelve (12) or more passenger van or bus shall display a current certification of inspection from the Transportation Cabinet on the designated window.~~
~~(b) A vehicle that requires traffic to stop while loading and unloading a child shall be equipped with a system of:~~
~~1. Signal lamps;~~
~~2. Identifying colors; and~~
~~3. Cautionary words.~~
~~(c) A car or van shall be equipped with seat belts for each occupant to be individually secured.~~
~~(d) A vehicle shall not transport children and hazardous materials at the same time.~~
~~(5)(a) The staff-to-child ratios set forth in Section 1(1) of this administrative regulation shall apply to vehicle transport, if not inconsistent with special requirements or exceptions in this section.~~
~~(b) A lone driver shall supervise no more than four (4) children under the age of five (5).~~
~~(6) Each child shall:~~
~~(a) Have a seat;~~
~~(b) Be individually belted or harnessed in the seat; and~~
~~(c) Remain seated while the vehicle is in motion.~~
~~(7) A child under forty (40) inches in height shall be transported in an approved safety seat.~~
~~(8) A vehicle containing a child shall not be left unattended.~~
~~(9) A child shall not be left unattended at the site of aftercare delivery.~~
~~(10) If the parent or a person designated by the parent to accept the child is not present upon delivery of the child, a prearranged written plan known to the parties shall designate where the child can be picked up.~~
~~(11) If a person other than the person ordinarily designated to receive the child is named as a substitute, the arrangements shall be:~~
~~(a) Made by the parent or person exercising custodial control of the child; and~~
~~(b) Documented at the time the arrangement is made.~~
~~(12) A child shall not be picked up at or delivered to a location that requires crossing the street or highway unless accompanied by an adult.~~
~~(13) A vehicle transporting a child shall have the headlamps on.~~
~~(14) A vehicle shall be refueled when not being used to transport a child. If emergency refueling or repair is necessary during transporting, a child shall be removed and supervised by an adequate number of adults while refueling or repair is occurring.~~
~~(15) If the driver is not in the driver's seat, the:~~
~~(a) Engine shall be turned off;~~
~~(b) Keys removed; and~~
~~(c) Brake set.~~
~~Section 5. Physical Facilities. (1) The building shall be suitable for the purpose intended.~~
~~(2) Exclusive of the kitchen, bathroom, hallway, and storage area, there shall be a minimum of thirty-five (35) square feet of space per child used for play. The entire child care facility shall be kept clean and in good repair.~~
~~(3) If a portion of the building is used for a purpose other than day care, necessary provisions shall be made to avoid interference with the day care program.~~
~~(4) The building shall be constructed:~~
~~(a) So that the building is:~~
~~1. Dry;~~
~~2. Adequately heated;~~
~~3. Ventilated; and~~
~~4. Lighted;~~
~~(b) To ensure the following are protected:~~
~~1. Windows;~~
~~2. Doors;~~
~~3. Stoves;~~
~~4. Heaters;~~
~~5. Furnaces;~~
~~6. Pipes; and~~
~~7. Stairs.~~
~~(5) An open window or door shall have a screen.~~
~~(6) A draft-free temperature of sixty-five (65) to seventy-five (75) degrees Fahrenheit shall be maintained in an occupied area during winter conditions. A draft-free temperature of sixty-eight (68) to eighty-two (82) degrees Fahrenheit shall be maintained in an occupied area during summer conditions.~~
~~(7) A facility shall have a minimum of one (1) toilet and one (1) wash basin for each twenty (20) children. In a boy's bathroom, urinals may be substituted for up to one-half (1/2) of the number of toilets required. A toilet facility shall be cleaned and sanitized daily.~~
~~(8) The kitchen shall:~~
~~(a) Be clean; and~~
~~(b) Be equipped for the proper:~~
~~1. Preservation;~~
~~2. Storage;~~
~~3. Preparation; and~~
~~4. Serving of food;~~
~~(c) Except in a Type II facility when a meal is not being prepared, not be used for the activity of a child.~~
~~(9) The child care facility shall be equipped with a telephone accessible to a room used by a child.~~
~~(10) A kitchen shall not be required if:~~
~~(a) The only food served is an afternoon snack to school-age children; and~~
~~(b) Adequate refrigeration is maintained.~~
~~(11) An indoor area for infants and toddlers shall be separate from an area used by older children. The infants and toddlers may participate in activities with older children for a short period of time.~~
~~(12) A facility shall have adequate crawling space for infants and toddlers that is:~~
~~(a) Protected from older children; and~~
~~(b) Away from general traffic patterns of the facility.~~
~~(13) A facility shall have a lavatory in or immediately adjacent to a changing area used for infants and toddlers.~~
~~(14) If a child care facility provides an outdoor play area for infants and toddlers, the outdoor area shall be:~~
~~(a) Shaded; and~~
~~(b) Out of the traffic pattern of older children.~~
~~(15) The Department of Housing, Buildings and Construction, State Fire Marshal's Office, and cabinet shall be contacted concerning a planned new building, addition, or major renovation prior to construction.~~
~~(16) Outdoor grounds shall be provided as follows:~~
~~(a) An on-site outdoor play area shall be:~~
~~1. Except for an after-school child care program located on the premises of a public or state-accredited nonpublic school, fenced for the safety of the children;~~
~~2. A minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (2) of this section;~~
~~3. Free from:~~
~~a. Litter;~~
~~b. Glass;~~
~~c. Rubbish; and~~
~~d. Flammable materials;~~
~~4. Safe from foreseeable hazard and well drained;~~
~~(b) If a child care facility does not have access to an outdoor play area, an indoor space shall:~~
~~1. Be used as a play area;~~
~~2. Have a minimum of sixty (60) square feet per child, separate from and in addition to the thirty-five (35) square feet minimum pursuant to subsection (2) of this section;~~
~~3. Include gross motor equipment; and~~
~~4. Be well-ventilated and heated.~~
~~(17) Equipment shall be:~~
~~(a) Clean, safe, and in good repair; and~~
~~(b) Meet the physical, developmental needs, and interests of children of different age groups.~~
~~(18) A child care facility shall have enough toys, play apparatus,~~

~~and age-appropriate developmental materials to provide each child with a variety of activities during the day, as specified in Section 1 of this administrative regulation. Toys shall be:~~
~~(a) Used according to the manufacturer's safety specifications;~~
~~(b) Durable; and~~
~~(c) Without sharp points or edges.~~
~~(19) Tables and chairs shall be of suitable size for children.~~
~~(20) Storage space shall be provided:~~
~~(a) In the form of low open shelves accessible to the children; and~~
~~(b) In sufficient quantity for each child's clothing.~~
~~(21) An individual cot, crib, baby bed or two (2) inch thick mat shall be provided for a child in attendance for more than three and one-half (3 1/2) hours per day. A crib shall have a firm, comfortable waterproof mattress. Individual sheets and covers shall be provided for a child and laundered a minimum of once per week or as needed. If mats are used, floors shall be free from drafts and dampness. A cot and other equipment and furnishings shall be properly spaced so as to allow free and safe movement by a person.~~
~~(22) A tiered crib shall not be used.~~
~~(23) Supplies shall be stored so that the adult can reach them without leaving the child unattended.~~
~~(24) Chairs shall be provided for staff to use when feeding, holding or playing with a child.~~]

MARK CORNETT, Deputy Commissioner
JANIE MILLER, Secretary
APPROVED BY AGENCY: January 14, 2008
FILED WITH LRC: January 15, 2008 at 11 a.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.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Justin Dearinger, (502) 564-3556, ext 4227
(1) Provide a brief summary of:
(a) What this administrative regulation does: This administrative regulation establishes health and safety standards for child-care centers.
(b) The necessity of this administrative regulation: This administrative regulation is necessary to establish standards for a child care center to ensure the health and safety of children in care.
(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the cabinet's authorization under KRS 194A.050(1), which requires the Secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate programs and fulfill the responsibilities vested in the cabinet, qualify for the receipt of federal funds, and cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.896(2) authorizes the Cabinet for Health and Family Services to promulgate administrative regulations and standards for child-care centers. This administrative regulation establishes health and safety standards for licensed child-care centers.
(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statute by establishing staff-to-child ratios and describing the requirements to ensure the safe and healthy operation of a licensed child-care center.
(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
(a) How the amendment will change this existing administrative regulation: The amendment to this administrative regulation will add the definitions from 922 KAR 2:001; revise and clarify the content of daily planned program activities; revise play area requirements; revise infant sleep positions; clarify requirements for sleeping equipment; add requirements for entities providing transportation services; clarify procedures pertaining to diapering practices, general hygiene practices, and animals when present in a child care center; and make technical changes to comply with KRS Chapter 13A.
(b) The necessity of the amendment to this administrative regulation: The amendment to this administrative regulation is necessary to ensure the health and safety of children in the care of a licensed child-care center and raise basic licensure standards of centers to more closely reflect national norms.
(c) How the amendment conforms to the content of the authorizing statutes: The amendment conforms to the content of the authorizing statutes by establishing requirements for planned program activities, indoor and outdoor premises, play areas, sleep positions, sleep equipment, hygiene, transportation services, and the use of animals to ensure the health, safety, and welfare of children in the care of a licensed child-care center.
(d) How the amendment will assist in the effective administration of the statutes: The amendment will assist in the effective administration of the statutes by clarifying the requirements for the issuance of a license and ongoing operation of a child-care center. The amendment also makes technical requirements to comply with KRS Chapter 13A.
(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Data from the Office of the Inspector General, Division of Regulated Child Care, indicate as of August 9, 2007, that there are 2156 Type I child care centers and 131 Type II child care centers.
(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: Child care centers will be required to post the daily plan of activities; include in the plan multi-cultural activities; limit the use of electronic viewing and listening devices; have written policy that specifies orientation training procedures to be implemented by each child care staff member; follow the most current policy of the American Academy of Pediatrics when placing a child to sleep; provide a protective surface and fall zone for play equipment used for climbing, swinging, and sliding; provide individual sleeping equipment for each child in attendance in excess of 3 1/2 hours per day; ensure cribs meet federal safety standards; follow hygienic procedures when feeding, diapering, or administering first aide; conduct a daily inspection of vehicles, if providing transportation; ensure drivers meet age, background checks, and license requirements; supervise animals and notify parents if a child is injured by an animal.
(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Monetary costs for these provisions to the child-care center operator and staff are minimal. The extra requirements are for sanitation such as hand washing and diaper changing procedures that will not increase expenses noticeably. The only cost not minimal would be the surface requirements for climbing equipment. Having climbing equipment is not required and is a choice by the center so only those who chose this option will incur more expense. The Department has consulted with diverse groups representing the interests of child care providers in the development of these amendments. These groups include the directors of the statewide Child Care Resource and Referral Agencies and Child Care Service Agents responsible for the Child Care Assistance Program, the STARS Advisory Council, KIDS NOW Implementation Team, and individual providers.
(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): As a result of compliance with the amendment, child-care center providers will improve the health, safety and quality of services provided to children in their care.
(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:
(a) Initially: There will be no additional costs to the cabinet as a result of this amendment.
(b) On a continuing basis: There will be no additional costs to the cabinet as a result of this amendment.
(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation? There are no additional costs to the Cabinet as a result of this amend-

ment.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There is no increase in funds or fees 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 establish licensure fees. There are fees established for child care licensure in KRS 199.896.

(9) TIERING: Is tiering applied? Tiering is not applied, as this administrative regulation will be applied in a like manner statewide.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 16 C.F.R. 1508 and 1509, 45 C.F.R. 98.2, 49 C.F.R. 571.213

2. State compliance standards. KRS 199.894, 199.896(2), (18), (19), 199.898, 211.350-211.380, 314.011(5), 620.030, 194A.050(1), 199.896(2)

3. Minimum or uniform standards contained in the federal mandate. 16 C.F.R. 1508 and 1509, 45 C.F.R. 98.2, 49 C.F.R. 571.213

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

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. Not applicable.

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 for Community Based Services-Division of Child Care and the Office of the Inspector General-Division of Regulated Child Care 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. 16 C.F.R. 1508 and 1509, 45 C.F.R. 98.2, 49 C.F.R. 571.213,KRS 199.894, 199.896(2), (18), (19), 199.898, 211.350-211.380, 314.011(5), 620.030, 194A.050(1), 199.896(2).

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 generate no revenue for the 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? This administrative regulation will generate no revenue for the state or local government either for subsequent years.

(c) How much will it cost to administer this program for the first year? There is no cost to administer this program for the first year

(d) How much will it cost to administer this program for subsequent years? There is no 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:

PERSONNEL BOARD
(Amendment)

101 KAR 1:325. Probationary periods.

RELATES TO: KRS 18A.005, 18A.0751(1)(e), (4)(e), 18A.111
STATUTORY AUTHORITY: KRS 18A.075(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:

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
1555	Resort Park Manager I	12 months
1556	Resort Park Manager II	12 months
1557	Resort Park Manager III	12 months
1584	Historic Site and Museum Manager	12 months
1585	Park Manager I	12 months
1586	Park Manager II	12 months
1588	Park Manager III	12 months
2001	Wildlife and Boating Law Enforcement Officer Recruit	12 months
2201	Correctional Officer	8 months
2301	Arson Investigator I	12 months
2302	Arson Investigator II	12 months
2305	Hazardous Devices Investigator	12 months
2308	Facilities Security Sergeant	12 months
2309	Facilities Security Lieutenant	12 months
2311	Facilities Security Officer I	12 months
2313	State Park Ranger Recruit	12 months
2322	Facilities Security Officer II	12 months
2330	KVE (Kentucky Vehicle Enforcement) Officer I	12 months
2350	Mounted Patrol Officer Recruit	12 months
2401	Police Telecommunicator I	12 months
2403	Police Telecommunicator II	12 months
2404	Police Telecommunications Shift Supervisor	12 months
2405	Police Telecommunications Supervisor	12 months
2408	KVE Inspector I	12 months
2410	CJIS (Criminal Justice Information System) Compliance Specialist I	12 months
2411	CJIS Compliance Specialist II	12 months
2412	CJIS Compliance Specialist III	12 months
2413	CJIS Compliance Supervisor	12 months
2415	Transportation Operations Center Specialist I	12 months
2433	Polygraph Examiner II	12 months
2434	Polygraph Examiner I	12 months
2468	Communications Dispatcher I	12 months
3254	Boiler Inspector I	12 months
3416	Financial Institutions Examiner I	12 months
3417	Financial Institutions Examiner II	12 months
3432	Financial Institutions Examiner III	12 months
3433	Financial Institutions Examiner IV	12 months
3434	Financial Institutions Examiner Specialist	12 months
3551	Insurance Fraud Investigator II	12 months
3553	Insurance Fraud Investigator Supervisor	12 months
4056	Firearms and Toolmark Examiner I	12 months
4058	Forensic Chemist I	12 months
4059	Forensic Chemist II	12 months
4061	Forensic Biologist I	12 months
4062	Forensic Biologist II	12 months
4080	Forensic Anthropologist	12 months
4550	Medical Investigator I	12 months
4551	Medical Investigator II	12 months
5120	Student Development Associate	12 months
6215	Disability Adjudicator I	12 months
6248	Juvenile Facility Superintendent I	12 months
6249	Juvenile Facility Superintendent III	12 months
6250	Facilities Regional Administrator	12 months
6251	Youth Services Program Supervisor	12 months
6252	Juvenile Facility Superintendent II	12 months
6267	Human Rights Field Supervisor	12 months
6292	Human Rights Enforcement Branch Manager	12 months
6296	Human Rights Research/Information Compliance Supervisor	12 months
6297	Human Rights Housing Compliance Supervisor	12 months
6298	Human Rights Employment/Public Accommodations Compliance Supervisor	12 months
6299	Human Rights Compliance Enforcement Officer II	12 months
6290	Administrative Hearing Officer I	12 months
6401	Youth Worker I	12 months
6404	Youth Worker Supervisor	12 months
6410	Juvenile Services District Supervisor	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester I	12 months
7222	Forester II	12 months
7224	Forester III	12 months
7226	Forester District	12 months
7231	Rural Fire Suppression 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
8326	Right-of-way Agent I	12 months
9520	Revenue Audit 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
9866	Mitigation Specialist I	12 months
9885	Investigator I	12 months

(3) If the length of the initial probationary period for a job classification is changed, an employee serving an initial probationary period on the effective date of the change shall serve the shorter of the initial probationary periods. When the employee is appointed, the employee's appointing authority shall advise the employee of the period of his initial probation.

(4) If an applicant is appointed to a position from a competitive register, the appointment shall be considered an initial appointment.

Section 2. Promotional Probationary Period. (1) An employee who satisfactorily completes the promotional probationary period shall be granted status in the position to which he has been promoted. Unless an employee receives notice prior to the end of his promotional probationary period that he has failed to satisfactorily complete the promotional probationary period and that he is being reverted, the employee shall be deemed to have served satisfactorily and shall acquire status in the position to which he has been promoted.

(2) An employee who fails to satisfactorily complete a promotional probationary period shall be reverted to his former position or to a position in the same job classification as his former position. A written notification shall be sent to the employee to advise the employee of the effective date of reversion. 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 month 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: January 15, 2008

FILED WITH LRC: January 15, 2008 at 8 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008, at 9 a.m. at the Kentucky Personnel Board, 28 Fountain Place, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by February 13, 2008, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be 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 close of business February 29, 2008. Send written notification of intent to be heard at the public hearing or written comments to:

CONTACT PERSON: Mark A. Sipek, Executive Director, Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, phone (502) 564-7830, fax (502) 564-1693.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Mark A. Sipek

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation sets forth the positions for which an initial probationary period in excess of six (6) months is required.

(b) The necessity of this administrative regulation: To establish the appropriate probationary periods for classifications throughout state government.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 18A.0751(4)(e) requires the Personnel Board to promulgate an administrative regulation listing the job classifications for which an initial probationary period in excess of six (6) months is required.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation sets forth the positions for which an initial probationary period in excess of six (6) months is required.

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

(a) How the amendment will change this existing administrative regulation: The proposed amendment provides for a new initial probationary period of twelve months for Medical Investigator I and Medical Investigator II.

(b) The necessity of the amendment to this administrative regulation: Secretary of the Personnel Cabinet has recommended changes to the classifications for which an initial probationary period in excess of six (6) months is required.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment consists of changes to the list of classifications for which an initial probationary period in excess of six (6) months is required.

(d) How the amendment will assist in the effective administration of the statutes: This amendment is necessary to meet state agency needs and allow for longer probationary periods for Medical Investigator I and Medical Investigator II in order for the Medical Licensure Board to monitor the employee's progress with regard to their caseload.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All state employees appointed to the listed classifications, and the state government agencies that employ them.

(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: None

(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 Medical Licensure Board will be able to more fully observe the job performance of initial probationary employees in the affected classifications to determine if those employees should gain status in the classified system.

(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: 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: Not applicable.

(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? This regulation must apply equally to all classified employees in all state agencies with classified employees.

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 department, or school districts)? No

2. What units, parts or divisions of state or local government (including cities, counties, fire department, 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.

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

FINANCE AND ADMINISTRATION CABINET
Department of Revenue
Office of Income Taxation
(Amendment)

103 KAR 3:040. Income Tax Forms manual.

RELATES TO: KRS 131.041-131.081, 131.081(2), 131.081(9), 131.081(15), 131.110, 131.130, 131.130(3), 131.155, 131.170, 131.180, 131.190, 131.190(1), 131.340, 131.500, 131.500(1), 131.500(2), 131.500(3), 131.500(10), 131.510(1), 131.510(2)(a), 131.540, 141.010, 141.0101, 141.011, 141.016, 141.020, 141.0202, 141.030, 141.040, 141.0401, 141.0405, 141.041, 141.042, 141.044, 141.062, 141.065, 141.066, 141.067, 141.068, 141.069, 141.070, 141.071, 141.120, 141.160, 141.170, 141.180, 141.200, 141.205, 141.206, 141.208, 141.300, 141.310, 141.325, 141.330, 141.335, 141.347, 141.370, 141.390, 141.395, 141.400, 141.401, 141.403, 141.405, 141.407, 141.412, 141.418, 141.420, 141.423, 141.424, 141.428, 141.430, 141.990, 151B.127, 154.12-2086, 154.20-050, 154.22-060, 154.23-035, 154.24-110, 154.26-090, 154.028-090, 154.34-080, 154.45-090, 154.48-025, 155.170

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, 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to determine corporation income tax due in accordance with KRS 141.040 and the limited liability tax due in accordance with KRS 141.0401 for years beginning in 2007[~~2006~~].

(2) Revenue Form 41A720A, "Schedule A, Apportionment and Allocation", shall be used by a corporation or a pass-through entity taxable both [~~doing business~~] within and without [~~of~~] Kentucky to apportion and allocate net income to Kentucky in accordance with KRS 141.120 or 141.206.

(3) Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation – Continuation Sheet (For corporations and pass-through entities taxable in Kentucky and taxable in another state)", shall be used by a corporation or a pass-through entity that is a partner, member, or shareholder in another pass-through entity and taxable both within and without Kentucky. [~~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/LLET 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).

(6)[~~(7)~~] Revenue Form 41A720-CI, "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.

(7)[~~(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.

(8)[~~(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.

(9)[~~(10)~~] Revenue Form 41A720ES, "Form 720ES, 2008[~~2007~~] Kentucky Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", shall be used by a corporation or a limited liability pass-through entity to submit payments of estimated corporation income or limited liability entity tax as required by KRS 141.044.

(10)[~~(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.

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

(12)[~~(13)~~] Revenue Form 41A720(I), "Instructions, 2007[~~2006~~] Kentucky Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", shall be used by a corporation to file its 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return and related schedules.

(13)[~~(14)~~] Revenue Form 41A720KCR, "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.

(14)[~~(15)~~] Revenue Form 41A720KCR-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 41A720KCR.

(15) Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", shall be used by a corporation or a limited liability pass-through entity to determine the limited liability entity tax in accordance with KRS 141.0401.

(16) Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by a corporation or a limited liability pass-through entity that is a partner, member, or shareholder in another limited liability pass-through entity or a general partnership organized or formed as a general partnership after January 1, 2006.

(17) Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax", shall be used by limited liability pass-

through entities with Economic Development Projects to determine the limited liability entity tax.

(18) Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C, Limited Liability Entity Tax - Continuation Sheet", shall be used by limited liability pass-through entities that are partners, members, or shareholders in another limited liability pass-through entity or general partnership organized or formed as a general partnership after January 1, 2006.

(19)[~~(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.

(20) Revenue Form 41A720NOL-CF, "Schedule NOL CF, Kentucky KNOL Carryforward Schedule", shall be used by a corporation filing a consolidated income tax return (Form 720) to show the Kentucky net operating loss (KNOL) carryforward balance for each member of the affiliated group.

(21)[~~(17) Revenue Form 41A720(P), "2006 Kentucky Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720, Kentucky Corporation Income Tax Return, other forms commonly used by a C corporation in conjunction with Form 720 and instructions for filing these forms. The packet shall also contain a brochure entitled "Your Rights as a Kentucky Taxpayer".~~

~~(18)~~] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", shall be used by a corporation, individual, or pass-through entity [~~partnership~~] to determine the credit against income tax liability or LLET liability allowed by KRS 141.395.

(22)[~~(19) Revenue Form 41A720QR (K-1), "Schedule QR (K-1), 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/LLET 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 pass-through entity [~~partnership~~] to substantiate and keep a record of the amount of approved credit claimed on their income tax return.

(23)[~~(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.

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

(25)[~~(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 to compute tax credit recaptured to be reported on the 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, 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return", shall be used by and limited liability entity tax an S corporation to determine the amount of corporation income tax due in accordance with KRS 141.040 and 141.0401 and to report the shareholders' share of income, loss, credits, deductions, etc. for tax years beginning in 2007[~~2006~~].

(27) Revenue Form 41A720S(I), "Instructions 2007[~~2006~~] Kentucky S Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", shall be used by an S corporation to file its 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return and related schedules.

(28) Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With Economic Development Projects", shall be used by S Corporations with Economic Development Projects to determine the shareholders' shares of income, credit, deductions, etc., excluding the Economic Development Projects.

(29) Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2007[~~2006~~] 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 shall 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.

(30)[~~(29)~~] Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation or Limited Liability Pass-Through Entity [~~Income Tax~~] Return", shall be used by a corporation or a limited liability entity to request a six (6) month extension of time to file a corporation return or an income and LLET return [~~its Kentucky Corporation Income Tax Return~~]. Instructions shall be included on the back of the form.

[~~(30) Revenue Form 41A720S(P), "2006 Kentucky S Corporation Income Tax Forms and Instructions", shall provide in a single packet Form 720S, Kentucky S 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 or a limited liability pass-through entity 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 Remediati4n Tax Credit (Brownfield) Expenditure Summary Schedule", shall be used by a taxpayer to list the expenditures incurred at a 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 and before January 1, 2007, as previously filed.

(34) Revenue Form 41A720-AMENDED (2007), "Form 720-AMENDED (2007), Amended Kentucky Corporation Income Tax and LLET Return", shall be used by a C corporation to amend its Kentucky Corporation Income Tax and LLET Return for periods beginning on or after January 1, 2007.

(35)[~~(36)~~] Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return", 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.

(36)[~~(37) Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax Return", 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 41A720-S1, "Form 2220-K, Underpayment of Estimated Income 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 141.990.

(37)[~~(39)~~] Revenue Form 41A720-S4, "Instructions for Filing Corporation Income/Limited Liability Entity Estimated [~~Income~~] Tax Voucher", shall include instructions used by a corporation or a limited liability pass-through entity to determine the amount of estimated corporation income tax or limited liability entity tax that is required to be paid in accordance with KRS 141.044.

(38)[~~(40)~~] Revenue Form 41A720-S5, "Form 8903-K, Kentucky Domestic Production Activities Deduction", shall be used by a corporation to determine the Domestic Production Activities Deduction amount for Kentucky corporation income tax purposes and shall be attached to the corporation income tax return.

(39)[~~(41)~~] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", 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 and the limited liability entity tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(40)[~~(42)~~] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", shall be used by a company[~~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.

(41)[~~(43)~~] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity[~~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 and limited liability entity tax liability in accordance with KRS 141.347. Instructions shall be included on the back of the form.

(42)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(43)[~~(45)~~] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", shall be used by a company[~~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.

(44)[~~(46)~~] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity[~~General Partnership~~])", shall be used by a pass-through entity [~~general partnership~~] which has a Kentucky Industrial Development Act (KIDA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.400. Instructions shall be included on the back of the form.

(45)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(46)[~~(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.

(47)[~~(49)~~] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity[~~General Partnership~~])", shall be used by a pass-through entity[~~general partnership~~] which has a Kentucky Industrial Revitalization Act (KIRA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.403. Instructions shall be included on the back of the form.

(48)[~~(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 and the limited liability entity tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(49)[~~(51)~~] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking 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. Instructions shall be included on the back of the form.

(50)[~~(52)~~] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity[~~General Partnership~~])" shall be used by a pass-through entity [~~general partnership~~] which has a Kentucky Jobs Development Act (KJDA) project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability in accordance with KRS 141.407. Instructions shall be included on the back of the form.

(51)[~~(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 Act (KRA) project to compute the allowable KRA credit allowed against the Kentucky corporation income tax liability and the limited liability entity tax liability.

(52)[~~(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 Act (KRA) project to main a record of the balance of approved costs and [~~income~~] tax credits for the duration of the agreement.

(53)[~~(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 and the limited liability entity tax liability.

(54)[~~(56)~~] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ Project of a Pass-Through Entity[~~General Partnership~~])," shall be used by any pass-through entity[~~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 and the limited liability entity tax liability.

(55)[~~(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.

(56) Revenue Form 41A720-S43, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of Corporations)", shall be used by a corporation which has entered into a Kentucky Environmental Stewardship Act project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability.

(57) Revenue Form 41A720-S44, "Schedule KESA-T, Tracking Schedule for a KESA Project", shall be used by a company which has entered into an agreement for a Kentucky Environmental Stewardship Act project to maintain a record of the debt service payments, wage assessment fees, approved costs and tax credits for the duration of the agreement.

(58) Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of Corporations)", shall be used by a company which has entered into a Kentucky Jobs Retention Act project to determine the credit allowed against the Kentucky income tax liability and the limited liability entity tax liability.

(59) Revenue Form 41A720-S46, "Schedule KJRA-T, Tracking Schedule For a KJRA Project", shall be used by a company which has entered into an agreement for a Kentucky Jobs Retention Act

project to maintain a record of the debt service payments, wage assessment fees, approved costs, and tax credits for the duration of the agreement.

(60)[~~(58)~~] Revenue Form 41A725, "Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", shall be used by a single member individually-owned LLC to file a LLET [~~corporation tax~~] return in accordance with KRS 141.0401 [~~141.040~~].

(61)[~~(59)~~] Revenue Form 41A725CP, "Schedule CP, Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned Composite Return Schedule", shall be used by a single member individual with multiple LLC entities to file LLET [~~corporation tax~~] returns in accordance with KRS 141.0401 [~~141.040~~].

(62)[~~(60)~~] Revenue Form 41A725(I), "Instructions, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", shall be used by a single member LLC individually owned to file a 2007[~~2006~~] Kentucky LLET [~~corporation income tax~~] return and related schedules.

(63)[~~(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 computation of each entity included in the nexus consolidated return.~~

~~(62) Revenue Form 41A725KCR-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 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), "2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return Forms and Instructions", shall provide, in a single packet Form 725, Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return, other forms commonly used by limited liability entities [~~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".

(64)[~~(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.

(65)[~~(66)~~] Revenue Form 41A765, "Form 765, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~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 Kentucky income and LLET [~~corporation tax~~] return in accordance with KRS 141.0401 [~~141.040~~].

(66)[~~(67)~~] Revenue Form 41A765(I), "Instructions, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~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 2007[~~2006~~] Kentucky income and LLET [~~corporation income tax~~] return and related schedules.

(67) Revenue Form 41A765(K), "Form 765(K), Kentucky Schedule K For Partnerships With Economic Development Projects", shall be used by partnerships with Economic Development Projects to determine the partners' share of income, credits, deductions, etc., excluding the economic development projects.

(68) Revenue Form 41A765 (K-1), "Schedule K-1 (Form 765), 2007[~~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 41A765KCR, "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 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 Continuation Sheet", shall be used as needed by an S corporation or partnership organized as a LLC, LLP, or LP filing a nexus consolidated return and Revenue Form 41A765KCR.~~

~~(71) Revenue Form 41A765(P), "2006 Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax 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".~~

~~(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.

(70)[~~(73) 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.~~

~~(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.

(71)[~~(75)~~] 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, "2007[~~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) month [~~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 pass-through entity [~~general partnership~~] doing business in Kentucky to report Kentucky income tax withheld on each nonresident individual or corporate partner doing business in Kentucky only through its ownership interest in the pass-through entity [~~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 pass-through entity [~~general partnership~~] doing business in Kentucky to report and pay Kentucky income tax withheld on nonresident individual and corporate 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 42A003, "Withholding Kentucky Income Tax Instructions for Employers", shall provide instructions for employers and shall contain forms used for withholding and reporting Kentucky income tax withholding.

(8) Revenue Form 42A003(T), "2008[~~2007~~] Withholding Tax Tables Computer Formula", shall be used by an employer for com-

puting employees Kentucky income tax withholding each pay period.

(9) Revenue Form 42A740, "2007[~~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 2007[~~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, 2007[~~2006~~] Kentucky Itemized Deductions", shall be completed by resident individuals and attached to Form 740 to support itemized deductions claimed for 2007[~~2006~~].

(11) Revenue Form 42A740ES, "2008[~~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, "2007[~~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 2007[~~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), "2007[~~2006~~] Kentucky Individual Income Tax Instructions for Form 740 and 740EZ", shall be used by resident individuals to file the 2007[~~2006~~] Kentucky Individual Tax Return and related schedules.

(14) Revenue Form 42A740-J, "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, 2007[~~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, 2007[~~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, "2007[~~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 2007[~~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, 2007[~~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 2007[~~2006~~].

(19) Revenue Form 42A740-NP-ME, "Schedule ME, 2007[~~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 2007[~~2006~~].

(20) Revenue Form 42A740-NP(I), "Instructions for 2007[~~2006~~] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", shall be used by nonresident or part-year resident individuals to file the 2007[~~2006~~] Kentucky Form 740-NP and related schedules.

(21) Revenue Form 42A740-NP-R [~~42A740-S9-R~~], "740-NP-R, 2007[~~2006~~] Kentucky Income Tax Return Nonresident - Reciprocal State", shall be completed by resident individuals of reciprocal states to request a refund of Kentucky withholding for 2007[~~2006~~].

(22) Revenue Form 42A740-NP(P), "2007[~~2006~~] Kentucky Income Tax Return, Nonresident or Part-Year Resident", shall be a packet containing forms and instructions and shall be mailed to nonresident and part-year resident individuals for use in filing a Kentucky individual tax return for 2007[~~2006~~].

(23) Revenue Form 42A740(PKT) [~~41A740(PKT)~~], "2007[~~2006~~] Kentucky Individual Income Tax Forms", shall be a packet containing forms and instructions and shall be mailed to resident individuals for use in filing a Kentucky individual tax return for 2007[~~2006~~].

(24) Revenue Form 42A740-P, "Schedule P, Form 740, 2007[~~2006~~] Kentucky Pension Income Exclusion", shall be completed by individuals and attached to Form 740 to compute the amount of allowable pension exclusion for 2007[~~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 Year 2005, [~~or~~] 2006, 2007", 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, and 2007.

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

(28) Revenue Form 42A740-S1, "[~~Form~~]2210-K, 2007[~~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 a tax year beginning in 2007[~~2006~~].

(29) Revenue Form 42A740-S4, "2008[~~2007~~] Instructions for Filing Estimated Tax Vouchers", shall be used to compute the amount of estimated tax due for 2008[~~2007~~].

(30) Revenue Form 42A740-S18, "8582-K, 2007[~~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, 2007[~~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, 2007[~~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, 2007[~~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, "8863-K, 2007[~~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, 2007[~~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, 2007[~~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 2007[~~2006~~] Form 741.

(38) Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2007[~~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-GP, "Form 765-GP, 2007[~~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 2007[~~2006~~].

(40) Revenue Form 42A765-GP(I), "Instructions, 2007[~~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, 2007[~~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), "2007[~~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 Taxpayer".

(43) Revenue Form 42A765-GP(K) [~~42A765-S1~~], "Form 765-GP(K) 2007[~~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 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, 2007[~~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 2007[~~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, Amended 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 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 Department of Revenue 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 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.

(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 the Kentucky Department of Revenue Web site.

(57) Revenue Form 42A809, "Certificate of Nonresidence", shall be used 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 a 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, "2007[~~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, 2007[~~2006~~] Kentucky Corporation Income Tax and LLET Return", 2007[~~2006~~];

2. Revenue Form 41A720A, "Schedule A, Apportionment and Allocation", October, 2007[~~2006~~];

3. Revenue Form 41A720A-C, "Schedule A-C, Apportionment and Allocation - Continuation Sheet", October, 2007. [~~Revenue Form 41A720AMC, "Schedule AMC, Alternative Minimum Calculation", October, 2006;~~]

4. Revenue Form 41A720BIO, "Schedule BIO, Application and Credit Certificate of Income Tax/LLET 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, 2007[~~2006~~];

6.[~~7.~~] Revenue Form 41A720-CI, "Schedule CI, Application for Coal Incentive Tax Credit", October, 2007[~~2006~~];

7.[~~8.~~] Revenue Form 41A720CR, "Schedule CR, Pro Forma Federal Consolidated Return Schedule", October, 2007[~~2006~~];

8.[~~9.~~] Revenue Form 41A720CR-C, "Schedule CR-C, Pro Forma Federal Consolidated Return Schedule Continuation Sheet", October, 2007[~~2006~~];

9.[~~10.~~] Revenue Form 41A720ES, "Form 720ES, 2008[~~2007~~] Kentucky Corporation Income/Limited Liability Entity Tax Estimated Tax Voucher", June, 2007[~~August,2006~~];

10.[~~11.~~] Revenue Form 41A720EZC, "Schedule EZC, Enterprise Zone Tax Credit", October, 2007[~~2006~~];

11.[~~12.~~] Revenue Form 41A720HH, "Schedule HH, Kentucky Housing for Homeless Families Deduction", October, 2007[~~2006~~];

12.[~~13.~~] Revenue Form 41A720(I), "Instructions, 2007[~~2006~~] Kentucky Corporation Income Tax and Limited Liability Tax (LLET) Return", October, 2007[~~2006~~];

13.[~~14.~~] Revenue Form 41A720KCR, "Schedule KCR, Kentucky Consolidated Return Schedule", October, 2007[~~2006~~];

14.[~~15.~~] Revenue Form 41A720KCR-C, "Schedule KCR-C, Kentucky Consolidated Return Schedule Continuation Sheet", October, 2007[~~2005~~];

15. Revenue Form 41A720LLET, "Schedule LLET, Limited Liability Entity Tax", October, 2007;

16. Revenue Form 41A720LLET-C, "Schedule LLET-C, Limited Liability Entity Tax - Continuation Sheet", October, 2007;

17. Revenue Form 41A720LLET(K), "Schedule LLET(K), Limited Liability Entity Tax", October, 2007;

18. Revenue Form 41A720LLET(K)-C, "Schedule LLET(K)-C,

Limited Liability Entity Tax - Continuation Sheet", October, 2007;

19.[~~16.~~] Revenue Form 41A720NOL, "Schedule NOL, Net Operating Loss Schedule", October, 2007[~~2006~~];

20. Revenue Form 41A720NOL-CF, "Schedule NOL-CF, Kentucky KNOL Carryforward Schedule", October, 2007;

21.[~~17. Revenue Form 41A720(P), "2006 Kentucky Corporation Income Tax Forms and Instructions", October, 2006;~~

~~18.~~] Revenue Form 41A720QR, "Schedule QR, Qualified Research Facility Tax Credit", October, 2007[~~2006~~];

22.[~~19. Revenue Form 41A720QR (K-1), "Schedule QR (K-1), 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, 2007[~~2006~~];

23.[~~21.~~] Revenue Form 41A720RC(C), "Schedule RC - Part I Continuation", October, 2007[~~2006~~];

24.[~~22.~~] Revenue Form 41A720RC(I), "Instructions For Schedule RC", October, 2007[~~2006~~];

25.[~~23. Revenue Form 41A720-RC (K-1), "Schedule RC (K-1), Distributive Share of Approved Recycling and/or Composting Equipment Tax Credit", October, 2006;~~

~~24.~~] Revenue Form 41A720RC-R, "Schedule RC-R, Kentucky Disposition of Recycling or Composting Equipment Schedule", October, 2007[~~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;~~]

26. Revenue Form 41A720S, "Form 720S, 2007[~~2006~~] Kentucky S Corporation Income Tax and LLET Return", 2007[~~2006~~];

27. Revenue Form 41A720S(I), "Instructions 2007[~~2006~~] Kentucky S Corporation Income Tax and Limited Liability Entity Tax (LLET) Return", October, 2007[~~2006~~];

28. Revenue Form 41A720S(K), "Form 720S(K), Kentucky Schedule K for S Corporations With economic Development Projects", October, 2007;

29. Revenue Form 41A720S (K-1), "Schedule K-1 (Form 720S), 2007[~~2006~~] Shareholder's Share of Income, Credits, Deductions, Etc.", 2007[~~2006~~];

30.[~~29.~~] Revenue Form 41A720SL, "Application for Six-Month Extension of Time to File Kentucky Corporation or Limited Liability Pass-Through Entity [~~Income Tax~~] Return", October, 2007[~~2006~~];

[~~30. Revenue Form 41A720S(P), "2006 Kentucky S Corporation Income Tax Forms and Instructions", October, 2006;~~]

31. Revenue Form 41A720TCS, "Schedule TCS, Tax Credit Summary Schedule", October, 2007[~~2006~~];

32. Revenue Form 41A720VERB, "Schedule VERB, Voluntary Environmental Remediation Tax Credit (Brownfield)", October, 2007[~~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", November, 2007[~~2006~~];

34. Revenue Form 41A720-AMENDED, "Form 720-AMENDED (2007), Amended Kentucky Corporation Income Tax and LLET Return", 2007;

35.[~~36.~~] Revenue Form 41A720X, "Form 720X, Amended Kentucky Corporation Income Tax and Corporation License Tax Return" November, 2007[~~2006~~];

36.[~~37. Revenue Form 41A720XX, "Form 720XX, Amended Kentucky Corporation Income Tax return", November, 2006;~~

~~38.~~] Revenue Form 41A720-S1, "Form 2220-K, Underpayment of Estimated Tax by Corporations", October, 2007[~~2006~~];

37.[~~39.~~] Revenue Form 41A720-S4, "Instructions for Filing Corporation Income/Limited Liability Entity Estimated [~~Income~~] Tax Voucher", October, 2007[~~2006~~];

38.[~~40.~~] Revenue Form 41A720-S5, "Schedule 8903-K, Kentucky Domestic Production Activities Deduction", October, 2007[~~2006~~];

39.[~~41.~~] Revenue Form 41A720-S16, "Schedule KREDA, Tax Credit Computation Schedule (For a KREDA Project of Corporations)", December, 2007[~~2006~~];

40.[~~42.~~] Revenue Form 41A720-S17, "Schedule KREDA-T, Tracking Schedule for a KREDA Project", October, 2007[~~2006~~];

41.[~~43.~~] Revenue Form 41A720-S18, "Schedule KREDA-SP, Tax Computation Schedule (For a KREDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~2006~~];

42.[~~44.~~] Revenue Form 41A720-S20, "Schedule KIDA, Tax Credit Computation Schedule (For a KIDA Project of Corporations)", December, 2007[~~2006~~];

43.[~~45.~~] Revenue Form 41A720-S21, "Schedule KIDA-T, Tracking Schedule for a KIDA Project", October, 2007[~~2006~~];

44.[~~46.~~] Revenue Form 41A720-S22, "Schedule KIDA-SP, Tax Computation Schedule (For a KIDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2006;

45.[~~47.~~] Revenue Form 41A720-S24, "Schedule KIRA, Tax Credit Computation Schedule (For a KIRA Project of Corporations)", December, 2007[~~2006~~];

46.[~~48.~~] Revenue Form 41A720-S25, "Schedule KIRA-T, Tracking Schedule for a KIRA Project", October, 2007[~~2006~~];

47.[~~49.~~] Revenue Form 41A720-S26, "Schedule KIRA-SP, Tax Computation Schedule (For a KIRA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~2006~~];

48.[~~50.~~] Revenue Form 41A720-S27, "Schedule KJDA, Tax Credit Computation Schedule (For a KJDA Project of Corporations)", October, 2007[~~December, 2006~~];

49.[~~51.~~] Revenue Form 41A720-S28, "Schedule KJDA-T, Tracking Schedule for a KJDA Project", October, 2007[~~2006~~];

50.[~~52.~~] Revenue Form 41A720-S29, "Schedule KJDA-SP, Tax Computation Schedule (For a KJDA Project of a Pass-Through Entity[~~General Partnership~~])", October, 2007[~~January, 2006~~];

51.[~~53.~~] Revenue Form 41A720-S35, "Schedule KRA, Tax Credit Computation Schedule (For a KRA Project of Corporations)", October, 2007[~~December, 2006~~];

52.[~~54.~~] Revenue Form 41A720-S37, "Schedule KRA-T, Tracking Schedule for a KRA Project", October, 2007[~~2006~~];

53.[~~55.~~] Revenue Form 41A720-S40, "Schedule KEOZ, Tax Credit Computation Schedule (For a KEOZ Project of Corporations)", October, 2007[~~December, 2006~~];

54.[~~56.~~] Revenue Form 41A720-S41, "Schedule KEOZ-SP, Tax Computation Schedule (For a KEOZ project of a Pass-Through Entity[~~General Partnership~~]), October, 2007[~~2006~~];

55.[~~57.~~] Revenue Form 41A720-S42, "Schedule KEOZ-T, Tracking Schedule for a KEOZ Project", October, 2007[~~2006~~];

56. Revenue Form 41A720-S43, "Schedule KESA, Tax Credit Computation Schedule (For a KESA Project of Corporations)", October, 2007;

57. Revenue Firm 41A720-S44, "Schedule KESA-T, Tracking Schedule for a KESA Project", October, 2007;

58. Revenue Form 41A720-S45, "Schedule KJRA, Tax Credit Computation Schedule (For a KJRA Project of Corporations)", October, 2007;

59. Revenue Form 41A720-S46, Schedule KJRA-T, Tracking Schedule for a KJRA Project", October, 2007;

60.[~~58.~~] Revenue Form 41A725, "Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", 2007[~~2006~~];

61.[~~59.~~] Revenue Form 41A725CP, "Schedule CP, Form 725, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned Composite Return Schedule", 2007[~~2006~~];

62.[~~60.~~] Revenue Form 41A725(I), "Instructions, 2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~] Return", October, 2007[~~2006~~];

63.[~~61. Revenue Form 41A725KCR, "Schedule KCR (Form 725), Kentucky Nexus Consolidated Return Schedule", October, 2006;~~

~~62. Revenue Form 41A725KCR-C, "Schedule KCR-C (Form 725), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", October, 2006;~~

~~63. Revenue Form 41A725NOL, "Schedule NOL (Form 720S, 725 or 765), Net Operating Loss Schedule", October, 2006;~~

~~64.~~] Revenue Form 41A725(P), "2007[~~2006~~] Kentucky Single Member LLC Individually Owned LLET [~~Corporation Income Tax~~]

Return Forms and Instructions", October, 2007[~~2006~~];

64.[~~65.~~] Revenue Form 41A750, "Business Development Corporation Tax Return", August, 1975;

65.[~~66.~~] Revenue Form 41A765, "Form 765, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~Tax~~] Return[~~(LLC, LLP, and LP Taxed as a Corporation)~~]", 2007[~~2006~~];

66.[~~67.~~] Revenue Form 41A765(I), "Instructions, 2007[~~2006~~] Kentucky Partnership Income and LLET [~~Tax~~] Return[~~(LLC, LLP, and LP taxed as a Corporation)~~]", October, 2007[~~2006~~];

67. Revenue Form 41A765(K), "Form 720S(K), Kentucky Schedule K For Partnerships With Economic Development Projects", October, 2007.

68. Revenue Form 41A765 (K-1), "Schedule K-1 (Form 765), 2007[~~2006~~]Partner's Share of Income, Credits, Deductions, Etc.", 2007[~~2006~~];

69. [~~Revenue Form 41A765KCR, "Schedule KCR (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule", October, 2006;~~

~~70. Revenue Form 41A765KCR-C, "Schedule KCR-C (Form 720S and 765), Kentucky Nexus Consolidated Return Schedule Continuation Sheet", October, 2006;~~

~~71. Revenue Form 41A765(P), "2006 Kentucky Partnership (LLC, LLP, and LP) (Taxed as a Corporation) Income Tax Forms and Instructions", October, 2006;~~

~~72.~~] Revenue Form 41A851-K, "Form 851-K, Kentucky Affiliations and Payment Schedule", October, 2007[~~2006~~];

70.[~~73. Revenue Form 41A851-N, "Form 851-N, Kentucky Affiliations and Payment Schedule (Form 720S, 725 or 765)", October, 2006;~~

~~74.~~] Revenue Form 42A799, "Kentucky Information Return", February, 1985; and

71.[~~75.~~] Revenue Form 42A799-S1, "Form 796, Annual Income Information Return", June, 1984; and

(b) Individual income and withholding taxes - referenced material:

1. Revenue Form 12A200, "Kentucky Individual Income Tax Installment Agreement Request", November, 2007[~~2006~~];

2. Revenue Form 40A100, "Application for Refund of Income Taxes", October, 2007[~~2006~~];

3. Revenue Form 40A102, "2007[~~2006~~] Application for Extension of Time to File Individual, General Partnership and Fiduciary Income Tax Returns for Kentucky", November, 2007[~~2006~~];

4. Revenue Form 40A200 (PTE-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income", October, 2007[~~2006~~];

5. Revenue Form 40A201 (740NP-WH), "Kentucky Nonresident Income Tax Withholding on Net Distributive Share Income Transmittal Report", October, 2007[~~2006~~];

6. Revenue Form 40A727, "Kentucky Income Tax Forms Requisition", October, 2007[~~2006~~];

7. Revenue Form 42A003, "Withholding Kentucky Income Tax Instructions for Employers", July, 2006;

8. Revenue Form 42A003(T), "2008[~~2007~~] Withholding Tax Tables Computer Formula", November, 2007[~~2006~~];

9. Revenue Form 42A740, "2007[~~2006~~] Kentucky Individual Income Tax Return, Full-Year Residents Only", 2007[~~2006~~];

10. Revenue Form 42A740-A, "Schedule A, Form 740, 2007[~~2006~~] Kentucky Itemized Deductions", 2007[~~2006~~];

11. Revenue Form 42A740ES, "2008[~~2007~~] Individual Income Tax Kentucky Estimated Tax Voucher", August, 2007[~~2006~~];

12. Revenue Form 42A740-EZ, "2007[~~2006~~] Kentucky Individual Income Tax Return for Single Persons with No Dependents", 2007[~~2006~~];

13. Revenue Form 42A740(I), "2007[~~2006~~] Kentucky Individual Income Tax Instructions for Forms 740 and 740-EZ", October, 2007[~~2006~~];

14. Revenue Form 42A740-J, "Schedule J, Kentucky Farm Income Averaging", October, 2007[~~2006~~];

15. Revenue Form 42A740-KNOL, "Schedule KNOL, 2007[~~2006~~] Kentucky Net Operating Loss Schedule", 2007[~~2006~~];

16. Revenue Form 42A740-M, "Schedule M, 2207 Kentucky Federal Adjusted Gross Income Modifications", 2007[~~2006~~];

17. Revenue Form 42A740-NP [~~42A70-NP~~], "2007[~~2006~~] Kentucky Individual Income Tax Return, Nonresident or Part-Year Resident", 2007[~~2006~~];

18. Revenue Form 42A740-NP-A, "Schedule A, Form 740-NP, 2007[~~2006~~] Kentucky Schedule A Itemized Deductions", 2007[~~2006~~];

19. Revenue Form 42A740-NP-ME, "Schedule ME, Moving Expense and Reimbursement", 2007[~~2006~~];

20. Revenue Form 42A740-NP(I), "Instructions for 2007[~~2006~~] Kentucky Form 740-NP, Nonresident or Part-Year Resident Income Tax Return", 2007[~~2006~~];

21. Revenue Form 42A740-NP-R [~~42A740-S9-R~~], "740-NP-R, 2007[~~2006~~] Kentucky Income Tax Return Nonresident - Reciprocal State", 2007[~~, 2006~~];

22. Revenue Form 42A740-NP(P), "2007[~~2006~~] Kentucky Income Tax Return Nonresident or Part-Year Resident", October, 2007[~~2006~~];

23. Revenue Form 42A740(PKT), "2007[~~2006~~] Kentucky Individual Income Tax Forms", October, 2007[~~2006~~];

24. Revenue Form 42A740-P, "Schedule P, Form 740, 2007[~~2006~~] Kentucky Pension Income Exclusion", 2007[~~2006~~];

25. Revenue Form 42A740-UTC, "Schedule UTC, Form 740, Unemployment Tax Credit", October, 2007[~~2006~~];

26. Revenue Form 42A740-X, "Amended Kentucky Individual Income Tax Return for Tax Year 2005, [~~or~~] 2006, 2007", November, 2007[~~2006~~];

27. Revenue Form 42A740-XP, "Amended Kentucky Individual Income Tax Return for Tax Year [~~2003 or~~] 2004 and Prior Years", November 2007[~~2006~~];

28. Revenue Form 42A740-S1, "Form 2210-K, 2007[~~2006~~] Underpayment of Estimated Tax by Individuals", 2007[~~2006~~];

29. Revenue Form 42A740-S4, "2008[~~2007~~] Instructions for Filing Estimated Tax Vouchers", October, 2007[~~2006~~];

30. Revenue Form 42A740-S18, "Form 8582-K, 2007[~~2006~~] Kentucky Passive Activity Loss Limitations", 2007[~~2006~~];

31. Revenue Form 42A740-S21, "Form 4972-K, 2007[~~2006~~] Kentucky Tax on Lump-Sum Distributions", 2007[~~2006~~];

32. Revenue Form 42A740-S22, "Form 8453-K, 2007[~~2006~~] Kentucky Individual Income Tax Declaration for Electronic Filing", 2007[~~2006~~];

33. Revenue Form 42A740-S23, "Form 740-V, 2007[~~2006~~] Kentucky Electronic Payment Voucher", 2007[~~2006~~];

34. Revenue Form 42A740-S24, "Form 8863-K, 2007[~~2006~~]Kentucky Education Tuition Tax Credit", 2007[~~2006~~];

35. Revenue Form 42A741, "Form 741, 2007[~~2006~~] Kentucky Fiduciary Income Tax Return", 2007[~~2006~~];

36. Revenue Form 42A741-D, "Schedule D, Form 741, 2007[~~2006~~] Kentucky Capital Gains and Losses", 2007[~~2006~~];

37. Revenue Form 42A741(I), "Instructions - Form 741, Kentucky Fiduciary Income Tax Return", October, 2007[~~2006~~];

38. Revenue Form 42A741(K-1), "Schedule K-1, Form 741, 2007[~~2006~~] Kentucky Beneficiary's Share of Income, Deductions, Credits, etc.", 2007[~~2006~~];

39. Revenue Form 42A765-GP, "Form 765-GP, 2007[~~2006~~] Kentucky General Partnership Income Return", 2007[~~2006~~];

40. Revenue Form 42A765-GP(I), "Instructions, 2007[~~2006~~] Kentucky General Partnership Income Return", October, 2007[~~2006~~];

41. Revenue Form 765-GP(K-1), "Kentucky Schedule K-1, Form 765-GP, 2007[~~2006~~] Partner's Share of Income, Credits, Deductions, etc.", 2007[~~2006~~];

42. Revenue Form 765-GP(P), "2007[~~2006~~] Kentucky General Partnership Income Return Forms and Instructions", 2007[~~2006~~];

43. Revenue Form 42A765-GP(K) [~~42A765-S1~~], "Form 765-GP(K), Kentucky Schedule K for General Partnerships with Economic Development Project(s)", October, 2007[~~2006~~];

44. Revenue Form 42A801, "Form K-1, Kentucky Employer's Income Tax Withheld Worksheet", March, 2007 [~~February, 2004~~];

45. Revenue Form 42A801(D), "Form K-1, Amended 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", March, 2007 [~~February, 2004~~];

47. Revenue Form 42A802, "Form W-2, 2007[~~2006~~] Wage and Tax Statement", 2007[~~2006~~];

48. Revenue Form 42A803, "Form K-3, Kentucky Employer's

Income Tax Withheld Worksheet", March, 2007 [~~June, 2004~~];

49. Revenue Form 42A803(D), "Form K-3, Amended 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", March, 2007 [~~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", February, 2007 [~~April, 2006~~];

54. Revenue Form 42A806, "Transmitter Report for Filing Kentucky Wage Statements", October, 2007[~~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", March, 2007 [~~August, 2006~~];

58. Revenue Form 42A810, "Nonresident's Affidavit - Kentucky Individual Income Tax", April, 1989;

59. Revenue Form 42A811, "KREDA Annual Report", December, 2007 [~~November, 2006~~];

60. Revenue Form 42A812, "KIDA Annual Report", December, 2007 [~~November, 2006~~];

61. Revenue Form 42A813, "KJDA Annual Report", December, 2007 [~~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", December, 2007 [~~November, 2006~~]; and

65. Revenue Form 42D003, "2007[~~2006~~] Kentucky Wage and Tax Statements (W-2/K-2) Order Form", July, 2007[~~2006~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Revenue, 501 High Street [~~200 Fair Oaks Lane~~], Frankfort, Kentucky 40620, Monday through Friday, 8 a.m. to 5 p.m.

JONATHAN MILLER, Secretary

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2008 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed amended administrative regulation shall be held on February 22, 2008 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 amended 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 amended administrative regulation. Written comments shall be accepted through February 29, 2008. Send written notification of intent to be heard at the public hearing or written comments on the proposed amended administrative regulation to the contact person noted below.

CONTACT PERSON: Angela Robinson, Staff Assistant, Finance and Administration Cabinet, Room 093 Capitol Annex, Frankfort, Kentucky 40601, phone (502) 564-8649, fax (502) 564-3894.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Angela Robinson

(a) What this administrative regulation does: This administrative regulation prescribes the forms to be used when reporting or estimating corporation tax, reporting or estimating limited liability entity tax, reporting or estimating individual tax, or withholding individual income tax for tax years beginning in 2007.

(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, limited liability entity, individual, and withholding taxes for tax years beginning in 2007.

(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, limited liability entity taxes, individual income taxes, and withholding taxes to the Commonwealth of Kentucky pursuant to KRS Chapter 141.

(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 contains tax forms to be used for tax years beginning in 2007.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to update tax forms to the current tax laws in effect for years beginning in 2007.

(c) How the amendment 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 the tax laws.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide taxpayers with the necessary tax forms to file and pay income taxes, limited liability entity taxes, and individual withholding taxes for tax years beginning in 2007.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All individual, pass-through entity, and corporate tax filers are 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: Individual, pass-through entity, and corporate tax filers 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 2007.

(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 administrative 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 for the Commonwealth, 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.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

COMMERCE CABINET
Department of Fish and Wildlife Resources
(Amendment)

301 KAR 1:115. Propagation of aquatic organisms.

RELATES TO KRS 150.025, 150.280, 150.290, [~~150.450,~~]150.485

STATUTORY AUTHORITY: KRS 150.025, 150.280, 150.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.280 provides that no person shall propagate or hold wildlife without a permit. This administrative regulation establishes the requirements for obtaining a permit and the requirements that shall be followed by permit holders.

Section 1. Definitions. (1) "Aquatic organisms" means fishes, frogs, crayfish and other aquatic vertebrates and invertebrates.

(2) "Minnows" are defined in 301 KAR 1:130.

(3) "Permit" means a fisheries commercial propagation permit.

(4)[~~(2)~~] "Water supply lake" means a lake that is:

(a) Owned by a municipality or other public water supply entity;

(b) Provides potable water supply for the public;

(c) Not owned by the state; and

(d) Not managed by the department.

Section 2. [~~Propagation~~]Permit Requirements and Application Procedures. (1) Before acquiring or propagating aquatic organisms, a person shall obtain a permit.

(2) A permit applicant shall[~~Permit applicants may~~] obtain the permit application[~~Fisheries Commercial Propagation Application~~] form from the department.

Section 3. Acquisition of Brood Stock from Public Waters. (1) A permit holder may obtain from public waters a maximum of 1,500 minnows or crayfish per surface acre of water used for propagation of a particular species.

(2) Each permit holder shall obtain brood stock from public waters no more than one (1) time for both minnows and crayfish.

(3) A conservation[~~wildlife and boating~~] officer shall supervise the acquisition of brood stock from public waters.

(4) A permit holder shall use gear authorized by 301 KAR 1:130[~~, Live bait for personal use,~~] to acquire aquatic organisms from public waters.

(a) Upon request at the time of application for a permit, the department may authorize an applicant to use seines larger than ten (10) feet in length, gillnets, and other fish collection gear[~~gears~~].

(b) A permit holder[~~Permit holders~~] shall attach a metal tag, furnished by the department, to authorized seines over ten (10) feet, gillnets, and other fish collection gear[~~gears~~] showing:

1. The name of the owner;

2. Gear type; and

3. The date the permit expires.

(c) A permit holder shall use [~~these~~] approved fish collection gear[~~gears~~] in waters designated in the application.

Section 4. Sale of Aquatic Organisms. A permit holder may sell propagated aquatic organisms.

Section 5. The department may issue a permit with no fee to elementary, middle and secondary schools and similar educational institutions if the propagated organisms are to be used for educational purposes.

Section 6. The commissioner may grant approval and issue a permit for paddlefish to be stocked and reared in approved water supply lakes for aquaculture purposes as provided for in 301 KAR 1:110 by completing a permit application[~~Fisheries Commercial Propagation Application~~] and submitting it to the department[~~Fisheries Division~~].

(1) A municipality may allow a second party to rear paddlefish if the commissioner grants approval and issues a permit for paddlefish to be stocked and reared in an approved water supply lake.

(2) If a municipality or other public water supply entity allows a second party to rear paddlefish, a contractual agreement between the two (2) granting permission to use the lake for rearing paddlefish shall be required for the extent of the rearing period. A copy of the contractual agreement shall be submitted to the department before a permit is issued.

(3) Water supply lakes that are currently open to sport fishing shall be required to remain open to sport fishing throughout the length of the rearing of paddlefish.

(4) Paddlefish shall be the only species permitted to be stocked in the approved water supply lakes.

(5) The number of paddlefish stocking events for each rearing period shall be limited to one (1) for each approved water supply lake. Any additional stocking events shall require prior approval by the commissioner.[~~Commissioner approval may be granted and shall be obtained prior to any additional stocking events.~~]

(6) The permit applicant shall list the name of each water supply lake on the permit application.[~~The name of each water supply lake requested for consideration for approval as a rearing facility for paddlefish shall be listed on the propagation permit application.~~]

(7) A [~~propagation~~] permit shall be obtained [~~annually~~]for every[~~each~~] year of the paddlefish rearing period.

(8) The department shall not:

(a) Enforce the protection of the stocked paddlefish; or

(b) Establish paddlefish sport fish administrative regulations in any of the approved water supply lakes.

(9) Paddlefish that escape in the stream, either above or below the lake, shall not be considered property of the permit holder.

(10) The department shall not be responsible for any corrective actions associated[~~actions~~] with[~~any~~] fish populations in the approved water supply lakes used for aquaculture purposes.

(11) If a municipality rears paddlefish without a contractual agreement with a second party, it shall provide the department with a name of a person responsible for the rearing of the paddlefish in the approved water supply lakes.

(12) A[~~The~~] permit holder[~~that has been issued the Fisheries Commercial Propagation permit~~] may use gill nets to take paddlefish only from the approved water supply lakes [~~that have been approved and are~~] listed on the [~~propagation~~]permit. A permit holder[~~permit and~~] shall be on site each time gill nets are used in the approved water supply lakes.

(a) The department shall be notified at least one (1) week in advance of any paddlefish harvest[~~of paddlefish~~] from[~~the~~] approved water supply lakes, including the random sampling of the stocked paddlefish that require the use of gill nets.

(b) Gill nets shall only be used in the approved water supply lakes from December 1 through March 31.[~~the last day of March.~~]

(c) Gill nets shall not have a bar mesh size smaller than five (5) inches.

(d) A permit holder[~~Permit holders~~] shall attach a metal tag provided by the department to each gill net used.

(e) Paddlefish shall be the only species of fish harvested; any other species of fish captured shall be immediately released[~~,~~] without undue injury[~~, to the waters where it was taken~~].

Section 7. Inspection[~~Inspections~~] of Facilities and Revocation of Permits. (1) A[~~The~~] permit holder shall allow a conservation officer to inspect his or her facilities.

(2) The department shall:

(a) Revoke the permit of a person found guilty of violating a statute or administrative regulation pertaining to propagation of aquatic organisms;[~~fish;~~] and

(b) Not renew the [~~propagation~~] permit for a period of up to two (2) [~~three (3)~~] years of a person that has been found guilty of violating a statute or administrative regulation pertaining to propagation of aquatic organisms[~~fish~~].

(3) Fees paid for revoked permits shall not be refunded.

(4) An individual whose permit has been denied or revoked may request an administrative hearing pursuant to KRS Chapter 13B.

Section 8. Incorporation by Reference. (1) Fisheries Commercial Propagation Permit Application, 2006, Department of Fish and Wildlife Resources, [~~"Fisheries Commercial Propagation Permit Application", 4/2006~~] is incorporated by reference.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division of Fisheries, Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. and 4:30 p.m.

MARK S. CRAMER, Deputy Commissioner
For DR. JONATHAN GASSETT, Commissioner
MARCHETA SPARROW, Secretary

APPROVED BY AGENCY: December 7, 2007

APPROVED BY LRC: January 9, 2008 at 3 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008 at 9 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five (5) business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by February 29, 2008. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, Frankfort, Kentucky 40601, phone (502) 564-7109, ext. 441 fax (502) 564-0506.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements for obtaining a fisheries commercial propagation permit and the requirements that shall be followed by the permit holder.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to effectively manage the fish populations of Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations as to game and fish. KRS 150.280 authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations as to the propagation and holding of wildlife in the Commonwealth of Kentucky. KRS 150.450 authorizes the Department of Fish and Wildlife Resources to promulgate regulations governing the taking of minnows and crayfish.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will carry out the purposes of KRS 150.280 by defining the requirements for obtaining a fisheries commercial propagation permit and the requirements that shall be followed by the permit holder.

(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 adds the administrative hearing process pursuant to KRS Chapter 13B that is available to a permit holder whose fisheries commercial propagation permit has been denied or revoked.

(b) The necessity of the amendment to this administrative regulation: This amendment clarifies the administrative hearing process pursuant to KRS Chapter 13B that is available to the permit holder whose fisheries commercial propagation permit has been denied or revoked.

(c) How the amendment conforms to the content of the authorizing statutes: See (1)(c) above.

(d) How the amendment will assist in the effective administration of the statutes: See (1)(d) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: A total of 28 fisheries commercial propagation permits were acquired during 2007.

(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 new actions will be required by fisheries commercial propagation permit holders to comply with this administrative amendment. This amendment simply clarifies the KRS Chapter 13B administrative hearing process available to permit holders whose permit has been denied or revoked.

(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 additional cost incurred to fisheries commercial propagation permit holders as a result of complying with this administrative amendment.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Fisheries commercial propagation permit holders whose permits have been denied or revoked will have the right to an administrative hearing pursuant to KRS Chapter 13B.

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

(a) Initially: There will be no cost to the agency as a result of this administrative amendment.

(b) On a continuing basis: There will be no cost on a continuing basis.

(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 State Game and Fish Fund.

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

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees will be established.

(9) TIERING: Is tiering applied? Tiering was not applied because all holders of a fisheries commercial propagation permit will be eligible for the administrative hearing process pursuant to KRS Chapter 13B.

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 Kentucky Department of Fish and Wildlife Resources Divisions of Fisheries and Law Enforcement 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 150.280 provides that no person shall propagate or hold wildlife without a permit. KRS 150.025 authorizes the Department of Fish and Wildlife Resources to promulgate administrative regulations necessary to manage the fish and game throughout the Commonwealth of Kentucky. KRS 150.450 authorizes the Department of Fish and Wildlife Resources to promulgate regulations governing the taking of minnows and crayfish.

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 and revenues for the Department of Fish and Wildlife Resources will not change. The current budget of the Department of Fish and Wildlife Resources funds the cost while the Division of Law Enforcement already oversees the enforcement of administrative regulations.

(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? In 2007, a total of 28 fisheries commercial propagation permits were acquired. This generated $1,400 in 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? The amount of revenue will be determined by the number of fisheries commercial propagation permits acquired in subsequent years.

(c) How much will it cost to administer this program for the first year? There will be no additional (new) costs incurred for the first year as a result of this administrative regulation amendment.

(d) How much will it cost to administer this program for subsequent years? There will be no additional (new) costs incurred 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:

COMMERCE CABINET
Kentucky Department of Fish and Wildlife Resources
(Amendment)

301 KAR 2:132. Elk depredation permits, landowner cooperator permits, and quota hunts.

RELATES TO: KRS 150.010, [~~150.177,~~]150.180, [~~150.390, 150.395,~~]150.990[~~(11)~~]

STATUTORY AUTHORITY: KRS 150.025, 150.177, 150.178, 150.390[~~(3), (4)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025 authorizes the department to establish hunting seasons, regulate bag and possession limits, and determine the methods and devices used to take wildlife. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit organizations. KRS 150.178 authorizes the department to issue elk permits to landowners who enroll property for public hunting access. KRS 150.390[~~(3)~~] authorizes the department to promulgate administrative regulations establishing the conditions under which depredation permits for elk may be issued. This administrative regulation establishes the requirements for the elk permit drawing and quota hunts, the conditions under which special commission and landowner cooperator permits can be used, and procedures for elk damage abatement. [~~This administrative regulation establishes the procedures to obtain a depredation permit to control elk causing property damage. KRS 150.390 (4) authorizes the department to establish elk hunting seasons and requirements. This administrative regulation establishes the hunting requirements during the elk hunting season and establishes procedures for applying for and participating in elk quota hunts and the requirements for issuing landowner cooperator permits.~~]

Section 1. Definitions. (1) "Antlered elk" means an elk with one (1) antler possessing four (4) or more antler points that are each at least one (1) inch long when measured from the main beam which also counts as one (1) point.

(2) "Antlerless elk" means an elk without visible polished antler protruding above the hairline.

(3) "Electronic decoy" means a motorized decoy powered by electricity, regardless of source.

(4) "Elk" means Cervus elaphus nelsoni.

(5) "Elk Hunting Unit" or "EHU" means a designated area within the elk restoration zone possessing specific elk management restrictions.

(6) "Landowner cooperator" means a landowner or lessee who owns or leases at least 5,000 acres of land in the restoration zone and enters an agreement with the department to allow public access and hunting for five (5) years.

(7) [~~"Limited entry area" means a strategically-located and defined management unit, large in size and consisting of public and private holdings, where elk populations are encouraged to grow and expand, serving as the source areas for elk within the restoration zone, managed for reduced hunting pressure, and elk-hunting access is limited or restricted to specifically drawn and designated hunters.~~

~~(6)~~] "Out-of-zone" means [~~refers to~~] all counties not included in the restoration area.

(8) [~~(7)~~] "Restoration zone[~~area~~]" means the following Kentucky counties: Bell, Breathitt, Clay, Floyd, Harlan, Johnson, Knott, Knox, Leslie, Letcher, Magoffin, Martin, McCreary, Perry, Pike, and Whitley.

[~~(8) "Wild elk" means:~~

~~(a) An elk translocated and released by the department; or~~

~~(b) The progeny of an elk translocated and released by the department.~~

~~(9) "Zone-at-large" means any area within the sixteen (16) county restoration area except the limited entry areas.~~]

Section 2. Elk Damage Control. The department may authorize the removal or destruction of elk causing property damage by department personnel, the property owner, or another designated person. [~~(1) A person shall not kill or attempt to take or molest a wild elk that is causing property damage, except as specified in this~~

~~administrative regulation.~~

~~(2) A person shall contact the department if he wants depredating wild elk removed from his property~~.

~~(3) Upon receipt of a damage complaint, the department shall:~~

~~(a) Verify that wild elk are causing the damage;~~

~~(b) Remove, destroy or authorize the destruction of the elk by the property owner or his designee; and~~

~~(c) The property owner or designee shall immediately contact the department upon destruction of the elk.~~

~~(4)~~] A person authorized to destroy an elk causing damage [~~under the provisions of this section~~] shall not:

(a) Move the elk until he has attached a disposal permit [~~tag~~] provided by the department to the carcass; and

(b) Remove the disposal permit [~~tag~~] until the carcass is processed.

Section 3. Elk Quota[~~Elk~~] Hunts. [~~Application procedures and electronic drawing.~~] (1) The elk hunt application period shall be [~~December 1 - July 31 for the 2007 quota hunt draw. The application period for all subsequent quota hunt draws shall be~~] December 1 to April 30.

(2) A person shall [~~may~~] apply for the elk quota hunt via [~~by visiting~~] the department's Web site, the toll-free phone number listed in the current Kentucky Hunting and Trapping Guide, [~~Web site at fw.ky.gov, calling 1-877-598-2401~~] or [~~visiting~~] a Kentucky license vendor. The applicant shall provide the following information: [~~KDSS agent and providing the following:~~]

(a) The applicant's name, Social Security number, date of birth, and mailing address or phone number; and

(b) A [~~ten (10) dollar~~] nonrefundable application fee.

(3) An applicant shall not apply more than once per application period.

(4) The commissioner may extend [~~The commissioner may:~~

~~(a) Extend~~] the application deadline if technical difficulties with the application system prevent applications from being accepted for one (1) or more days during the application period. [~~; and~~

~~(b) Authorize the on-site sale of applications during promotional events or festivals.~~

~~(5) There shall be no preference points.~~]

(5) [~~(6)~~] There shall be a random electronic drawing.

[~~(7) The drawing and complete results shall be posted on the department's Web site by August 20 of the application year.~~]

(6)[~~(8)~~] Two (2) permits [~~tags~~], one (1) antlered and one (1) antlerless, shall be available for a special youth-only hunt to be held during the regular seasons.

(a) An applicant who has not reached his or her sixteenth birthday by the last day of the application period [~~Persons fifteen (15) years old or younger, at the time of application,~~] shall be entered into the special youth drawing [~~draw~~]. An applicant [~~Those~~] not drawn for the special youth permits [~~tags~~] shall automatically be entered into the regular drawing [~~draw~~].

(b) The application period and fee for the special youth draw shall be the same as that for the regular elk hunt.

(c) A [~~The~~] special youth hunt permit shall be valid for the assigned EHU [~~the zone at large area~~] during seasons specified [~~as set forth~~] in Section 6 [~~5~~] of this administrative regulation.

[~~(d) Special youth tags shall not be valid for use in limited entry areas except on land owned by the youth's parent or guardian, as described in Section 4 of this administrative regulation.~~]

(7) [~~(9)~~] No more than ten (10) percent of all drawn applicants [~~regular tags~~] shall be [~~awarded to~~] nonresidents.

Section 4. Landowner Cooperator Permits. (1) With the approval of the commission, the commissioner may issue one (1) either-sex elk permit per each 5,000 acres for each year of the agreement to a landowner cooperator.

(2) A landowner cooperator permit is transferable, but shall be used only on the land for which the agreement was made.

(a) The permit may be transferred to any person eligible to hunt in Kentucky.

(b) The landowner cooperator shall provide the following information to the department about the transferred-permit holder:

1. Name;

2. Social Security number;

3. Address; and

4. Telephone number.

(3) Public access agreements with the department shall be recorded in Memorandums of Understanding.

(4) Recipients of landowner cooperator permits shall comply with the provisions of this administrative regulation.

Section 5.[~~4.~~] Hunter Requirements. [~~Drawn Applicants and Limited Entry Areas.~~] (1) A drawn applicant [~~person whose name is selected pursuant to this administrative regulation~~] or a person who legally receives [~~or is transferred~~] a landowner cooperator permit or a special commission permit issued pursuant to 301 KAR 3:100 may be accompanied by up to two (2) other individuals.

(2) A drawn applicant shall be assigned to a single EHU and shall not hunt outside that EHU. [~~shall participate in the elk quota hunt as assigned.~~

~~(2) An individual selected to participate in a quota hunt or who receives or is transferred a landowner cooperator permit or a special commission permit may be accompanied by up to two (2) other individuals who may assist in the retrieval of the harvested elk.~~

~~(3) Drawn applicants shall be assigned:~~

~~(a) The sex of the elk they are permitted to take; and~~

~~(b) The area they are permitted to hunt, either a limited entry area or zone-at-large,~~] except that a drawn applicant [~~hunter~~] who owns land in the elk restoration zone [~~a limited entry area and who is drawn for an at-large elk tag~~] may hunt on his or her land [~~during at-large seasons as defined in Section 6 of this administrative regulation~~].

(3) An elk hunter or any person accompanying an elk hunter shall display solid, unbroken hunter orange visible from all sides on the head, back, and chest per 301 KAR 2:172.

(4) An elk hunter shall not:

(a) Take elk except during daylight hours;

(b) Use dogs, except for leashed tracking dogs to recover wounded elk;

(c) Hunt over bait as defined in 301 KAR 3:010;

(d) Drive elk from outside the assigned EHU;

(e) Take swimming elk;

(f) Use electronic calls or electronic decoys; or

(g) Take an elk from a vehicle or boat or while on horseback. A hunter who has a disabled hunting exemption permit issued by the department may use a stationary vehicle as a hunting platform.

(5) An elk hunter shall display a vehicle tag issued by the department in the windshield of his or her vehicle at all times while hunting elk.

(6) A person under sixteen (16) years old shall be accompanied by an adult who shall remain in a position to take immediate control of the person's firearm.

(7) An adult accompanying a person under (16) years old shall not be required to possess a hunting license or elk permit if the adult is not hunting.

(8) A hunter may use any firearm, archery equipment, or crossbow legal for hunting deer pursuant to 301 KAR 2:172, except an elk hunter shall not possess or use:

(a) Any weapon or device prohibited for deer hunting pursuant to 301 KAR 2:172;

(b) A modern firearm of less than 27 caliber;

(c) A muzzle-loading firearm of less than 50 caliber;

(d) A shotgun of less than 20 gauge;

(e) Any arrow without a broadhead point;

(f) A handgun with a barrel length of less than six (6) inches, a bore diameter less than 0.270 inches (.270 caliber) or greater, and when fired, the bullet must produce at least 550 ft/lbs of energy at 100 yards.

Section 6. Seasons and Limits. (1) A hunter may use archery equipment:

(a) Beginning the first Saturday in October through the third Monday in January for antlered elk; and

(b) Beginning the second Saturday in October through the third Monday in January for antlerless elk.

(2) A hunter may use a modern firearm, muzzleloader, or crossbow:

(a) For seven (7) consecutive days beginning the first Saturday

in October for antlered elk; and

(b) For fourteen (14) consecutive days beginning the second Saturday in October for antlerless elk.

(3) A hunter may use a crossbow for either sex:

(a) From October 1 through the end of the third full weekend in October; and

(b) From the second Saturday in November through December 31.

(4) The statewide season bag limit shall be one (1) elk per hunter. [~~(4) The limited entry areas shall be designated as follows:~~

~~(a) Begley/Redbird Limited Entry Area: starting at the intersection of Kentucky Route 2058 and Route 421 near Helton/Manchester; boundary proceeds south along Route 421 to the intersection of Route 421 and Route 221. The boundary then proceeds west along Route 221 to the intersection of Route 221 and Route 66. The boundary then goes north following Route 66 to the intersection of Route 66 and Route 1850, then east along Route 1850 to the intersection of Route 1850 and Route 1780 at Warbranch. The boundary then proceeds south on Route 1780 to intersection of Route 2058 near Spruce Pine, then east on Route 2058 back to Route 421 at Helton completing the boundary.~~

~~(b) Starfire Limited Entry Area: begins at the intersection of Route 1098 and Route 80 near Softshell, Kentucky. The boundary proceeds west along Route 1098 to the junction of Route 1098 and Route 15. The boundary then proceeds south along Route 15 to the junction of Route 15 and Route 476 near Lost Creek, Kentucky. The boundary then turns east along Route 476 to the intersection of Route 476 and Route 80, then east on Route 80 to Route 1098 at Softshell, Kentucky completing the boundary.~~

~~(5) A maximum of six (6) tags for antlered elk shall be assigned to each limited entry area.~~

~~Section 5. Seasons for Annual Quota Elk Hunts. (1) There shall be three (3) annual elk quota hunts.~~

~~(a) There shall be a quota hunt beginning the first Saturday in October, for seven (7) consecutive days for antlered elk on the Starfire and Begley/Redbird Limited Entry Areas and in the zone-at-large.~~

~~(b) There shall be a quota hunt beginning the second Saturday in December, for seven (7) consecutive days for antlerless elk on the Starfire and Begley/Redbird Limited Entry Areas.~~

~~(c) There shall be a quota hunt beginning the second Saturday in December, for fourteen (14) consecutive days for antlerless elk in the restoration zone at-large.~~

~~(d) An archery season for zone-at-large antlered elk permit holders shall be held from the first Saturday in October through the third Monday in January.~~

~~(e) An archery season for zone-at-large antlerless elk permit holders shall be held from the second Saturday in October through the third Monday in January.~~

~~(f) Crossbows shall be legal for antlered elk from the first Saturday in October through the third full weekend in October and from the second Saturday in November through December 31.~~

~~(g) Crossbows shall be legal for antlerless elk from the second Saturday in October through the third full weekend in October and from the second Saturday in November through December 31.~~

~~(2) Legal weapons. All hunters may use any legal weapon for deer hunting except as provided by subsection (4) of this section. A handgun used to hunt elk must have a barrel length of at least six (6) inches, have a bore diameter of 0.270 inches (.270 caliber) or greater, and when fired, the bullet must produce at least 550 ft/lbs of energy at 100 yards.~~

~~(3) Limits.~~]

(a) A quota elk hunter shall only take an [~~one (1)~~] elk of the sex determined by the permit [~~tag~~] drawn.

(b) An individual who receives or is transferred a [~~an either-sex~~] landowner cooperator permit or a special commission permit may hunt in either the antlered only or antlerless only quota hunts[~~, providing the tag has not been filled but is held to the season bag limit~~].

Section 7. Tagging and Checking Requirements. [~~(4) Illegal hunting equipment. A person shall not use or possess while elk hunting:~~

~~(a) A device capable of taking an elk except a firearm, crossbow or archery equipment;~~

~~(b) A modern firearm of less than..27 caliber;~~

~~(c) A muzzle-loading firearm of less than..50 caliber;~~

~~(d) A shotgun of less than 20 gauge;~~

~~(e) Rimfire ammunition;~~

~~(f) A fully-automatic firearm;~~

~~(g) A firearm with a magazine capacity greater than ten (10) rounds;~~

~~(h) Full metal Steel jacketed ammunition;~~

~~(i) Tracer bullet ammunition;~~

~~(j) A shotgun shell containing more than one (1) projectile;~~

~~(k) A broadhead smaller than seven-eighths (7/8) inch wide;~~

~~(l) A barbed broadhead;~~

~~(m) A crossbow without a working safety device;~~

~~(n) A chemically-treated arrow; or~~

~~(o) An arrow with a chemical attachment; or~~

~~(p) Any arrow without a broadhead point.~~

~~(5) Hunter orange. During the firearm elk season, all hunters hunting within the sixteen (16) county elk restoration zone shall display solid, unbroken hunter orange visible from all sides on the head, back and chest pursuant to 301 KAR 2:172, Section 4, and 301 KAR 2:178, Section 3(7).~~

~~(6) Hunter requirements.~~

~~(a) A person under sixteen (16) years old shall be accompanied by an adult who shall remain in a position to take immediate control of the juvenile's firearm.~~

~~(b) An adult accompanying a juvenile hunter shall not be required to possess a hunting license or elk permit if the adult is not hunting.~~

~~(c) An elk hunter or any person accompanying the elk hunter:~~

~~1. May be in the field, woods or stands before or after daylight hours, but shall not take elk except during daylight hours;~~

~~2. Shall not use dogs, except for leashed tracking dogs to recover wounded elk;~~

~~3. Shall not use bait;~~

~~4. Shall not drive elk from outside his assigned area;5. Shall not take swimming elk;~~

~~6. Shall not use electronic calls or electronic decoys; and~~

~~7. Shall not take an elk while in a vehicle or boat, or on horseback. A hunter may use a vehicle as a hunting platform if he has a disabled hunting exemption permit issued by the department.~~

~~(d) An elk hunter shall display a hang tag, issued by the Department, in the windshield of his vehicle at all times while hunting elk.~~

~~(7) Tagging, check-in requirements, and bag limit.~~

~~(a)~~] Immediately after taking an elk and prior to removing the hide or head from the carcass, a hunter shall:

(1) Record the species, sex, date, and county of kill on a hunter's log;

(2) [~~1.~~] Attach the tag portion of the permit to the carcass before moving the carcass; and

(3) Check the harvested [~~2. Telecheck the~~] elk by calling the toll-free number listed in the current Kentucky Hunting and Trapping Guide [~~fall hunting and trapping guide~~] and recording the confirmation number on a hunter's log. [~~(b) Prior to hunting, the limited entry area hunters shall check in at the following locations:~~

~~1. Starfire Limited Entry Area- Robinson Forest;~~

~~2. Begley Limited Entry Area - Blanton Forest Boy Scout Camp.~~

~~(c) A person checking in for a limited entry area quota hunt shall show his Social Security number, and valid hunting license, except a person on military furlough for more than three (3) days may show his military identification instead of a license.~~

~~(d) The season bag limit shall be one (1) elk per hunter.~~]

Section 8. [~~6.~~] Elk Hunting on Public Land. (1) A drawn applicant or recipient of [~~An individual who has been drawn to hunt in the elk hunt, or who either receives or is transferred~~] a special commission permit[~~,~~] may hunt on [~~all~~] Wildlife Management Areas (WMA), state forests, Big South Fork National River and Recreation Area, the Daniel Boone National Forest, and the Jefferson National Forest within the restoration [~~sixteen (16) county elk~~] zone under the conditions of the permit received.

(2) [~~type of tag they receive.~~

~~(2) Public land that lies within a Limited Entry Area shall be managed pursuant to Sections 4 and 5 of this administrative regulation.~~

~~(3) Public land that lies within the zone-at-large shall be managed pursuant to Sections 4 and 5 of this administrative regulation.~~

~~(4)~~] Portions of Paintsville Lake WMA lie outside the [~~sixteen (16) county elk~~] restoration zone and are subject to the requirements established in Section 9 [~~8~~] of this administrative regulation.

(3) [~~(5)~~] Elk hunting shall not be allowed on public areas during quota deer hunts listed in 301 KAR 2:178.

[~~(6) Hunter orange requirements shall be in effect.~~

~~Section 7. Landowner Cooperator Permits.~~

~~(1) With the approval of the commission, the commissioner may issue either-sex elk permit(s) each year of the agreement to qualified landowners or lessees who enter into a five (5) year public hunting and access agreement with the department.~~

~~(2) To qualify, landowners or lessees shall own or lease 5,000 acres of elk habitat to which he or she, and the lessor, if applicable, agrees to allow public hunting and access.~~

~~(3)(a) A landowner cooperator permit is transferable, but shall be used on the land for which the memorandum of agreement was made.~~

~~(b) The permit may be transferred to any person eligible to hunt in Kentucky.~~

~~(c) The landowner or agent identified in the memorandum of agreement for that property shall provide to the department the following information for each person to whom a permit will be transferred:~~

~~1. Name;~~

~~2. Social Security number;~~

~~3. Address; and~~

~~4. Telephone number.~~

~~(d) If the permit is sold, the landowner or agent shall provide to the department:~~

~~1. The gross sale price for the permit; and~~

~~2. How the proceeds of the sale will be used in Kentucky for wildlife management.~~

~~(e) The permit shall be issued by the department directly to the recipient specified by the landowner or agent.~~

~~(4) One (1) landowner cooperator permit shall be issued for each 5,000~~ [-]~~acres of land included in the agreement.~~

~~(5) Public access agreements with the department shall be memorialized in memorandums of understanding.~~

~~(6) Recipients of landowner cooperator permits shall comply with the provisions of this administrative regulation including seasons, legal methods of taking and other elk hunting requirements.~~

~~(a) Landowner cooperator land that resides within a limited entry area shall be managed pursuant to Sections 4 and 5 of this administrative regulation.~~

~~(b) Landowner cooperator land that resides within the zone-at-large shall be managed pursuant to Sections 4 and 5 of this administrative regulation.~~]

Section 9. Out-of-zone Elk Hunting. (1) [~~8. Hunting Elk Outside of the Sixteen (16) County Restoration Zone. (1) A person may hunt elk in counties other than the sixteen (16) county restoration zone.~~

~~(2)~~] The methods of taking and seasons established in 301 KAR 2:172 [~~and 301 KAR 2:174~~] shall apply to taking elk outside of the [~~sixteen (16) county~~] restoration zone.

(a) In order to harvest an out-of-zone elk, a hunter shall be a legal deer hunter and shall possess [~~purchase~~] an out-of-zone elk permit.

(b) Landowners are exempt from this permit requirement as per KRS 150.170.

(2) [~~(3)~~] Either sex elk may be taken and shall not count towards the deer bag limit.

(3) [~~(4)~~] Elk harvested out-of-zone [~~outside of the restoration zone~~] shall be telechecked in accordance with Section 7 of this administrative regulation. [~~prior to removal of the carcass and the confirmation number shall be recorded on a hunter's log.~~]

Section 10.[~~9.~~] A person who takes possession of any elk antler that has the skull or skull plate attached to it[~~, not including sheds,~~] shall contact [~~call~~] the department's Law Enforcement Division [~~at 1-800-25ALERT~~] within twenty-four (24) hours to obtain a disposal permit.

MARK S. CRAMER, Deputy Commissioner
For DR. JONATHAN W. GASSETT, Commissioner
MARCHETA SPARROW, Secretary
APPROVED BY AGENCY: dECEMBER 7, 2007
FILED WITH LRC: January 9, 2008 at 3 pm

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008, at 10 a.m. at the Department of Fish and Wildlife Resources in the Commission Room of the Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by five (5) business days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation by February 29, 2008. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Rose Mack, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Sportsman's Lane, Frankfort, Kentucky 40601 phone (502) 564-3400 fax (502) 564-9136.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Rose Mack

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the procedures for elk quota hunts, the disposition of nuisance elk, the requirements for landowner cooperator permits, and the procedures for taking out-of-zone elk.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to properly ensure for the fair selection of hunters who apply for elk quota hunts, to ensure appropriate disposition of elk that are causing damage to property, to establish procedures for eradication of out-of-zone elk, and to establish procedures for the management of Kentucky's elk herd.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 150.025 authorizes the department to promulgate administrative regulations governing the taking of wildlife. KRS 150.177 authorizes the department to issue special commission permits for game species to nonprofit organizations. KRS 150.178 authorizes the department to issue elk permits to landowner cooperators. KRS 150.390 authorizes the department to promulgate administrative regulations for elk hunting and for the removal of elk that are causing destruction to property. This administrative regulation establishes the procedures and requirements for the elk quota hunts, elk hunting, special commission and landowner cooperator permits, and elk damage abatement.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation establishes the procedures and seasons for elk hunting in order to properly manage the herd. This regulation will also allow for the removal of elk causing property damage and for hunting elk out-of-zone. The above procedures will assist the department in carrying out the provisions of the statutes.

(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: Limited Entry Areas and zone-at-large designations have been replaced with Elk Hunting Units. Persons assisting an elk hunter must wear hunter orange. Section 7 has been amended to conform to KRS 150.178.

(b) The necessity of the amendment to this administrative

regulation: Given the population growth of the elk herd, a new structure and system is needed to manage the elk harvest. The Elk Hunting Units have been established to better distribute hunter effort throughout the restoration zone.

(c) How the amendment conforms to the content of the authorizing statutes: See "1c" above.

(d) How the amendment will assist in the effective administration of the statutes: See "1d" above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Approximately 30,000 to 50,000 people who apply to hunt elk in Kentucky, people who enter into landowner cooperator agreements with the department for public hunting access, and property owners sustaining damage from elk

(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: Persons wishing to enter the elk quota hunt lottery are required to pay an application fee during the application period. Persons who are drawn for the quota hunt must purchase an annual hunting license (unless exempt) and an elk permit. Legal deer hunters wishing to harvest elk outside the restoration zone must purchase an out-of-zone elk permit. Landowners must contact the department to enroll in the landowner cooperator program and must have at least 5,000 acres to qualify for an elk hunting permit. People experiencing elk damage on their property must contact the department and request assistance.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment does not change the current fee structure. The application fee for the elk quota hunt is $10. Elk permits and out-of-zone permits are $30 for residents and $365 for non-residents. No fees are associated with the landowner cooperator program or elk damage abatement.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): They will have the opportunity to be drawn for the elk quota hunt or to take an elk out-of-zone.

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

(a) Initially: There will be no additional cost to the agency to implement this administrative regulation as amended.

(b) On a continuing basis: There will be no additional cost to the agency.

(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 state Game and Fish Fund. There will be no additional costs associated with the changes to this regulation. The department already has the mechanisms in place for administering quota hunt application procedures and random drawings.

(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: Additional fees for direct implementation of this regulation are not necessary, as infrastructure for conducting all aspects of elk management and quota hunts already exists (see "6" above).

(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? Yes. A maximum of ten (10) percent of all quota hunt elk permits will be randomly awarded to non-residents. This places a cap on the number of non-resident permits to be awarded. Pub.l. 109-13, passed by the U.S. Congress states: "It is the policy of Congress that it is in the public interest for each State to continue to regulate the taking for any purpose of fish and wildlife within its boundaries, including by means of laws or regulations that differentiate between residents and nonresidents of such State with respect to the availability of licenses or permits for taking of particular species of fish or wildlife, the kind and numbers of fish and wildlife that may be taken, or the fees charged in connection with issuance of licenses or permits for hunting or fishing." Otherwise, tiering was not used because all persons wishing to harvest elk, mitigate property damage caused by elk, or participate in the landowners cooperative permit program will be 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)? 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 Department of Fish and Wildlife Resources will be impacted by this amendment.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 150.010, 150.177, 150.178, 150.180, 150.390, 150.990.

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? For the 2007 elk hunt, there were 31,002 applicants who generated $310,020. The 300 elk permits generated $8,100 in resident elk permit fees and $10,950 in non-resident elk permit fees.

(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 revenue for subsequent years cannot be accurately estimated, but is expected to increase annually, as the number of elk permits issued increases.

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

(d) How much will it cost to administer this program for subsequent years? There should be no additional 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 (+/-): See 4 (a) and (b) above.

Expenditures (+/-): See 4 (c) and (d) above.

Other Explanation: Elk hunting and viewing have positive economic impacts on the local communities in southeastern Kentucky. KDFWR, in cooperation with the Rocky Mountain Elk Foundation, is continuing to survey the economic benefit from elk hunting to local communities. According to a survey of the 2006 elk hunters, they each spent an average of $1,150 on transportation, lodging, and equipment while hunting in southeastern Kentucky. The 400 permits to be issued for the 2008 season should generate approximately $460,000 in revenue to southeastern Kentucky.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Corrections
(Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any 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 policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Policies and Procedures," January 15, 2008, [~~July 9, 2007~~"] are incorporated by reference. Department of Corrections Policies and Procedures include:

1.2 News Media (Amended 8/9/05)
1.4 The Monitoring and Operation of Private Prisons (Amended 8/9/05)
2.1 Inmate Canteen (Amended 2/15/06)
2.2 Warden's Fund (Amended 10/14/05)
3.1 Code of Ethics (Amended 07/09/07)
3.3 Holding of Second Jobs by Corrections' Employees (Amended 07/09/07)
3.5 Sexual Harassment and Anti-Harassment (Amended 8/9/05)
3.10 Appearance and Dress for Nonuniformed Staff (Amended 11/9/04)
3.11 Drug Free Workplace Employee Drug Testing (Amended 07/09/07)
3.17 Uniformed Employee Dress Code (Amended 4/10/06)
3.20 Communication and Recording Devices (Amended 6/3/05)
5.1 Research and Survey Projects (Amended 8/9/05)
6.1 Open Records Law (Amended 5/14/07)
8.2 Fire Safety (Amended 2/15/06)
8.7 Notification of Extraordinary Occurrence (Amended 12/13/05)
9.4 Transportation of Inmates to Funerals or Bedside Visits (Amended 11/9/04)
9.5 Execution (Amended 9/20/05)
9.6 Contraband (Amended 12/13/05)
9.8 Search Policy (Amended 1/9/07)
9.13 Transport to Court - Civil Action (Amended 07/09/07)
9.18 Informants (Amended 10/14/05)
9.19 Found Lost or Abandoned Property (Amended 10/14/05)
9.20 Electronic Detection Equipment (Amended 10/14/05)
10.2 Special Management Inmates (Amended 11/15/06)
10.3 Safekeepers and Contract Prisoners (Amended 9/15/04)
11.2 Nutritional Adequacy of Inmate Diet (Amended 8/9/05)
11.4 Alternative Dietary Patterns (Amended 6/3/05)
13.1 Pharmacy Policy and Formulary (Amended 11/15/06)
13.2 Health Maintenance Services (Amended 1/9/07)
13.3 Medical Alert System (Amended 10/14/05)
13.5 Advance Healthcare Directives (Added 4/12/05)
13.6 Sex Offender Treatment Program (Amended 8/9/05)
13.7 Involuntary Psychotropic Medication (Amended 10/14/05)
13.8 Substance Abuse Treatment Program (Amended 07/09/07)
13.9 Dental Services (Amended 10/14/05)
13.10 Serious Infectious Disease (Amended 12/13/05)
13.11 Do Not Resuscitate Order (Amended 8/9/05)
14.1 Investigation of Missing Inmate Property (Amended 10/14/05)
14.2 Personal Hygiene Items (Amended 10/14/05)
14.3 Marriage of Inmates (Amended 10/14/05)
14.4 Legal Services Program (Amended 07/09/07)
14.5 Board of Claims (Amended 10/14/05)
14.6 Inmate Grievance Procedure (Amended 07/09/07)
14.7 Sexual Abuse Assault Prevention and Intervention Programs (Amended 11/15/06)
15.1 Hair, Grooming and ID Card Standards (Amended 12/13/05)
15.2 Rule Violations and Penalties (Amended 11/15/06)
15.3 Meritorious Good Time (Amended 12/13/05)
15.5 Restoration of Forfeited Good Time (Amended 5/14/07)
15.6 Adjustment Procedures and Programs (Amended 10/14/05)
15.7 Inmate Account Restriction (Amended 11/15/06)
15.8 Unauthorized Substance Abuse Testing (Amended 10/14/05)
16.1 Inmate Visits (Amended 07/09/07)
16.2 Inmate Correspondence (Amended 11/15/06)
16.3 Inmate Access to Telephones (Amended 6/3/05)
16.4 Inmate Packages (Amended 07/09/07)
17.1 Inmate Personal Property (Amended 5/14/07)
17.2 Assessment Center Operations (Amended 11/15/06)
17.3 Controlled Intake of Inmates (Amended 1/12/05)
17.4 Administrative Remedies: Sentence Calculations (Amended 4/10/06)
18.1 Classification of the Inmate (Amended 07/09/07)
18.2 Central Office Classification Committee (Amended 10/14/05)
18.5 Custody and Security Guidelines (Amended 07/09/07)
18.7 Transfers (Amended 07/09/07)
18.9 Out-of-state Transfers (Amended 2/15/06)
18.11 Placement for Mental Health Treatment in CPTU, KCIW-PCU, or KCPC (Amended 1/9/07)
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill (Amended 2/15/06)
18.13 Population Categories (Amended 07/09/07)
18.15 Protective Custody (Amended 11/15/06)
18.16 Information to the Parole Board (Effective 11/15/06)
18.17 Interstate Agreement on Detainers (Amended 07/09/07)
18.18 International Transfer of Inmates (Amended 5/14/07)
19.1 Governmental Services Program (Amended 07/09/07)
19.2 Sentence Credit for Work (Added 2/13/04)
19.3 Inmate Wage/Time Credit Program (Amended 10/14/05)
20.1 Educational Programs and Educational Good Time (Amended 4/10/06)
22.1 Privilege Trips (Amended 10/14/05)
23.1 Religious Programs (Amended 1/15/08[~~1/9/07~~])
25.2 Public Official Notification of Release of an Inmate (Amended 10/14/05)
25.3 Prerelease Program (Effective 11/15/06)
25.4 Institutional Inmate Furloughs (Amended 07/09/07)
25.6 Community Center Program (Amended 07/09/07)
25.8 Extended Furlough (Amended 4/12/05)
25.10 Administrative Release of Inmates (Amended 10/14/05)
25.11 Victim Notification (Amended 10/14/05)
26.1 Citizen Involvement and Volunteer Service Program (Added 9/15/04)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN D. REES, Commissioner

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2008 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on February 21, 2008 at 10:30 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. 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 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 five working days prior to the hearing or send written comments on the proposed administrative regulation by close of business February 29, 2008 to: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Karen S. Howard

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the policies and procedures governing the Kentucky Department of Corrections including the rights and responsibilities of employees and the inmate population.

(b) The necessity of this administrative regulation: To conform

to the requirements of KRS 196.035, 197.020, and 197.025(6) and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation governs the operations of the Kentucky Department of Corrections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Corrections employees concerning their duties and responsibilities of their jobs and to inmates concerning their rights and responsibilities.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates the references to the current version of the religion manual. It includes a definition for the "Inmate Religion Center" and procedures for its use. It also makes corrections for clarification and to comply with the drafting and format requirements of KRS Chapter 13A.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, and 197.025(6).

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning religious programs in the institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Department of Corrections, 3825 employees and 19501 inmates, and visitors to state correctional institutions.

(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 additional action required. Amendment updates the religion reference manual and clarifies existing procedures for both inmates and the staff.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the penal institutions.

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

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Corrections budgeted 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 fees involved

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

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 amendments to this regulation impact the operation of Kentucky Department of Corrections and each state correctional institution.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020

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? The amendments to this regulation do not create any revenue for the Kentucky Department of Corrections, state correctional institutions, or other government entity.

(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 amendments to this regulation do not create any revenue for the Kentucky Department of Corrections, state correctional institutions, or other government entity.

(c) How much will it cost to administer this program for the first year? No new programs are created. The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operates, but do not increase costs from what was previously budgeted to the Department of Corrections.

(d) How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operates, but are not expected to increase costs from what will be budgeted to the Department of Corrections.

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
(Amendment)

501 KAR 6:080. Department of Corrections manuals [~~manual~~].

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any of its divisions. This administrative regulation incorporates by reference the manuals that [~~division therein. These manuals~~] are referenced in policies and procedures for the Department of Corrections.

Section 1. Incorporation by Reference. (1) "Department of Corrections Manuals," January 15, 2008 are [~~November 15, 2006 ", is~~] incorporated by reference. Department of Corrections Manuals includes:

(a) Classification Manual (Amended 4/15/02); and

(b) Kentucky Department of Corrections Religion Reference

Manual (Added 1/15/08) [~~Inmate Religious Beliefs and Practices Technical Reference Manual, U.S. Department of Justice, Federal Bureau of Prisons, 3/27/2002 edition~~].

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601 [~~Office of Legal Services, Department of Corrections, 275 E. Main Street, PO Box 2400, Frankfort, Kentucky 40602-2400~~], Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN D. REES, Commissioner

APPROVED BY AGENCY: January 14, 2008

FILED WITH LRC: January 15, 2008 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on February 21, 2008 at 10 a.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. 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 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 five working days prior to the hearing or send written comments on the proposed administrative regulation by close of business February 29, 2008 to:

CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Karen S. Howard

(1) Provide a brief summary of:

(a) What this administrative regulation does: This regulation incorporates by reference the two manuals that are referenced in the department's policies and procedures, the Classification Manual and the Religion Reference manual.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, and 197.025(6), and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statues: The regulation governs the operations of the Kentucky Department of Corrections.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation and material incorporated by reference provide direction and information to Corrections employees concerning their duties and responsibilities of their jobs and to inmates concerning their rights and responsibilities.

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

(a) How the amendment will change this existing administrative regulation: The amendment amends the Religion Reference Manual for the department. The manual is still based on the federal manual that is being currently used, however, it is reformatted for easier use and understanding. The Kentucky manual now includes only the portions of the federal manual that establish required procedures for the inmates so that they are clearly established for both staff and the inmates.

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, and 197.025(6).

(c) How the amendment conforms to the content of the authorizing statutes: It permits the Commissioner or his authorized representative to implement or amend practices or procedures to ensure the safe and efficient operation of the Kentucky Department of Corrections.

(d) How the amendment will assist in the effective administration of the statutes: The amendment provides staff and inmates information concerning religious practices in the institutions.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects the Kentucky Department of Corrections, 3825 employees and 19,501 inmates, and visitors to state correctional institutions.

(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 additional action required as current procedures are reformatted and clarified rather than changed by the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The operational changes will assist in the effective and orderly management of the penal institutions.

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

(a) Initially: None

(b) On a continuing basis: None

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Kentucky Department of Corrections budgeted 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 fees involved.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: None.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

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 amendments to this regulation impact the operation of Kentucky Department of Corrections and each state correctional institution.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020.

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? The amendments to this regulation do not create any revenue for the Kentucky Department of Corrections, state correctional institutions, or other government entity.

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 amendments to this regulation do not create any revenue for the

Kentucky Department of Corrections, state correctional institutions, or other government entity.

c. How much will it cost to administer this program for the first year? No new programs are created. The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operates, but do not increase costs from what was previously budgeted to the Department of Corrections.

d. How much will it cost to administer this program for subsequent years? The amendments to this regulation impact how the Kentucky Department of Corrections and state correctional institutions operates, but are not expected to increase costs from what will be budgeted to the Department of Corrections.

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
(Amendment)

501 KAR 6:160. Correctional Industries.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 197.200, 439.470, 439.590, 439.640

NECESSITY, FUNCTION, AND CONFORMITY: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the Justice and Public Safety Cabinet and Department of Corrections to promulgate administrative regulations necessary and suitable for the proper administration of the department or any 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 policies and procedures for Correctional Industries. [~~196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the commissioner to adopt, amend or rescind administrative regulations necessary and suitable for the proper administration of the department or any division therein.~~]

Section 1. Incorporation by Reference. (1) "Correctional Industries Policies and Procedures," January 15, 2008, are incorporated by reference. Correctional Industries Policies and Procedures include:

CI 01-04-02 Code of Ethics, Prohibited Employee Conduct (Added 1/15/08)

[~~Pursuant to the authority vested in the Department of Corrections the following policies and procedures revised September 15, 1992 are incorporated by reference and shall be referred to as Correctional Industries Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Department of Corrections, 2439 Lawrenceburg Road, Frankfort, Kentucky 40601 or may be reviewed at the Office of General Counsel weekdays from 8 a.m. to 4:30 p.m.~~

~~CI 01-01-01 Establishment and Issuance of Policies and Procedures (Amended 9/15/92)~~
~~CI 01-01-02 Administration and Use of the Policy and Procedures Manual, Including Issuance, Revision and Dissemination (Amended 9/15/92)~~
~~CI 01-02-01 Organization of Correctional Industries~~
~~CI 01-03-01 Annual Planning Document (Amended 9/15/92)~~
~~CI 01-04-01 Personnel Records~~
~~CI 01-04-04 New Employee Orientation~~
~~CI 02-01-01 Budgeting (Amended 9/15/92)~~
~~CI 02-02-01 Purchasing (Amended 9/15/92)~~
~~CI 02-03-01 Equipment Inventory and Other Nonexpendable Items (Amended 9/15/92)~~
~~CI 02-04-01 Accounts Receivable (Amended 9/15/92)~~
~~CI 03-01-01 Raw Material and Work In-Process Inventory~~
~~CI 03-01-02 Finished Goods Inventory (Amended 9/15/92)~~
~~CI 03-01-03 Stocking of Warehouse~~]
CI 03-02-01 Delivery of Goods and Services (Amended 1/15/08)
CI 03-02-02 Pickup of Reupholstery and Repair Items (Amended 1/15/08)
[~~CI 04-01-01 Marketing~~
~~CI 04-02-01 Advertising Correctional Industry Products and Services~~
~~CI 04-02-02 Correctional Industries Catalog~~
~~CI 04-02-03 Prototypes and Samples Not For Sale~~
~~CI 04-03-01 Pricing of Correctional Industries Products~~
~~CI 04-03-02 Preparation of Bids~~]
CI 04-03-03 Customer Orders (Amended 1/15/08)
CI 04-03-04 Sale of Industry Products to Private Individuals (Amended 1/15/08[~~9/15/92~~])
[~~CI 04-03-05 Sales and Sales Reporting~~]
CI 04-04-01[~~04-04-02~~] Warranty of Products (Amended 1/15/08)
CI 05-01-01 Inmate Job Descriptions (Amended 1/15/08)
CI 05-01-02 Equal Opportunity Employment (Amended 1/15/08)
CI 05-01-03 Job Performance Evaluations (Amended 1/15/08)
CI 05-01-04 Inmate Compensation (Amended 1/15/08)
CI 05-01-05 Job Assignments (Amended 1/15/08)
CI 05-02-01 Inmate Orientation (Amended 1/15/08)
CI 05-03-01 Standards for Working in Correctional Industries Plants (Amended 1/15/08)
CI 06-01-01 Safety and Working Conditions (Amended 1/15/08)
CI 06-02-01 Key and Tool Control (Amended 1/15/08)
CI 06-02-02 Searches (Amended 1/15/08)
[~~CI 06-02-03 Use of State Vehicles~~]
CI 06-03-01 Inmate Supervision (Amended 1/15/08)
[~~CI 07-01-01 Production Scheduling~~
~~CI 07-01-02 New Production Development (Amended 9/15/92)~~]
CI 07-02-01 Quality Control (Amended 1/15/08)
CI 07-03-01 Data Entry Unit Procedures (Added 1/15/08)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, Monday through Friday, 8 a.m. to 4:30 p.m.

JOHN D. REES, Commissioner

APPROVED BY AGENCY: January 15, 2008

FILED WITH LRC: January 15, 2008 at 9 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on February 21, 2008 at 1 p.m. at the Justice and Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601. 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 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 five working days prior to the hearing or send written comments on the proposed administrative regulation by close of business February 29, 2008 to:

CONTACT PERSON: Karen S. Howard, Justice & Public Safety Cabinet, Office of Legal Services, 125 Holmes Street, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 564-8215, fax (502) 564-6686.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Karen S. Howard

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation incorporates by reference the policies and procedures for Kentucky Correctional Industries.

(b) The necessity of this administrative regulation: To conform to the requirements of KRS 196.035, 197.020, and 197.200 and to meet ACA requirements.

(c) How this administrative regulation conforms to the content of the authorizing statues: This administrative regulation governs the operations of Kentucky Correctional Industries.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The policies and procedures incorporated by reference provide direction and information to Corrections employees concerning their duties and job responsibilities and to inmates concerning their rights and responsibilities in the Correctional Industries program.

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

(a) How the amendment will change this existing administrative regulation: The amendment updates and clarifies the policies and procedures for Kentucky Correctional Industries and deletes policies which are outdated or unnecessary under KRS 13A.010(2)(a) and KRS 13A.100(1).

(b) The necessity of the amendment to this administrative regulation: To conform to the requirements of KRS Chapter 13A, 196.025, 197.020, and 197.200.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment updates and clarifies the policies and procedures for Kentucky Correctional Industries.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies and streamlines current regulatory policy of Kentucky Correctional Industries.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This affects KCI 90 employees and 800 inmates. It also affects state agencies, local governments, and private individuals who purchase KCI products.

(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 additional action required. The amendment makes formatting changes and clarifies existing policies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No additional cost.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Staff, inmates, and the public will have updated and clarified policies and procedures.

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

(a) Initially: No additional cost as it is an ongoing program.

(b) On a continuing basis: No additional cost as it is an ongoing program.

(6) What is the source of funding to be used for the implementation and enforcement of this administrative regulation: Sales from KCI products and services.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: No. Any price increases are driven by production costs.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it. Disparate treatment of any person or entity subject to this administrative regulation could raise questions of arbitrary action on the part of the agency. The "equal protection" and "due process" clauses of the Fourteenth Amendment of the U.S. Constitution may be implicated as well as Sections 2 and 3 of the Kentucky Constitution.

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 amendments to this administrative regulation impact the operation of Kentucky Correctional Industries, the Department of Corrections, and other state agencies purchasing KCI products.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 196.035, 197.020, 197.200.

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? 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:

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 338.051(3), 338.061, [~~338,~~] 29 C.F.R. [~~Part~~] 1910.132-.138 and Appendices

STATUTORY AUTHORITY: KRS 338.051(3), 338.061

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [~~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~~]. 29 C.F.R. 1910.132 to 1910.138 and Appendices establishes the federal requirements relating to personal protective equipment. This [~~The following~~] administrative regulation establishes [~~the~~] personal protective equipment standards to be enforced by the Office of Occupational Safety and Health [~~in the area~~] of general industry.

Section 1. Definitions. (1) "C.F.R." means Code of Federal Regulations.

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

(3)[~~(2)~~] "Employer" is defined in KRS 338.015(1).

(4)[~~(3)~~] "Established federal standard" is defined in KRS 338.015(10).

(5)[~~(4)~~] "National consensus standard" is defined in KRS 338.015(9).

(6)[~~(5)~~] "Standard" is defined in KRS 338.015(3).

(7)[~~(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. Except as modified by the definitions in Section 1 of this administrative regulation, general industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. 1910.132 through 29 C.F.R. 1910.138, and Ap-

pendices, revised July 1, 2007; and

(2) The amendment to 29 C.F.R. 1916.132 published in the November 15, 2007, Federal Register, Volume 72, Number 220 (72 Fed. Reg. 64428). [~~(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:~~

~~(a) 29 C.F.R. Part 1910.132-138, Subpart I, "Personal Protective Equipment", revised as of July 1, 2004; and~~

~~(b) 29 C.F.R. 1910.134, "Respiratory Protection" and Appendix A to 29 C.F.R. 1910.134, revised as of August 4, 2004.~~

~~(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.~~]

JAMES R. GRAY, Chairman

APPROVED BY AGENCY: January 8, 2008

FILED WITH LRC: January 10, 2008 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008 at 10:30 a.m. (EDT) at the Department of Labor, 1047 US HWY 127 South, Suite 4, 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 February 29, 2008. 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: Chuck Stribling, CSP, Safety 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: Chuck Stribling, CSP

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in general industry to comply with the requirements of 29 Code of Federal Regulations (C.F.R.) 1910.132 through 1910.138 and Appendices. Section 2 also updates the C.F.R. to July 1, 2007 and establishes the amendment to 1910.132, published in the November 15, 2007 Federal Register, Volume 72, Number 220, which requires employers to pay for personal protective equipment (PPE) with exceptions for specific items. Employees often wear protective equipment, including PPE, to be protected from injury, illness, and death caused by exposure to workplace hazards. PPE includes many different types of protective equipment that an employee uses or wears, such as fall arrest systems and respiratory protection. Many occupational safety and health (OSH) standards require employers to provide PPE to their employees and ensure its use. Some OSH standards indicate in broad performance terms when PPE is to be used and what is to be used. Other standards are very exact, requiring a specific type of PPE while performing a specific task. Some OSH standards specifically require the employer to pay for PPE. OSH health standards issued after 1978 require the employer provide necessary PPE at no cost to the employee; and, some safety standards also require the employer both provide and pay for PPE. However, most OSH standards are silent with regard to whether the employer is obligated to pay for PPE. In 1994, the Occupational Safety and Health Administration (OSHA) established a nationwide policy on the issue of payment for required PPE in an October 18, 1994 memorandum, "Employer Obligation to Pay for Personal Protective Equipment." OSHA stated that for all PPE standards, the employer must provide and pay for the required PPE, except in limited situations. The memorandum stated that where PPE is very personal in nature and used by the employee off the job, such as is often the case with steel-toe safety shoes, but not metatarsal foot protection, the issue of payment may be left to labor-management negotiations. However, the Occupational Safety and Health Review Commission declined to accept the interpretation embodied in the 1994 memorandum. In Secretary of Labor v. Union Tank Car Company, an employer was issued a citation for failing to pay for metatarsal foot protection and welding gloves. The Review Commission vacated the citation, finding OSHA failed to adequately explain the policy outlined in the 1994 memorandum in light of several earlier letters of interpretation from OSHA that it read as inconsistent with the policy. In response to the Union Tank decision, on March 31, 1999, OSHA issued a proposed standard. The 1999 proposal required employers to pay for all protective equipment, including PPE, with explicit exceptions for certain safety shoes, prescription safety eyewear, and logging boots. OSHA cited 2 primary reasons for requiring employers to pay for PPE. First, OSHA preliminary concluded the Occupational Safety and Health Act of 1970 implicitly requires employers to pay for PPE that is necessary to protect the safety and health of employees. Second, OSHA preliminary concluded that an across the board employer payment requirement would result in safety benefits by reducing the misuse or non-use of PPE. Following an initial notice and comment period, an informal rulemaking hearing, a second notice and comment period on specific issues, and careful deliberation, OSHA found that its preliminary conclusions were appropriate and issued the November 15, 2007 final rule requiring employers to pay for PPE, with limited exceptions. In the November 15, 2007 final rule, OSHA requires employers to pay for the PPE used to comply with OSHA standards, with a few exceptions. OSHA promulgated the final rule for 3 primary reasons. First, the rule effectuates the underlying requirement in the OSH Act that employers pay for the means necessary to create a safe and healthful work environment. This includes paying for the requirements in safety and health standards. Second, the rule will reduce work-related injuries and illnesses. Third, the rule creates clarity across OSH standards, thus reducing confusion among employers and employees concerning PPE that employers must provide at no cost to employees. The final rule does not set forth new requirements regarding the PPE that must be provided and the circumstances in which it must be provided. The rule generally requires employers to pay for PPE used to comply with OSH standards and sets forth specific exceptions where employers are not required to pay for such equipment. The items excepted from payment by the rule are: Ordinary safety-toe footwear and ordinary prescription safety eyewear so long as the employer allows the employee to wear these items off the jobsite; Shoes or boots with built in metatarsal protection that the employee has requested to use instead of employer provided detachable metatarsal guards; Logging boots required by 1910.266(d)(1)(v); Everyday work clothing; and Ordinary clothing, skin creams, or other items used solely for protection from the weather. The November 15, 2007 final rule establishes that employers are responsible for paying for the minimum level of PPE required by the standards. If an employer decides to use upgraded PPE to meet the requirements, the employer must pay for that PPE. If an employer provides PPE at no cost, an employee asks to use different PPE, and the employer decides to allow him or her to do so, then the employer is not required to pay for the item. The final rule requires employer payment for replacement PPE used to comply with the standards. However, when an employee has lost or intentionally damaged the PPE issued to him or her, the employer is not required to pay for its replacement and may require the employee to pay for such replacement. The final rule also addresses the use of employee owned PPE. The rule acknowledges that employees may wish to use PPE they own, and if their employer allows them to do so, the employer is not required to reimburse employees for the PPE. The regulatory text makes clear that employers cannot require employees to provide their own PPE or pay for their own PPE. The employee's use of PPE they own must be completely voluntary. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A

considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within six (6) months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:308 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(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 promote worker health and safety throughout Kentucky and keep the state program as effective as the federal 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 administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in general industry to comply with the requirements of 29 C.F.R. 1910.132 through 1910.138 and Appendices. Section 2 also updates the C.F.R. to July 1, 2007 and establishes the amendment to 1910.132, published in the November 15, 2007 Federal Register, Volume 72, Number 220, which requires employers to pay for PPE with exceptions for specific items. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:308 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment 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 maintains consistency with the federal requirement, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program. OSHA states that for 3 main reasons, the November 15, 2007 final rule will reduce work-related injuries and illnesses resulting in safety benefits. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. This amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

(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.

(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: OSHA provides that employers currently pay approximately 95% of the cost of PPE. This amendment requires employers to pay for PPE with exceptions for specific items. This amendment does not require PPE where it was not required before.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): OSHA provides that employers currently pay approximately 95% or more of the cost of PPE. Nationally, employers in the construction, general, and maritime industries are expected to incur $85 million per year in costs of compliance. Costs specific to individual states are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): OSHA states this rule will reduce work-related injuries and illnesses resulting in safety benefits for 3 main reasons. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. The amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

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

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

(b) On a continuing basis: There will be no 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 man-

date. Pub.L. 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:308 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:308 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment does 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 amendment does 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 covered by KRS 338 and engaged in general industry activities.

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, Pub.L. 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 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? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

(d) How much will it cost to administer this program for subsequent years? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states 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 (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

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

803 KAR 2:404. Personal protective and lifesaving equipment.

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. 1926.95-107 [~~1910~~]

STATUTORY AUTHORITY: KRS 338.051(3), 338.061[~~, 29 C.F.R. 1926~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 338.051(3) requires [~~and 338.061 authorize~~] the Kentucky Occupational Safety and Health Standards Board to [~~adopt and~~] promulgate occupational safety and health administrative regulations. 29 C.F.R 1926.95 to 107 establishes the federal requirements relating to personal protective and lifesaving equipment. This administrative regulation establishes personal protective and lifesaving equipment standards to be enforced by the Office of Occupations Safety and Health in the construction industry. [~~KRS 338.061(2) provides that the board may incorporate by reference established federal standards and national consensus standards is also given to the board. The following administrative regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.~~]

Section 1. Definitions. (1) "Assistant Secretary" means Commissioner of Labor, Kentucky Department of Labor or Executive Director, Office of Occupational Safety and Health, Kentucky Department of Labor.

(2) "C.F.R." means Code of Federal Regulations.

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

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

(5) "OSHA" means the Occupational Safety and Health Administration or the Kentucky Office of Occupational Safety and Health.

Section 2. The construction industry shall comply with the following federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, except as modified by the definitions in Section 1 of this administrative regulation:

(1) 29 C.F.R. 1926.95 through 29 C.F.R. 1926.107, revised July 1, 2007; and

(2) The amendment to 29 C.F.R. 1926.95 published in the November 15, 2007 Federal Register, Volume 72, Number 220 (72 Fed. Reg. 64429). [~~Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) 29 C.F.R. 1926.95-1926.107, Subpart E, "Personal Protec-~~

~~tive and Lifesaving Equipment", published by the Office of the Federal Register, National Archives and Records Services, General Services Administration, revised as of July 1, 1997, is incorporated by reference.~~

~~(b) The revisions to 29 C.F.R. 1926.103, "Respiratory Protection", as published in the Federal Register, Volume 63, Number 5, January 8, 1998, is incorporated by reference.~~

~~(2) This material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601, during the hours of 8 a.m. - 4:30 p.m.(ET), Monday through Friday.~~]

JAMES R. GRAY, Chairman

APPROVED BY AGENCY: January 8, 2008

FILED WITH LRC: January 10, 2008 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008 at 10:30 a.m. (EDT) at the Department of Labor, 1047 US HWY 127 South, Suite 4, 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 February 29, 2008. 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: Chuck Stribling, CSP, Safety 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: Chuck Stribling, CSP

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in general industry to comply with the requirements of 29 Code of Federal Regulations (C.F.R.) 1926.95 through 1926.107. Section 2 also updates the C.F.R. to July 1, 2007 and establishes the amendment to 1926.95 published in the November 15, 2007 Federal Register, Volume 72, Number 220, which requires employers to pay for personal protective equipment (PPE) with exceptions for specific items. Employees often wear protective equipment, including PPE, to be protected from injury, illness, and death caused by exposure to workplace hazards. PPE includes many different types of protective equipment that an employee uses or wears, such as fall arrest systems and respiratory protection. Many occupational safety and health (OSH) standards require employers to provide PPE to their employees and ensure its use. Some OSH standards indicate in broad performance terms when PPE is to be used and what is to be used. Other standards are very exact, requiring a specific type of PPE while performing a specific task. Some OSH standards specifically require the employer to pay for PPE. OSH health standards issued after 1978 require the employer provide necessary PPE at no cost to the employee; and, some safety standards also require the employer both provide and pay for PPE. However, most OSH standards are silent with regard to whether the employer is obligated to pay for PPE. In 1994, the Occupational Safety and Health Administration (OSHA) established a nationwide policy on the issue of payment for required PPE in an October 18, 1994 memorandum, "Employer Obligation to Pay for Personal Protective Equipment." OSHA stated that for all PPE standards, the employer must provide and pay for the required PPE, except in limited situations. The memorandum stated that where PPE is very personal in nature and used by the employee off the job, such as is often the case with steel-toe safety shoes, but not metatarsal foot protection, the issue of payment may be left to labor-management negotiations. However, the Occupational Safety and Health Review Commission declined to accept the interpretation embodied in the 1994 memorandum. In Secretary of Labor v. Union Tank Car Company, an employer was issued a citation for failing to pay for metatarsal foot protection and welding gloves. The Review Commission vacated the citation, finding OSHA failed to adequately explain the policy outlined in the 1994 memorandum in light of several earlier letters of interpretation from OSHA that it read as inconsistent with the policy. In response to the Union Tank decision, on March 31, 1999, OSHA issued a proposed standard. The 1999 proposal required employers to pay for all protective equipment, including PPE, with explicit exceptions for certain safety shoes, prescription safety eyewear, and logging boots. OSHA cited 2 primary reasons for requiring employers to pay for PPE. First, OSHA preliminary concluded the Occupational Safety and Health Act of 1970 implicitly requires employers to pay for PPE that is necessary to protect the safety and health of employees. Second, OSHA preliminary concluded that an across the board employer payment requirement would result in safety benefits by reducing the misuse or non-use of PPE. Following an initial notice and comment period, an informal rulemaking hearing, a second notice and comment period on specific issues, and careful deliberation, OSHA found that its preliminary conclusions were appropriate and issued the November 15, 2007 final rule requiring employers to pay for PPE, with limited exceptions. In the November 15, 2007 final rule, OSHA requires employers to pay for the PPE used to comply with OSHA standards, with a few exceptions. OSHA promulgated the final rule for 3 primary reasons. First, the rule effectuates the underlying requirement in the OSH Act that employers pay for the means necessary to create a safe and healthful work environment. This includes paying for the requirements in safety and health standards. Second, the rule will reduce work-related injuries and illnesses. Third, the rule creates clarity across OSH standards, thus reducing confusion among employers and employees concerning PPE that employers must provide at no cost to employees. The final rule does not set forth new requirements regarding the PPE that must be provided and the circumstances in which it must be provided. The rule generally requires employers to pay for PPE used to comply with OSH standards and sets forth specific exceptions where employers are not required to pay for such equipment. The items excepted from payment by the rule are: Ordinary safety-toe footwear and ordinary prescription safety eyewear so long as the employer allows the employee to wear these items off the jobsite; Shoes or boots with built in metatarsal protection that the employee has requested to use instead of employer provided detachable metatarsal guards; Everyday work clothing; and Ordinary clothing, skin creams, or other items used solely for protection from the weather. The November 15, 2007 final rule establishes that employers are responsible for paying for the minimum level of PPE required by the standards. If an employer decides to use upgraded PPE to meet the requirements, the employer must pay for that PPE. If an employer provides PPE at no cost, an employee asks to use different PPE, and the employer decides to allow him or her to do so, then the employer is not required to pay for the item. The final rule requires employer payment for replacement PPE used to comply with the standards. However, when an employee has lost or intentionally damaged the PPE issued to him or her, the employer is not required to pay for its replacement and may require the employee to pay for such replacement. The final rule also addresses the use of employee owned PPE. The rule acknowledges that employees may wish to use PPE they own, and if their employer allows them to do so, the employer is not required to reimburse employees for the PPE. The regulatory text makes clear that employers cannot require employees to provide their own PPE or pay for their own PPE. The employee's use of PPE they own must be completely voluntary. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an

effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 final rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(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 promote worker health and safety throughout Kentucky and keep the state program as effective as the federal 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 administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in general industry to comply with the requirements of 29 C.F.R. 1926.95 through 1926.107. Section 2 also updates the C.F.R. to July 1, 2007, and establishes the amendment to 1926.95 published in the November 15, 2007, Federal Register, Volume 72, Number 220, which requires employers to pay for PPE with exceptions for specific items. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(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 maintains consistency with the federal requirement, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program. OSHA states that for 3 main reasons, the November 15, 2007 final rule will reduce work-related injuries and illnesses, resulting in safety benefits. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. This amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

(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.

(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: OSHA provides that employers currently pay approximately 95% of the cost of PPE. This amendment requires employers to pay for PPE with exceptions for specific items. This amendment does not require PPE where it was not required before.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): OSHA provides that employers currently pay approximately 95% or more of the cost of PPE. Nationally, employers in the construction, general, and maritime industries are expected to incur $85 million per year in costs of compliance. Costs specific to individual states are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): OSHA states this final rule will reduce work-related injuries and illnesses resulting in safety benefits for 3 main reasons. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. The amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

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

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

(b) On a continuing basis: There will be no 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. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final

rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment does 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 amendment does 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 covered by KRS 338 and engaged in construction activities.

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, Pub.L. 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 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? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

(d) How much will it cost to administer this program for subsequent years? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states 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 (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Labor
Division of Occupational Safety and Health Compliance
Division of Occupational Safety and Health
Education and Training
(Amendment)

803 KAR 2:500. Maritime employment.

RELATES TO: KRS 338.051(3), 338.061, 29 C.F.R. Parts 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) "Administration" means the Kentucky Office of Occupational Safety and Health, Frankfort, Kentucky.

(2) "Assistant secretary" means Commissioner of Labor, Kentucky Department of Labor or Executive Director, Office of Occupational Safety and Health, Kentucky Department of Labor.

(3) "C.F.R." means Code of Federal Regulations

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

(5)[~~(4)~~] "Employer" is defined in KRS 338.015(1).

(6)[~~(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 federal regulations published by the Office of the Federal Register, National Archives and Records Services, General Services Administration:

(1) 29 C.F.R. Part 1915, revised July 1, 2007, relating to occupational safety and health standards for shipyard employment;

(2) 29 C.F.R. Part 1918, revised July 1, 2007, relating to safety and health regulations for longshoring;

(4) 29 C.F.R. Part 1919, revised July 1, 2007, relating to gear certification; and

(5) The amendment to 29 C.F.R. 1915.132, 1917.96, and 1918.106, published in the November 15, 2007, Federal Register, Volume 72, Number 220 (72 Fed. Reg 64428). [~~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, 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 require-~~

~~ments established at 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) 29 C.F.R. Part 1918, revised as of July 1, 2006, relating to safety and health regulations for longshoring; and~~

~~(6) 29 C.F.R. Part 1919, revised as of July 1, 2006, relating to gear certification.~~]

JAMES R. GRAY, Chairman

APPROVED BY AGENCY: January 8, 2008

FILED WITH LRC: January 10, 2008 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 21, 2008 at 10:30 a.m. (EDT) at the Department of Labor, 1047 US HWY 127 South, Suite 4, 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 February 29, 2008. 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: Chuck Stribling, CSP, Safety 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: Chuck Stribling, CSP

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in the maritime industry to comply with the requirements of 29 Code of Federal Regulations (C.F.R.) Parts 1915, 1917, 1918, and 1919. Section 2 also updates the C.F.R. to July 1, 2007 and establishes the amendment to 29 C.F.R. 1915.132, 1917.96, and 1918.106, all published in the November 15, 2007 Federal Register, Volume 72, Number 220, which requires employers to pay for personal protective equipment (PPE) with exceptions for specific items. Employees often wear protective equipment, including PPE, to be protected from injury, illness, and death caused by exposure to workplace hazards. PPE includes many different types of protective equipment that an employee uses or wears, such as fall arrest systems and respiratory protection. Many occupational safety and health (OSH) standards require employers to provide PPE to their employees and ensure its use. Some OSH standards indicate in broad performance terms when PPE is to be used and what is to be used. Other standards are very exact, requiring a specific type of PPE while performing a specific task. Some OSH standards specifically require the employer to pay for PPE. OSH health standards issued after 1978 require the employer provide necessary PPE at no cost to the employee; and, some safety standards also require the employer both provide and pay for PPE. However, most OSH standards are silent with regard to whether the employer is obligated to pay for PPE. In 1994, the Occupational Safety and Health Administration (OSHA) established a nationwide policy on the issue of payment for required PPE in an October 18, 1994 memorandum, "Employer Obligation to Pay for Personal Protective Equipment." OSHA stated that for all PPE standards, the employer must provide and pay for the required PPE, except in limited situations. The memorandum stated that where PPE is very personal in nature and used by the employee off the job, such as is often the case with steel-toe safety shoes, but not metatarsal foot protection, the issue of payment may be left to labor-management negotiations. However, the Occupational Safety and Health Review Commission declined to accept the interpretation embodied in the 1994 memorandum. In Secretary of Labor v. Union Tank Car Company, an employer was issued a citation for failing to pay for metatarsal foot protection and welding gloves. The Review Commission vacated the citation, finding OSHA failed to adequately explain the policy outlined in the 1994 memorandum in light of several earlier letters of interpretation from OSHA that it read as inconsistent with the policy. In response to the Union Tank decision, on March 31, 1999, OSHA issued a proposed standard. The 1999 proposal required employers to pay for all protective equipment, including PPE, with explicit exceptions for certain safety shoes, prescription safety eyewear, and logging boots. OSHA cited 2 primary reasons for requiring employers to pay for PPE. First, OSHA preliminary concluded the Occupational Safety and Health Act of 1970 implicitly requires employers to pay for PPE that is necessary to protect the safety and health of employees. Second, OSHA preliminary concluded that an across the board employer payment requirement would result in safety benefits by reducing the misuse or non-use of PPE. Following an initial notice and comment period, an informal rulemaking hearing, a second notice and comment period on specific issues, and careful deliberation, OSHA found that its preliminary conclusions were appropriate and issued the November 15, 2007 final rule requiring employers to pay for PPE, with limited exceptions. In the November 15, 2007 final rule, OSHA requires employers to pay for the PPE used to comply with OSHA standards, with a few exceptions. OSHA promulgated the final rule for three (3) primary reasons. First, the rule effectuates the underlying requirement in the OSH Act that employers pay for the means necessary to create a safe and healthful work environment. This includes paying for the requirements in safety and health standards. Second, the rule will reduce work-related injuries and illnesses. Third, the rule creates clarity across OSH standards, thus reducing confusion among employers and employees concerning PPE that employers must provide at no cost to employees. The final rule does not set forth new requirements regarding the PPE that must be provided and the circumstances in which it must be provided. The rule generally requires employers to pay for PPE used to comply with OSH standards and sets forth specific exceptions where employers are not required to pay for such equipment. The items excepted from payment by the rule are:

Ordinary safety-toe footwear and ordinary prescription safety eyewear so long as the employer allows the employee to wear these items off the jobsite; Shoes or boots with built in metatarsal protection that the employee has requested to use instead of employer provided detachable metatarsal guards; Everyday work clothing; and Ordinary clothing, skin creams, or other items used solely for protection from the weather. The November 15, 2007 final rule establishes that employers are responsible for paying for the minimum level of PPE required by the standards. If an employer decides to use upgraded PPE to meet the requirements, the employer must pay for that PPE. If an employer provides PPE at no cost, an employee asks to use different PPE, and the employer decides to allow him or her to do so, then the employer is not required to pay for the item. The final rule requires employer payment for replacement PPE used to comply with the standards. However, when an employee has lost or intentionally damaged the PPE issued to him or her, the employer is not required to pay for its replacement and may require the employee to pay for such replacement. The final rule also addresses the use of employee owned PPE. The rule acknowledges that employees may wish to use PPE they own, and if their employer allows them to do so, the employer is not required to reimburse employees for the PPE. The regulatory text makes clear that employers cannot require employees to provide their own PPE or pay for their own PPE. The employee's use of PPE they own must be completely voluntary. Finally, this amendment updates this administrative regulation to meet KRS Chapter 13A considerations.

(b) The necessity of this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an

effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:500 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(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 promote worker health and safety throughout Kentucky and keep the state program as effective as the federal 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 administrative regulation, in Section 1, defines terms not found in the federal standard. Section 2 requires employers in the maritime industry to comply with the requirements of 29 C.F.R. Parts 1915, 1917, 1918, and 1919. Section 2 also updates the C.F.R. to July 1, 2007; and, establishes the amendment to 29 C.F.R. 1915.132, 1917.96, and 1918.106, all published in the November 15, 2007, Federal Register, Volume 72, Number 220, which requires employers to pay for PPE with exceptions for specific items.

(b) The necessity of the amendment to this administrative regulation: The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:500 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

(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 maintains consistency with the federal requirement, providing all a clear understanding of the requirements. This amendment promotes worker health and safety throughout Kentucky and keeps the state program as effective as the federal program. OSHA states that for three (3) main reasons, the November 15, 2007 final rule will reduce work-related injuries and illnesses, resulting in safety benefits. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. This amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

(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 maritime employment 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: (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: OSHA provides that employers currently pay approximately 95% of the cost of PPE. This amendment requires employers to pay for PPE with exceptions for specific items. This amendment does not require PPE where it was not required before.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): OSHA provides that employers currently pay approximately 95% or more of the cost of PPE. Nationally, employers in the construction, general, and maritime industries are expected to incur $85 million per year in costs of compliance. Costs specific to individual states are not available.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): OSHA states this rule will reduce work-related injuries and illnesses resulting in safety benefits for three (3) main reasons. They are: When employees are required to pay for their own PPE, many are likely to avoid PPE costs and thus fail to provide themselves with adequate protection. OSHA believes employees will be more inclined to use PPE if it is provided to them at no cost. Employer payment for PPE will clearly shift overall responsibility for PPE to employers. When employers take full responsibility for providing PPE to their employees and paying for it, they are more likely to make sure the employee is protected, that PPE is correct for the job, and that it is in good condition. An employer payment rule will encourage employees to participate whole-heartedly in an employer's safety and health program and employer payment for PPE will improve the safety culture at the worksite. The amendment creates consistency across the OSH standards, thus reducing confusion among employers and employees concerning the PPE that employers must provide at no cost to employees.

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

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

(b) On a continuing basis: There will be no cost 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. Public Law 91-596, the Occupational Safety and Health Act of 1970, Section 18; 29 C.F.R. Part 1952; 29 C.F.R. Part 1953

2. State compliance standards. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final

rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

3. Minimum or uniform standards contained in the federal mandate. The Kentucky OSH Program is mandated by 29 C.F.R. Parts 1952 and 1953 to be at least as effective as OSHA. 29 C.F.R. 1953.5 requires state implementation of the new federal standard, or a more stringent amendment, within 6 months of the November 15, 2007 promulgation date of the final rule. Kentucky does not have an effective alternative to this final rule. Accordingly, in order to maintain its state program as effective as the federal program, Kentucky must incorporate this federal requirement by May 15, 2008. The November 15, 2007 rule provides a delayed enforcement deadline of May 15, 2008 to allow employers time to change their existing PPE payment policies to accommodate the final rule. 29 C.F.R. 1952.5 mandates the Kentucky OSH Program also implement the delayed enforcement provision no later than May 15, 2008. Pursuant to KRS 338.051(3), the amendment to 803 KAR 2:404 was adopted by the Chairman of the Kentucky OSH Standards Board in order to meet the federal time requirement.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? This amendment does 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 amendment does 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 338 and engaged in maritime employment activities.

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, Pub.L. 91-596 84 STAT. 1590, 29 C.F.R. Parts 1952 and 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? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

(d) How much will it cost to administer this program for subsequent years? OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states 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 (+/-): Unknown.

Expenditures (+/-): Unknown.

Other explanation: OSHA provides that nationally, employers currently pay approximately 95% or more of the cost of PPE. Employers in the construction, general, and maritime industries are expected to incur $85 million per year nationally in costs of compliance. Costs specific to parts or divisions of state or local governments for individual states are not available.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET
Department of Public Protection
Kentucky Horse Racing Authority
(Amendment)

810 KAR 1:015. Claiming races.

RELATES TO: KRS 230.215(2), [~~230.225(1),~~] 230.260(3)

STATUTORY AUTHORITY: KRS 230.215(2), [~~230.225(1),~~] 230.260(3)[~~, (6)~~]

NECESSITY, FUNCTION, AND CONFORMITY: KRS 230.215(2), and [~~230.225(1),~~] 230.260(3) authorize the Authority to [~~requires that the commission~~] promulgate administrative regulations prescribing the conditions governing horse racing. This administrative regulation prescribes the conditions for the conduct of claiming races.

Section 1. (1) In a claiming race [~~races~~] a horse shall be subject to claim for its entered price by a licensed owner in good standing, or by the holder of a certificate of eligibility to claim. The procedure for obtaining a certificate of eligibility to claim shall be as follows:

(a) An applicant shall, five (5) [~~fifteen (15)~~] days prior to entering a claim, submit:

1. An application for an owner's [~~owners' original~~] license;

2. A financial statement;

3. Written consent permitting the Authority to conduct a criminal background check [~~A finger print card~~];

4. The name of a licensed trainer, or person eligible to be licensed as a trainer, who will assume care and responsibility for the horse claimed; and

5. The requisite fee for an owner's [~~owners~~] license.

(b) The certificate of eligibility shall be valid for the remainder of the calendar year.

(2)(a) A claim may be made by an authorized agent.

(b) An agent may claim only for the account of those for whom the agent [~~he~~] is licensed as agent.

(c) The name of the authorized agent[~~;~~] and the name of the owner for whom the claim is being made shall appear on the claim slip.

(3)(a) A person shall not claim his own horse or cause his own horse to be claimed, directly or indirectly, for his own account.

(b) A claimed horse shall not remain in the same stable or under the care or management of the owner or trainer from whom it is claimed.

(4)(a) A person shall not claim more than three (3) horses from a race.

(b) Multiple claims submitted by the same owner, authorized agent [~~and/~~]or trainer for a single horse shall not be permitted and shall be void.

(5)(a) A claimed horse shall not run for thirty (30) days after being claimed in a race in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed.

(b) The day following the day the horse is claimed shall count as [~~be~~] the first day.[~~;~~]

(c) The claimed horse shall be entitled to enter whenever nec-

essary to permit it to start on the 31st calendar day following the claim.

(d) This subsection shall not apply to starter handicaps in which the weight to be carried is assigned by the handicapper, or to [~~and~~] starter allowance races.

(6)(a) A horse claimed in a claiming race shall not be sold or transferred, wholly or in part, within thirty (30) days after the day it was claimed, except in another claiming race.

(b) A claimed horse shall not race at a horse race meeting in another racing jurisdiction outside Kentucky until the earlier of:

(a) Sixty (60) days from the date on which the horse was claimed; or

(b) Thirty (30) days from the end of the meet. With the permission of the stewards, a claimed horse may [~~Unless the stewards grant permission for a claimed horse to~~] enter and start at an overlapping or conflicting meeting in Kentucky, if the stewards determine that permitting the horse to do so will not be detrimental to the meeting from which the horse is [~~a horse shall not race elsewhere until the close of entries of the meeting at which it was~~] claimed.

(7)(a) A claim shall be:

1. Made on the form [~~Commission~~] "Claim Blank";

2. Sealed in an envelope supplied by the Authority [~~Commission~~]; and

3. Deposited in the association's claim box.

(b) The "Claim Blank" form and envelope shall be filled out completely and accurately.

(8)(a) Claims shall be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made.

(b) Money or its equivalent shall not be put in the claim box.

(c) A claim shall be valid if the claimant at the time of filing the claim has a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.

(9) The stewards, or their designated representative, shall:

(a) Open the claim envelopes for each race as soon as the horses leave the paddock en route to the post; and

(b) Check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association; and

(c) Verify that the claimant has a valid owner's license or certificate of eligibility to claim.

(10) If more than one (1) valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.

(11)(a) After the race has been run a horse that has been claimed shall be delivered to the claimant.

(b) The claimant shall present written authorization for the claim from the racing secretary.

(c) After written authorization has been presented, horses that are sent to the detention area for post race testing shall be delivered.

(d) Other horses shall be delivered in the paddock.

(e) A person shall not refuse to deliver a horse claimed out of a claiming race to the person legally entitled to the horse.

(f) If the owner of a horse that has been claimed refuses to deliver the horse to the claimant, the horse shall be disqualified from further racing until delivery is made.

(12)(a) A claim shall be irrevocable.

(b) Title to a claimed horse shall be vested in the successful claimant from the time the horse is a starter,[;] and the funds transferred to the account of the previous owner. The transferred funds shall be[~~, with said funds~~] immediately available for future claiming transactions.

(c) The successful claimant shall become the owner of the horse whether the horse [~~it~~] is:

1. Alive or dead;

2. Sound or unsound; or

3. Injured during the race, or after it.

(d) A claimed horse shall run in the interest of and for the account of the owner from whom it is claimed.

(13)(a) A person shall not offer to:

1. Enter, or enter into an agreement to claim, or not to claim; or

2. Prevent [~~Attempt~~], or attempt to prevent, another person from claiming any horse in a claiming race.

(b) A person shall not attempt by intimidation to prevent anyone from running a horse in a claiming race.

(c) An owner or trainer shall not make an agreement with another owner or trainer for the protection of each other's horse in a claiming race.

(14)(a) A claim that does not comply with the provisions of this administrative regulation shall be void.

(b) The stewards shall be the judges of the validity of a claim.

(15) A person holding a lien of any kind against a horse entered in a claiming race shall record the lien with the racing secretary or horseman's bookkeeper at least one (1) hour [~~thirty (30) minutes~~] before post time for that race. If no lien is [~~none is so~~] recorded, it shall be presumed that no lien [~~none~~] exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

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

(a) "Claim Blank[~~(Rev 96)~~]"; and

(b) Claim Blank envelope.

(2)(a) This material may be inspected at Kentucky Horse Racing Authority [~~Commission~~], 4063 Iron Works Pike, Building B, Lexington Kentucky 40511, Monday through Friday, 8 a.m. to 4:30 p.m.

(b) This material may also be obtained from the KHRA Web site at www.khra.ky.gov.

LISA E. UNDERWOOD, Executive Director

APPROVED BY AGENCY: January 15, 2008

FILED WITH LRC: January 15, 2008 at 11 a.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on February 27th, 2008, at 10 am, at the South Park Theatre at the Visitor's Information Center, Kentucky Horse Park, 4063 Iron Works Parkway, Lexington, Kentucky 40511. Individuals interested in being heard at this hearing shall notify the Kentucky Horse Racing Authority in writing by February 13, 2008, 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 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 February 29th, 2008. Please send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: John L. Forgy, Kentucky Horse Racing Authority, 4063 Iron Works Parkway, Building B, Lexington, Kentucky 40511, phone (859) 246-2040, fax (859) 246-2039.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: John L. Forgy

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation amends 810 KAR 1:015, which governs claiming races. The amendment makes several substantive changes to the regulation outlined below, and also amends the language of the regulation to conform to KRS Chapter 13B drafting requirements.

(b) The necessity of this administrative regulation: The amendments are necessary to update to industry standards the thoroughbred claiming regulation and to strengthen the horse racing industry in Kentucky.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation governs

thoroughbred claiming races pursuant to KRS 230.215(2) and KRS 230.260(3), which authorize the Authority to promulgate administrative regulations governing the conditions of horse racing.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the conditions of claiming races, one of several types of races run at Kentucky race tracks. A claiming race is a race in which the horses running in the race can be purchased ("claimed") from the original owner by a buyer willing to pay a predetermined price set forth in the written conditions of the race.

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

(a) How the amendment will change this existing administrative regulation: The amendment alters the language of the regulation to conform to KRS Chapter 13B drafting requirements. More importantly, the amendment makes the following substantive changes to the regulation:

1. Currently, if an owner who desires to participate in a claiming race does not have a Kentucky license, that person may nevertheless participate in the claiming race by obtaining a certificate of eligibility to claim. To apply for a certificate, the person must submit an application for a license, the fee for the license, a financial statement, and the name of the trainer. In the past, the regulation required submission of a fingerprint card, but this requirement is being eliminated; instead the applicant need only provide written consent permitting the Authority to conduct a criminal background check. Also, whereas in the past all of the above documentation had to be provided 15 days in advance of the entry of the claim (usually the day of the race), the regulation is being amended to require it only 5 days in advance. This is less burdensome to the applicant, and modern technology allows the Authority and the race tracks to process this information more quickly.

2. The most significant change is the extension of the "jail time" provision. Presently, this regulation prohibits a claimed horse from racing at another track until the close of entries of the meeting at which it was claimed. Entries typically close in the last few days of the meet. (As an exception to the prohibition against racing at another track, the regulation allows the stewards to grant permission for the horse to enter and start at an overlapping or conflicting meeting within Kentucky, but this exception is rarely granted). The problem facing the horse racing industry is that claimants from out of state frequently appear during the last few days of a Kentucky meet, claim numerous horses, and then take them out of state to run at other tracks. Kentucky suffers from the loss of these horses, which are no longer available to fill races and increase handle and purses. Many states which have experienced similar problems have enacted more restrictive "jail time" rules, which prohibit a horse claimed at an in-state meet from racing out of state for 30 or 60 days from the end of the meet. This serves as an incentive for the claimant to continue to race the horse at in-state tracks, at least for the required period of time. In-state tracks therefore benefit from the participation of the horses and enhanced field sizes, and the gambling public have more horses upon which to wager. More money is also wagered upon the races as a whole, which can result in larger purses. The Authority therefore desires to amend the regulation to read as follows: "A claimed horse shall not race at a horse race meeting in another jurisdiction until the earlier of (a) sixty (60) days from the date on which the horse was claimed, or (b) thirty (30) days from the end of the meet. With the permission of the stewards, a claimed horse may enter and start at an overlapping or conflicting meeting in Kentucky." This rule will effectively impose a 30-day restriction on racing horses in another state after the end of the meet, encouraging the horses to race in Kentucky for that period of time. This restriction is eased somewhat in the case of horses that are claimed early in a long meeting lasting several months – for example, from January 1st through April 5th, the length of the 2007 Winter/Spring meet at Turfway. In these cases, the rule will allow horses claimed early in the meet to race elsewhere after 60 days, if the 60 days elapse before the 30-day period after the end of the meet. The Authority believes that this amendment will sufficiently protect Kentucky claiming horses without placing an undue burden upon owners and trainers, who will be prohibited from racing their horses outside of Kentucky during the time periods set forth in the regulation.

3. The regulation is being amended to specifically require the stewards to determine whether the claimant has a valid owner's license. The stewards usually do this as a matter of routine, but the regulation now makes it explicit.

4. The regulation is being amended to require a person holding a lien against a horse to record the lien in the racing secretary's office at least one hour before the race, rather than 30 minutes before as the regulation currently states. This will give the racing secretary more time to investigate the validity of the lien and the ownership issues involved. Since horses can change ownership as a result of a claim, it is very important to ensure that the person who enters a horse into a race has free and clear title to the horse, unclouded by liens.

(b) The necessity of the amendment to this administrative regulation: The amendment is necessary to allow the regulation to reflect current realities and to strengthen the horse racing industry in Kentucky.

(c) How the amendment conforms to the content of the authorizing statutes: The amendment alters some of the details of the rules of claiming races. KRS 230.215(2) and KRS 230.260(3) grant the Authority to the power to promulgate administrative regulations governing the conditions of horse racing, including claiming races.

(d) How the amendment will assist in the effective administration of the statutes: The amendment will clarify the language of this administrative regulation, and will alter the rules of claiming races in some particulars, as described in 2(a) above.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Among the individuals affected by this administrative regulation are the owners and trainers of horses that run in claiming races. During the year 2007, KHRA issued thoroughbred racing licenses to 5,596 owners, 1,154 owner/trainers, and 255 trainers. Kentucky race tracks, the horse industry and the gambling public as a whole will benefit due to the increased number of horses running in Kentucky, and the increased amount of money wagered and purses offered, as a result of the time restrictions on claimed horses racing in other states.

(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: The regulated entities will be required to comply with the rule changes outlined in (2)(a) above, but no new specific compliance activities are required. Horse owners and trainers will be restricted from racing claimed horses outside the state of Kentucky for certain time periods, but the horse industry as a whole will gain from the restriction due to increased field sizes, increased handle, and increased purses.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): No compliance costs will be imposed upon the regulated entities.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The horse racing industry and the race tracks will benefit from increased field sizes, increased handle, and increased purses, as described in 2(a) above, due to more claimed horses running in Kentucky.

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

(a) Initially: No additional cost. The administrative regulation merely changes some of the rules of claiming races.

(b) On a continuing basis: No additional cost.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: No funding is 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 additional fees or funding will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No new fees are required by this administrative regulation.

(9) TIERING: Is tiering applied? Tiering is not applied to this administrative regulation because the regulation simply governs the rules of claiming races. All participants in these races compete on an equal basis.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Contact Person: John L. Forgy

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 Kentucky Horse Racing Authority will be impacted by this administrative regulation, in that it administers the rules of horse racing.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. No federal statutes or regulations are involved.

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. 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? 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. N/A

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of January 7, 2008 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 7, 2008 at 1:30 p.m., in Room 149 of the Capitol Annex. Senator Richard "Dick" Roeding called the meeting to order, the roll call was taken. The minutes of the December 10, 2007 meeting were approved.

Present were:

Members: Senators Alice Forgy Kerr, Joey Pendleton, Richard "Dick" Roeding and Gary Tapp; and Representatives Robert Damron, Danny Ford, Jimmie Lee and Ron Weston.

LRC Staff: Dave Nicholas, Donna Little, Kara Daniel, Emily Harkenrider, Laura Milam, Emily Caudill, Jennifer Beeler, Laura Napier, and Ellen Steinberg.

Guests: Robert Brooks, Connie Calvert, Darlene Eakin Board of Optometric Examiners; Michael Rodman, C. Lloyd Vest II, Kentucky Boards of Medical Licensure; Linda Poliskie, Denise Payne Wade, Kentucky Real Estate Commission; Letricia Chandler, Danny Percell, Scott Porter, Ronald Raymond, Kentucky Board of Embalmers and Funeral Directors; Karen Alexy, Rocky Pritchert, Morgain Sprague, Kentucky Department of Fish and Wildlife Resources; Jeff R. Burton, Karen Howard, Kirstie Willard, Justice and Public Safety Cabinet; Graham Gray, Stan Slonina, Kentucky State Police; Steve Lynn, Department of Criminal Justice Training; Jerry Wagner, Kentucky Sheriffs Association; Kevin Brown, Kentucky Department of Education; Renee Campbell, Frank Dickerson, Winslow Hale, Lisa King, Kentucky Workers' Compensation Funding Commission; John Forgy, Marc Guilfoil, Jamie Haydon, Kentucky Horse Racing Authority; Donna J. Hillma, Angela Kirkland, Sandra Silver, Department of Mental Health and Mental Retardation Services; Elizabeth Caywood, David Gayle, Department for Community Based Services; Molly Clouse, Heidi Schussler, John Shupp.

The Administrative Regulation Review Subcommittee met on Monday, January 7, 2008 and submits this report:

GENERAL GOVERNMENT: Kentucky Board of Optometric Examiners: Board

201 KAR 5:040. Unprofessional conduct. Robert Brooks, president; and Darlene Eakin, executive director, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and NECESSITY, FUNCTION, AND CONFORMITY paragraphs 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 through 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.

Kentucky Board of Medical Licensure: Board

201 KAR 9:021. Medical and osteopathic schools approved by the board; denial or withdrawal of approval; application of KRS 311.271; postgraduate training requirements; approved programs; recognition of degrees. Lloyd Vest, general counsel, and Michael Rodman, assistant executive director, represented the board.

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, as required by KRS 13A.220; and (2) to amend Sections 2 through 4 and 6 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Real Estate Commission: Commission

201 KAR 11:170. Private school and course approval. Linda Poliskie, education director, and Denise Payne Wade, staff attorney, represented the commission.

A motion was made and seconded to approve the following amendments: to amend Sections 1 to 3 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.

201 KAR 11:210. Licensing, education, and testing requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the STATUTORY AUTHORITY paragraph to correct a minor drafting error; (2) to amend Section 2 to clearly establish the entities that can evaluate a transcript in a language other than English; and (3) to amend Section 4 to delete requirements for an applicant with a degree from an out-of-state institution. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:230. Mandatory continuing education, instructor requirements; out-of-state requirements; maintaining records; and actions for failure to comply.

In response to a question by Senator Tapp, Ms. Poliskie stated that the required continuing education hours were not increased.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clearly state the subject matter of the administrative regulation; (2) to amend Sections 1 to 8 to comply with the formatting and drafting requirements of KRS Chapter 13A; and (3) to amend Section 10 to delete reference to forms not mentioned in the administrative regulation. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:240. Distance education, and education via interactive television-requirement, generally; exemptions; course criteria; course provider requirements.

A motion was made and seconded to approve the following amendments: (1) to amend the TITLE to clearly state the subject matter of the administrative regulation; (2) to amend Sections 1 to 5 to comply with the formatting and drafting requirements of KRS Chapter 13A; and (3) to amend Section 2 to reference course content standards in other administrative regulations. Without objection, and with agreement of the agency, the amendments were approved.

201 KAR 11:450. Broker management course.

A motion was made and seconded to approve the following amendments: to amend Sections 1 to 5 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 Board of Embalmers and Funeral Directors: Board

201 KAR 15:030. Fees. Danny Percell, vice president; Ronald Raymond, division director; and Scott Porter, assistant attorney general, represented the board.

In response to questions by Senator Pendleton, Senator Tapp, and Co-Chair Roeding, Mr. Percell stated that the board was not aware it did not have the authority to charge increased fees because of the departure of an employee who was supposed to have handled the matter. He stated the board did not intend to refund the fees it had collected. He stated the license fees increased by $25 and the late fee increased by $50.

In response to questions by Representative Damron, Mr. Percell stated that the board moved to a state-owned building and that the cost of the move, an increase in rent, and an increase in legal fees charged by the attorney general's office necessitated the increase in fees they charged. He stated that the board spends nearly all of what it takes in.

In response to a question by Senator Kerr, Mr. Percell stated

that some of the money was spent on updated equipment to enable the board to address complaints more timely.

201 KAR 15:110. Funeral establishment criteria.

In response to questions by Representative Ford, Mr. Percell stated that this administrative regulation required obituaries to list the funeral director who was responsible for the services. He stated there were problems with individuals who were not licensed having obituaries published. Mr. Porter stated that it ensured a licensed director oversaw the services. Mr. Percell stated that it would ensure that an individual director was responsible for his own actions rather than the owner of the business.

In response to a question by Senator Tapp, Mr. Percell stated that the maximum penalty for failure to comply was a $500 fine and the board would investigate allegations before issuing a fine.

In response to questions by co-chair Damron, Mr. Percell stated his funeral home was recently named in a false obituary fabricated by someone to obtain time off from his job.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO and STATUTORY AUTHORITY paragraphs to correct 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 through 4, 6, 8, 9, and 11 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

COMMERCE CABINET: Kentucky Department of Fish and Wildlife Resources: Game

301 KAR 2:221 & E. Waterfowl seasons and limits. Morgain Sprague, general counsel; Karen Alexy, division director; and Rocky Pritchert, migratory bird coordinator, represented the department.

In response to questions by Co-Chair Damron, Ms. Alexy stated these administrative regulations extended the wild goose hunting season in the western zone, added seven (7) more goose hunts to state parks, and synchronized the hunting seasons inside and outside the state parks. She stated that the department was working hard to ensure the wildlife management areas were clearly defined and that they were updated online immediately when boundaries changed. She stated the department recently published a new public hunting areas guide.

In response to a question by Co-Chair Roeding, Ms. Alexy stated the department had worked with several cities in northern Kentucky to assist them with their ordinances to control the deer population.

301 KAR 2:222 & E. Waterfowl hunting requirements.

A motion was made and seconded to approve the following amendments: to amend Sections 5 and 8 to comply with the drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

JUSTICE AND PUBLIC SAFETY CABINET: Department of Corrections: Class D and Class C Felons

501 KAR 2:020. Definitions for 501 KAR Chapter 2. Karen Howard, attorney; Jeff Burton, assistant director; and Kirstie Willard, jail services specialist, represented the department.

In response to a question by Co-Chair Roeding, Mr. Burton stated that the boot camp program was abolished several years ago.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to delete the definition of "exceptional good time"; and (2) 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.

501 KAR 2:030. Administration.

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.

501 KAR 2:040. Waivers.

501 KAR 2:050. Transfer request.

A motion was made and seconded to approve the following amendments: to delete Section 1 to move it to 501 KAR 2:060 because it does not pertain to transfers. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 2:060. Procedures for housing of Class D and Class C felons.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to insert text from 501 KAR 2:050 addressing eligibility; (2) to amend Section 11 to add a citation; and (3) to amend Sections 2, 3, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 2:070. Work Release.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct a citation; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Jail Standards for Full-service Facilities

501 KAR 3:010. Definitions for 501 KAR Chapter 3.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to correct citations; (2) to amend Section 1 to add a definition for "full-service jails"; and (3) 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.

501 KAR 3:020. Administration; management.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:040. Personnel.

In response to a question by Senator Tapp, Mr. Burton stated that because of the prohibition of an intimate, personal relationship between an inmate and an employee, if there were such a relationship that existed before the inmate's incarceration, the inmate would be transferred to another facility.

A motion was made and seconded to approve the following amendments: (1) to amend Section 1 to clarify staffing requirements; and (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 2, 4, and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:050. Physical plant.

In response to questions by Representative Weston, Mr. Burton stated that the size of the holding area had to be a minimum of twenty-five (25) square feet and capacity was limited by the size of the area. He stated that the increase in the amount of time an inmate may be detained in a holding area was to help alleviate prison overcrowding. He stated that they did not want to move an inmate to the general population if he would be released within hours. He stated that jail personnel would typically provide a mat or

cot if the person was there several hours.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 3 through 6 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:060. Security; control.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 3 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:070. Safety; emergency procedures.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction 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.

501 KAR 3:080. Sanitation; hygiene.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:090. Medical services.

In response to a question by Co-Chair Roeding, Mr. Burton stated they had informed the jails of the procedures to transfer an inmate for medical reasons.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Section 2 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:100. Food services.

In response to a question by Representative Ford, Ms. Howard stated that the changes to this administrative regulation should make things easier for local jails because it standardized the requirements and made them identical to the requirements for state facilities.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; and (2) to amend Section 1 to clarify that prisoners housed in a diversion holding area during mealtimes shall be fed and that approval of religious diets shall be in accordance with 501 KAR 3:130. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:130. Prisoner programs; services.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; (2) to amend Section 1 to correct a citation; (3) to amend Section 5 to correct the title of a federal manual; (4) to amend Section 7 to delete references to a training program that is no longer used; and (5) to amend Sections 2 and 7 to comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 3:140. Prisoner rights.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction. Without objection, and with agreement of the agency, the amendments were approved.

Office of the Secretary

501 KAR 6:060. Northpoint Training Center.

A motion was made and seconded to approve the following amendments: (1) to amend Policy 09-16-01 Restricted Areas to insert an omitted phrase; and (2) to amend Section 1 to update edition dates. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 6:170. Green River Correctional Complex.

A motion was made and seconded to approve the following amendments: to amend Section 1 to correct a policy title. Without objection, and with agreement of the agency, the amendments were approved.

Jail Standards for Restricted Custody Center Facilities

501 KAR 7:040. Personnel.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to insert a citation; (2) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; (3) to amend the STATUTORY AUTHORITY paragraph to correct a citation; and (4) to amend Section 1 to clarify staffing requirements. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 7:080. Sanitation; hygiene.

A motion was made and seconded to approve the following amendment: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction. Without objection, and with agreement of the agency, the amendment was approved.

501 KAR 7:090. Medical services.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1 and 2 to make technical corrections. Without objection, and with agreement of the agency, the amendments were approved.

501 KAR 7:100. Food services.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; and (2) to amend Section 1 to clarify that approval of religious diets shall be in accordance with 501 KAR 3:130. Without objection, and with agreement of the agency, the amendments were approved.

Jail Standards for Life Safety Facilities

501 KAR 13:010. Life Safety Issues.

A motion was made and seconded to approve the following amendments: (1) to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph to make a technical correction; (2) to amend Section 1 to correct a citation; (3) to amend Section 2 to clarify staffing requirements; (4) to amend Section 3 to correctly cite current air exchange requirements; (5) to amend Section 8 to clarify that approval of religious diets shall be in accordance with 501 KAR 3:130; and (6) to amend Sections 3, 4, and 7 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 of Kentucky State Police: Automated Fingerprint Identification System

502 KAR 14:010. Provision and maintenance of automated fingerprint identification system equipment and programs in detention centers. Submission of fingerprints by jailers to the Kentucky State Police. Karen Howard, attorney; Graham Gray, branch manager; and Stan Slonina, systems consultant, represented the department.

In response to a question by Co-Chair Roeding, Mr. Slonina stated that the transmission of fingerprints did not require a lot of additional time by jail personnel because a computerized interface would import most necessary demographic information into the AFIS equipment.

A motion was made and seconded to approve the following amendments: to amend Section 7 to insert statutorily required language for material incorporated by reference. Without objection, and with agreement of the agency, the amendments were approved.

Kentucky Law Enforcement Council: General Training Provision

503 KAR 3:110. Certified Court Security Officers academy trainee requirements; misconduct; penalties; discipline procedures. Steve Lynn, attorney, represented the council. Jerry Wagner represented the Kentucky Sheriffs' Association.

In response to a question by Co-Chair Roeding, Mr. Lynn stated that he traveled with the sheriffs' association to explain the bill behind certification of court security officers and that local sheriffs were in favor of the changes.

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 this administrative regulation; (2) to amend Section 1 to clarify the uniform requirements; (3) to amend Sections 1, 4, 6, and 7 to establish penalties that had been omitted; and (4) to amend Sections 1, 4, 6 through 8, and 12 through 14 to comply with the formatting and drafting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

EDUCATION CABINET: Kentucky Board of Education: Office of Chief State School Officer

701 KAR 5:130. Drug Testing of Teachers Involved in Illegal Use of Controlled Substances. Kevin Brown, assistant general counsel, represented the board.

A motion was made and seconded to approve the following amendments: (1) to amend the RELATES TO paragraph to include an additional statutory citation; and (2) 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.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET: Kentucky Workers' Compensation Funding Commission: Commission

803 KAR 30:020. Payment of audit expenses by taxpayer. Winslow Hale, executive director; Renee Campbell, director of audits and collections; and Frank Dickerson, general counsel, represented the comission.

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.

Department of Public Protection: Kentucky Horse Racing Authority: Thoroughbred Racing

810 KAR 1:021. Backside Improvement Fund. John Forgy, general counsel; Marc Guilfoil, deputy executive director; and Jamie Haydon, director of incentives and development, represented the authority.

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 2 to: (a) clarify that an application shall be considered at the first regularly scheduled Authority meeting after the application is submitted, unless submitted within seven (7) calendar days of a meeting, in which case it shall be deferred until the next occurring meeting; and (b) clarify standards for approving the application; and (3) to amend Section 1 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

810 KAR 1:033. Repeal of 810 KAR 1:032.

810 KAR 1:090. Kentucky Thoroughbred Development Fund.

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 1 to delete definitions already defined by KRS 230.210; (3) to amend Section 2 to correct the statutory citation regarding money deposited in the KTDF account for non-live racing handles; and (4) to amend the TITLE and 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.

Harness Racing

811 KAR 1:085. Conduct of racing.

In response to a question by Co-Chair Roeding, Mr. Forgy stated that de-nerving a horse was a process to deaden a nerve in a horse so the horse would not feel pain. He stated it was important for the horse racing authority to know when it had been done and that cobra venom was not detectable, so this administrative regulation was amended to no longer permit the use of cobra venom.

A motion was made and seconded to approve the following amendments: to amend Sections 4, 6, and 9 to comply with the drafting and format 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 Mental Health and Mental Retardation Services: Division for Mental Health and Substance Abuse: Mental Health

908 KAR 2:220. Peer specialist services. Sandra Silver, peer specialist consultant, represented the division. Molly Clouse, peer specialist, appeared in support of this administrative regulation. Heidi Schissler represented the Department of Protection and Advocacy.

Ms. Schissler stated that her department objected to this administrative regulation at the December Subcommittee meeting because of concerns with the requirement that peer specialists hold a GED or high school diploma. She stated the department thought the requirement was unfair but that it was a requirement of employment by the local Compcare agencies. She stated that because this program was so important, the department withdrew its opposition to this administrative regulation with the understanding that the agency would work with applicants who needed to obtain a high school diploma or GED to qualify to be a peer specialist.

Representative Lee stated that he voiced his concerns about the education requirement at the last meeting of the Subcommittee. He stated that after looking at this administrative regulation more closely and obtaining more information about the peer specialists' duties, he withdrew his objection with the understanding that the agency would work with applicants who did not qualify because they did not hold a GED or high school diploma.

A motion was made and seconded to approve the following amendments: to amend the RELATES TO and STATUTORY AUTHORITY paragraphs and Sections 1, 3, 4, and 5 to comply with the drafting and format requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

Department of Community Based Services: Child Welfare

922 KAR 1:390. Standards for residential child-caring facilities. Elizabeth Caywood, commissioner's office; and David Gayle, represented the department.

A motion was made and seconded to approve the following amendments: to amend the NECESSITY, FUNCTION, AND CONFORMITY paragraph and Sections 1, 2, and 4 to comply with the drafting and formatting requirements of KRS Chapter 13A. 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:

PERSONNEL CABINET: Classified
101 KAR 2:034. Classified compensation.
101 KAR 2:220. Educational Assistance Program.
101 KAR 2:230. Kentucky Employee Mediation Program.

FINANCE AND ADMINISTRATION CABINET: Department of Revenue: Sales and Use Tax; Administration and Accounting
103 KAR 31:180 & E. Signature project refunds on construction costs.

Tax Increment Financing
103 KAR 50:050 & E. Incremental revenues for income and limited liability entity taxes.

GENERAL GOVERNMENT: Kentucky State Board Of Accountancy: Board
201 KAR 1:160. Peer reviews.

Kentucky Real Estate Commission: Commission
201 KAR 11:121. Improper conduct. Linda Poliskie, education director, and Denise Payne Wade, staff attorney, represented the commission.

Representative Ford stated that this administrative regulation required the use of American National Standards Institute standards to measure square footage of a single-family residence. He asked that the commission consider changing it to require measurement of the square footage of heated living space.

A motion was made and seconded to defer consideration of this administrative regulation until the Subcommittee's February meeting. Ms. Wade stated that the commission agreed to defer this administrative regulation. Without objection and with agreement of the agency, this administrative regulation was deferred.

Kentucky Board of Chiropractic Examiners: Board
201 KAR 21:081. Repeal of 201 KAR 21:080.

COMMERCE CABINET: Kentucky Department of Fish and Wildlife Resources: Licensing
301 KAR 5:100. Interstate Wildlife Violators Compact.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET: Department for Environmental Protection: Division of Air Quality: Attainment and Maintenance of the National Ambient Air Quality Standards
401 KAR 51:001 & E. Definitions for 401 KAR Chapter 51.
401 KAR 51:017 & E. Prevention of significant deterioration of air quality.
401 KAR 51:052 & E. Review of new sources in or impacting upon nonattainment areas.

Permits, Registrations, and Prohibitory Rules
401 KAR 52:001 & E. Definitions for 401 KAR Chapter 52.

TRANSPORTATION CABINET: Department of Vehicle Regulation: Driver Improvement
601 KAR 13:070. KRS 159.051. Compliance verification for a minor.

ENVIRONMENTAL AND PUBLIC PROTECTION CABINET: Department of Labor: Department of Workers' Claims
803 KAR 25:096. Selection of physicians, treatment plans and statements for medical services.
803 KAR 25:280. Certification of drug-free workplace.

Department of Public Protection: Office of Insurance: Insurance Contract
806 KAR 14:006. Property and casualty insurance form filings.

Kentucky Horse Racing Authority: Thoroughbred Racing
810 KAR 1:027. Entries, subscriptions, and declarations.

CABINET FOR HEALTH AND FAMILY SERVICES: Office of the Secretary: E-Health
900 KAR 7:020 & E. Kentucky e-Health Corporation.

Office of Inspector General: Office
906 KAR 1:120. Informal dispute resolution.

Department for Medicaid Services: Medicaid Services
907 KAR 1:061 & E. Payments for ambulance transportation.

Department for Aging and Independent Living: Aging Services
910 KAR 1:090. Personal care assistance services.

Department of Community Based Services: Day Care
922 KAR 2:002. Repeal of 922 KAR 2:001.
922 KAR 2:160. Child care assistance program.

The Subcommittee adjourned at 3:04 until February 11, 2008.

INTERIM JOINT COMMITTEE ON AGRICULTURE AND NATURAL RESOURCES
Meeting of December 12, 2007

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Agriculture and Natural Resources for its meeting of December 12, 2007, having been referred to the Committee on November 7, 2007, pursuant to KRS 13A.290(6):

301 KAR 1:016
301 KAR 1:140
301 KAR 1:155
301 KAR 3:022
301 KAR 5:050
301 KAR 20:010
302 KAR 20:020
302 KAR 20:030
302 KAR 20:040
302 KAR 20:065
302 KAR 20:261

The following administrative regulations were found to be deficient pursuant to KRS 13A.290(7) and 13A.030(2):

None

The Committee rationale for each finding of deficiency is attached to and made a part of this memorandum.

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

None

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

The following administrative regulations were deferred pursuant to KRS 13A.300:

None

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the December 12, 2007 meeting, which are hereby incorporated by reference. Additional committee findings, recommendations, or comments, if any, are attached hereto.

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE
Meeting of December 17, 2007

The following administrative regulations were available for consideration and placed on the agenda of the Interim Joint Committee on Health and Welfare for its meeting of December 17, 2007, having been referred to the Committee on December 5, 2007, pursuant to KRS 13A.290(6):

201 KAR 21:032
201 KAR 21:060
201 KAR 21:065
900 KAR 5:020
902 KAR 20:009
910 KAR 1:260
920 KAR 2:040 & E
922 KAR 1:050 & E
922 KAR 1:360 & E

The following administrative regulations were approved as amended at the Committee meeting pursuant to KRS 13A.320:

900 KAR 5:020

The wording of the amendment of each such administrative regulation is attached to and made a part of this memorandum.

Committee activity in regard to review of the above-referenced administrative regulations is reflected in the minutes of the December 17, 2007 meeting, which are hereby incorporated by reference.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates H - 2

The Locator Index lists all administrative regulations published in VOLUME 34 of the Administrative Register from July, 2007 through June, 2008. 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 33 are those administrative regulations that were originally published in VOLUME 33 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2007 bound Volumes were published.

KRS Index H - 12

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 34 of the Administrative Register.

Technical Amendment Index H - 23

The Technical Amendment Index is a list of administrative regulations which have had technical, nonsubstantive amendments entered since being published in the 2007 bound Volumes. These technical changes have been made by the Regulations Compiler pursuant to KRS 13A.040(9) and (10) or 13A.312(2). Since these changes were not substantive in nature, administrative regulations appearing in this index will NOT be published in the Administrative Register. NOTE: Copies of the technically amended administrative regulations are available for viewing on the Legislative Research Commission Web site at http://www.lrc.ky.gov/home.htm.

Subject Index H - 24

The Subject Index is a general index of administrative regulations published in VOLUME 34 of the Administrative Register, and is mainly broken down by agency.

Regulation Number	33 Ky.R. Page No.	Effective Date

VOLUME 33

The administrative regulations listed under VOLUME 33 are those administrative regulations that were originally published in Volume 33 (last year's) issues of the Administrative Register but had not yet gone into effect when the 2007 bound Volumes were published.

EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations 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.)

Regulation Number	33 Ky.R. Page No.	Effective Date
31 KAR 5:010E	3325	4-2-07
Replaced		(See 34 Ky.R.)
201 KAR 20:070E	3586	5-11-07
Replaced	4205	8-16-07
301 KAR 2:221E	1493	11-1-06
Replaced		3-9-07
301 KAR 2:222E	1494	11-1-06
Replaced		3-9-07
301 KAR 2:223E	1500	11-1-06
Replaced		3-9-07
502 KAR 32:010	3327	4-12-07
Replaced		(See 34 Ky.R.)
806 KAR 17:540E	1233	10-13-06
Replaced		3-9-07
806 KAR 17:545E	1235	10-13-06
806 KAR 17:555E	1238	10-13-06
902 KAR 45:150E	1502	11-14-06
Replaced		3-1-07
907 KAR 1:025E	3143	3-1-07
Replaced	4186	7-6-07
907 KAR 1:155		
Resubmitted	1058	9-1-06
Replaced		3-9-07
907 KAR 3:010E		
Resubmitted	1062	9-1-06
908 KAR 2:190E	1507	10-17-06
Replaced		3-1-07

ORDINARY ADMINISTRATIVE REGULATIONS:

Regulation Number	33 Ky.R. Page No.	Effective Date
11 KAR 4:080		
Amended	3224	
As Amended	3589	7-6-07
11 KAR 5:033		
Amended	3225	
As Amended	3589	7-6-07
11 KAR 5:034		
Amended	3226	
As Amended	3590	7-6-07
11 KAR 5:140		
Amended	3228	7-6-07
11 KAR 6:010		
Amended	3230	
As Amended	3590	7-6-07
11 KAR 16:010		
Amended	3232	
As Amended	3592	7-6-07
11 KAR 16:070	3304	
As Amended	3593	7-6-07
16 KAR 1:030		
Amended	3423	7-19-07
16 KAR 9:080	3567	(See 34 Ky.R.)
17 KAR 1:020	3078	
As Amended	3593	7-6-07
31 KAR 3:010		
Amended	3235	
As Amended	3595	7-6-07
31 KAR 4:100		
Amended	3237	
As Amended	3596	
31 KAR 5:010		
Amended	3425	(See 34 Ky.R.)
101 KAR 2:046		
Amended	4195	(See 34 Ky.R.)
101 KAR 2:056		
Amended	4197	(See 34 Ky.R.)
101 KAR 2:066		
Amended	4199	(See 34 Ky.R.)
102 KAR 1:030		
Amended	3427	(See 34 Ky.R.)
102 KAR 1:036		
Amended	3428	(See 34 Ky.R.)
102 KAR 1:038		
Amended	3430	(See 34 Ky.R.)
102 KAR 1:175		
Amended	3431	(See 34 Ky.R.)
103 KAR 20:500	1013	
106 KAR 5:005	3113	
As Amended	3597	7-6-07
106 KAR 5:010	3114	
As Amended	3598	7-6-07
106 KAR 5:020	3116	
As Amended	3599	7-6-07
106 KAR 5:030	3118	
As Amended	3600	7-6-07
106 KAR 5:040	3120	
As Amended	3601	7-6-07
201 KAR 2:250		
Amended	4201	(See 34 Ky.R.)
201 KAR 2:260	3305	
As Amended	3602	6-20-07
201 KAR 9:460	4269	(See 34 Ky.R.)
201 KAR 11:220		
Amended	3434	8-31-07
201 KAR 16:010		
Amended	3238	(See 34 Ky.R.)
201 KAR 16:060		
Amended	3240	
Withdrawn		5-30-07
201 KAR 18:040		
Amended	4203	8-31-07
201 KAR 18:111	3569	(See 34 Ky.R.)
201 KAR 20:070		
Amended	4205	8-16-07
201 KAR 20:370		
Amended	4207	8-16-07
201 KAR 20:411		
Amended	4209	8-16-07
201 KAR 22:020		
Amended	3436	8-16-07
201 KAR 22:040		
Amended	3438	8-16-07
201 KAR 30:180		
Amended	4211	(See 34 Ky.R.)
201 KAR 36:070		
Amended	3242	6-20-07
202 KAR 6:020		
Amended	4214	(See 34 Ky.R.)
202 KAR 6:030		
Amended	4217	(See 34 Ky.R.)
202 KAR 6:060		
Amended	4218	(See 34 Ky.R.)
202 KAR 6:070		
Amended	4220	(See 34 Ky.R.)
202 KAR 6:100		
Amended	4221	(See 34 Ky.R.)
301 KAR 2:122	2831	6-13-07

Regulation Number	33 Ky.R. Page No.	Effective Date
301 KAR 2:132		
Amended	3440	(See 34 Ky.R.)
301 KAR 2:172		
Amended	3444	(See 34 Ky.R.)
301 KAR 2:174		
Repealed	3570	8-6-07
301 KAR 2:175	3570	8-6-07
301 KAR 2:177	3571	8-6-07
301 KAR 2:178		
Amended	3447	8-6-07
301 KAR 2:179		
Repealed	3571	8-6-07
301 KAR 2:185		
Amended	3243	
As Amended	3603	6-13-07
301 KAR 2:195		
Amended	3452	(See 34 Ky.R.)
301 KAR 2:251		
Amended	3426	
As Amended	3604	6-13-07
301 KAR 3:022		
Amended	3456	8-6-07
301 KAR 5:030		
Amended	4224	8-23-07
401 KAR 57:002		
Amended	4227	(See 34 Ky.R.)
401 KAR 58:025		
Amended	4229	(See 34 Ky.R.)
401 KAR 60:005		
Amended	4231	(See 34 Ky.R.)
401 KAR 60:670		
Amended	4234	(See 34 Ky.R.)
401 KAR 63:002		
Amended	4236	
401 KAR 63:023*(r)*	4270	
401 KAR 64:001	4271	
401 KAR 64:005	4275	
401 KAR 64:010	4279	
401 KAR 64:020	4283	
401 KAR 64:030	4286	
401 KAR 64:050	4288	
501 KAR 6:020		
Amended	4241	(See 34 Ky.R.)
501 KAR 6:030		
Amended	4243	(See 34 Ky.R.)
501 KAR 6:070		
Amended	4245	(See 34 Ky.R.)
501 KAR 6:240		
Amended	4247	(See 34 Ky.R.)
502 KAR 20:020		
Amended	4249	(See 34 Ky.R.)
502 KAR 32:010		
Amended	3459	(See 34 Ky.R.)
503 KAR 1:170		
Amended	4253	(See 34 Ky.R.)
603 KAR 4:045		
Amended	3042	
As Amended	4162	7-6-07
701 KAR 5:110		
Amended	3045	7-6-07
702 KAR 7:065		
Amended	3461	(See 34 Ky.R.)
707 KAR 1:280		
Amended	3463	(See 34 Ky.R.)
707 KAR 1:290		
Amended	3468	
707 KAR 1:300		
Amended	3470	(See 34 Ky.R.)
707 KAR 1:310		
Amended	3473	(See 34 Ky.R.)
707 KAR 1:320		
Amended	3476	(See 34 Ky.R.)
707 KAR 1:330		
Repealed	3572	11-5-07
707 KAR 1:331*(r)*	3572	11-5-07
707 KAR 1:340		
Amended	3480	(See 34 Ky.R.)
707 KAR 1:350		
Amended	3488	(See 34 Ky.R.)
707 KAR 1:360		
Amended	3490	(See 34 Ky.R.)
707 KAR 1:370		
Amended	3492	(See 34 Ky.R.)
707 KAR 1:380		
Amended	3496	(See 34 Ky.R.)
802 KAR 1:010		
Amended	2202	
Amended	3217	
As Amended	4164	7-6-07
803 KAR 2:300		
Amended	3499	(See 34 Ky.R.)
803 KAR 2:305		
Amended	3501	(See 34 Ky.R.)
803 KAR 2:318		
Amended	3503	(See 34 Ky.R.)
804 KAR 9:040		
Amended	3506	8-6-07
805 KAR 7:010		
Amended	3076	
Amended	3413	(See 33 Ky.R.)
805 KAR 7:100	3124	
Amended	3414	(See 33 Ky.R.)
805 KAR 11:001	3126	(See 34 Ky.R.)
Amended	3416	
805 KAR 11:010	3128	(See 34 Ky.R.)
Amended	3417	
805 KAR 11:020	3130	(See 34 Ky.R.)
Amended	3419	
806 KAR 6:120	4290	(See 34 Ky.R.)
806 KAR 12:120	4292	(See 34 Ky.R.)
806 KAR 12:140	4294	(See 34 Ky.R.)
806 KAR 12:150	4299	(See 34 Ky.R.)
806 KAR 12:160	4301	(See 34 Ky.R.)
806 KAR 12:170	4305	(See 34 Ky.R.)
806 KAR 14:005		
Amended	4258	(See 33 Ky.R.)
806 KAR 15:060	4307	(See 34 Ky.R.)
806 KAR 15:070	4311	(See 34 Ky.R.)
815 KAR 4:010		
Amended	3249	
As Amended	4167	7-6-07
815 KAR 7:120		
Amended	3250	
As Amended	4168	7-6-07
815 KAR 7:125		
Amended	3253	(See 34 Ky.R.)
815 KAR 10:060		
Amended	3255	
As Amended	4169	7-6-07
815 KAR 20:015	3308	
As Amended	4172	7-6-07
815 KAR 20:020		
Amended	3258	7-6-07
815 KAR 20:078		
Amended	3262	
815 KAR 20:110		
Amended	3264	
As Amended	4173	7-6-07
815 KAR 20:120		
Amended	3266	
As Amended	4174	7-6-07
815 KAR 20:130		
Amended	3273	
As Amended	4180	7-6-07

Regulation Number	33 Ky.R. Page No.	Effective Date
815 KAR 20:150		
Amended	3277	
As Amended	4183	7-6-07
815 KAR 35:060		
Amended	3279	
As Amended	4184	7-6-07
820 KAR 1:001		
Amended	3508	(See 34 Ky.R.)
820 KAR 1:015		
Amended	3511	(See 34 Ky.R.)
820 KAR 1:025		
Amended	3512	(See 34 Ky.R.)
820 KAR 1:029		
Amended	3514	8-31-07
820 KAR 1:032		
Amended	3516	(See 34 Ky.R.)
820 KAR 1:036		
Amended	3518	(See 34 Ky.R.)
820 KAR 1:046		
Amended	3522	(See 34 Ky.R.)
820 KAR 1:050		
Amended	3525	(See 34 Ky.R.)
820 KAR 1:055		
Amended	3526	(See 34 Ky.R.)
820 KAR 1:056		
Amended	3528	8-31-07
820 KAR 1:057		
Amended	3530	(See 34 Ky.R.)
820 KAR 1:058		
Amended	3531	(See 34 Ky.R.)
820 KAR 1:120		
Amended	3536	(See 34 Ky.R.)
900 KAR 6:050		
Amended	3282	(See 34 Ky.R.)
902 KAR 2:080		
Amended	3295	(See 34 Ky.R.)
902 KAR 105:040		
Amendment	1733	
902 KAR 105:060		
Repealed	1759	10-17-07
902 KAR 105:061*(r)*	1759	10-17-07
902 KAR 105:070		
Amendment	1736	
907 KAR 1:025		
Amended	3297	
As Amended	4186	7-6-07
907 KAR 3:005		
Amended	4259	
907 KAR 3:010		
Amended	4264	
908 KAR 3:050		
Amended	3537	(See 34 Ky.R.)
908 KAR 3:060		
Amended	3539	(See 34 Ky.R.)
922 KAR 1:300		
Amended	3543	(See 34 Ky.R.)
922 KAR 1:310		
Amended	3552	(See 34 Ky.R.)

VOLUME 34

EMERGENCY ADMINISTRATIVE REGULATIONS:
(Note: Emergency regulations 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.)

31 KAR 5:010E		(See 33 Ky.R.)
Replaced	12	8-6-07
101 KAR 2:210E	1627	12-7-07
103 KAR 3:040E	1925	1-15-08
103 KAR 31:180E	1350	11-15-07
103 KAR 50:020E	531	7-31-07
103 KAR 50:030E	703	8-16-07
103 KAR 50:040E	532	7-31-07
103 KAR 50:050E	704	8-16-07
105 KAR 1:390E	534	8-15-07
Replaced	1388	1-4-08
106 KAR 2:020E	156	6-25-07
Replaced	707	11-1-07
201 KAR 30:190E	1628	12-14-07
301 KAR 2:221E	1351	11-14-07
301 KAR 2:222E	1354	11-14-07
301 KAR 2:225E	907	10-15-07
307 KAR 1:040E	909	10-8-07
401 KAR 51:001E	912	9-28-37
Withdrawn		1-10-08
401 KAR 51:017E	924	9-28-37
Withdrawn		1-10-08
401 KAR 51:052E	939	9-28-37
Withdrawn		1-10-08
401 KAR 52:001E	953	9-28-37
Withdrawn		1-10-08
900 KAR 7:020E	958	9-18-37
502 KAR 32:010		(See 33 Ky.R.)
Replaced	27	8-6-07
705 KAR 4:250E	1662	12-19-07
806 KAR 17:180E	537	7-13-07
806 KAR 17:545E	157	6-29-07
Replaced	1427	1-4-08
806 KAR 17:555E	161	6-29-07
Expired		12-26-07
907 KAR 1:011E	1634	11-20-07
907 KAR 1:013E	***	10-15-07
Withdrawn		11-15-07
Resubmitted	1358	11-15-07
907 KAR 1:015E	164	7-12-07
907 KAR 1:038E	1641	11-20-07
907 KAR 1:039E	1645	11-20-07
907 KAR 1:054E	1647	11-20-07
907 KAR 1:061E	1374	10-25-07
907 KAR 1:082E	1651	11-20-07
907 KAR 1:145E	167	7-12-07
Replaced	1453	1-4-08
907 KAR 1:160E	1653	12-5-07
907 KAR 1:170E	181	7-12-07
Replaced	1465	1-4-08
907 KAR 1:604E	1660	11-20-07
907 KAR 1:631E	1666	11-20-07
907 KAR 1:640E	1668	11-20-07
907 KAR 1:645E	1672	11-20-07
907 KAR 1:672E	185	7-12-07
Replaced	1470	1-4-08
907 KAR 1:815E	1376	11-15-07
907 KAR 1:820E	1381	11-15-07
907 KAR 1:900E	1676	11-20-07
907 KAR 3:005E	190	7-12-07
Replaced	1474	1-4-08
907 KAR 3:010E	195	7-12-07
Replaced	1478	1-4-08
907 KAR 3:090E	199	7-12-07
Replaced	1480	1-4-08
920 KAR 2:040E	5	6-4-07
Replaced	1494	12-17-07
921 KAR 2:015E	1680	12-07-07
922 KAR 1:050E	212	7-12-07
Replaced	1497	12-17-07

Regulation Number	34 Ky.R. Page No.	Effective Date
922 KAR 1:360E	216	6-28-07
Replaced	1500	12-17-07

ORDINARY ADMINISTRATIVE REGULATIONS:

Regulation Number	34 Ky.R. Page No.	Effective Date
11 KAR 3:100		
Amended	93	9-10-07
11 KAR 5:001		
Amended	822	
As Amended	1386	1-4-08
11 KAR 5:034		
Amended	824	
As Amended	1387	1-4-08
11 KAR 5:145		
Amended	106	9-10-07
11 KAR 5:200		
Amended	1761	
11 KAR 8:030		
Amended	1762	
11 KAR 8:040		
Amended	1766	
11 KAR 14:080		
Amended	1769	
11 KAR 16:001		
Amended	1771	
11 KAR 16:010		
Amended	1773	
11 KAR 16:060		
Amended	1775	
13 KAR 2:020		
Amended	108	
Amended	590	
As Amended	961	12-7-07
16 KAR 1:010		
Amended	1074	
As Amended	1686	
16 KAR 1:030		(See 33 Ky.R.)
As Amended	9	
16 KAR 2:010		
Amended	1079	
As Amended	1687	
16 KAR 4:010		
Amended	1079	
As Amended	1689	
16 KAR 5:010		
Amended	1081	
As Amended	1690	
16 KAR 8:022	1297	
As Amended	1699	
16 KAR 9:080		(See 33 Ky.R.)
As Amended	10	7-19-07
17 KAR 3:030	1899	
31 KAR 4:120		
Amended	826	
As Amended	1388	1-4-08
31 KAR 5:010		(See 33 Ky.R.)
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31 KAR 5:030		
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31 KAR 6:030		
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(r) 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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227.330	815 KAR 10:060
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227.555	815 KAR 25:050
227.560	815 KAR 25:070
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227.580	815 KAR 25:050
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227.590	815 KAR 25:050
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227.630	815 KAR 25:080
227.660	815 KAR 25:090
227.990	815 KAR 10:060
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230.260	810 KAR 1:015
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230.290	810 KAR 1:027
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230.320	810 KAR 1:027
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257.070	302 KAR 20:040
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312.115	201 KAR 21:070
312.175	201 KAR 21:041
312.200	201 KAR 21:095
313.010	201 KAR 8:450
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313.060	201 KAR 8:220
313.100	201 KAR 8:220
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318.020	815 KAR 20.030
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318.054	815 KAR 20.030
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334.040	907 KAR 1:039
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335.100	907 KAR 1:054
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341.360	907 KAR 1:011
341.380	787 KAR 1:090
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405.520	921 KAR 1:380
405.991	921 KAR 1:400
406.021	921 KAR 1:380
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440.170	907 KAR 1:061
441.005	501 KAR 3:010
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441.075	501 KAR 3:050
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532.100	501 KAR 2:020
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