

LEGISLATIVE RESEARCH COMMISSION  
FRANKFORT, KENTUCKY

VOLUME 5, NUMBER 2

FRIDAY, SEPTEMBER 1, 1978



**IN THIS ISSUE**

Public Hearings Scheduled .....	99
<b>Emergency Regulation Now In Effect:</b>	
Board of Nursing Education and Nurse Registration .....	99
<b>Amended Regulations Now in Effect:</b>	
Department of Revenue—Sales and Use Tax .....	100
Executive Department for Finance and Administration:	
Coal Producing Development Fund .....	102
Area Development .....	103
Department of Education—Adult Education .....	104
Department of Labor:	
Labor Standards—Wages and Hours .....	104
Occupational Safety and Health .....	108
Elevator Safety .....	112
Department of Mines and Minerals—Oil and Gas .....	112
Department of Insurance—Motor Vehicles Reparations .....	114
Quarter Horse and Appaloosa Commission .....	114
<b>Proposed Amendments:</b>	
Department of Personnel—Rules .....	118
Department of Revenue—Income Tax .....	137
Board of Accountancy .....	138
Department of Transportation—Highway Classification .....	140
Department of Education:	
Administration and Finance .....	140
Pupil Personnel .....	141
Department of Labor:	
Labor Standards—Wages and Hours .....	143
Occupational Safety and Health .....	144
Elevator Safety .....	147
Public Service Commission—Telephone Utilities .....	147
State Racing Commission—Racing Rules .....	152
Department of Housing, Buildings and Construction—Plumbing .....	160
Certificate of Need and Licensure Board .....	167
<b>Proposed Regulations Received Through August 15:</b>	
Real Estate Commission .....	176
Board of Nursing Education and Nurse Registration .....	176
Department for Natural Resources and Environmental Protection:	
Division of Sanitary Engineering .....	177
Department of Housing, Buildings and Construction:	
Energy Conservation and Efficiency .....	178
Minutes of Administrative Regulation Review Subcommittee .....	179

**CUMULATIVE SUPPLEMENT**

Locator Table—Effective Dates .....	B 2
KRS Cross-Reference Table .....	B 6
Cumulative Index .....	B 8

This is an official publication of the Commonwealth of Kentucky, Legislative Research Commission, giving public notice of all proposed regulations filed by administrative agencies of the Commonwealth pursuant to the authority of Kentucky Revised Statutes Chapter 13.

Persons having an interest in the subject matter of a proposed regulation published herein may request a public hearing or submit comments within 30 days of the date of this issue to the official designated at the end of each proposed regulation.

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1979 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

**HOW TO CITE:** Cite all material in the *Administrative Register of Kentucky* by Volume number and Page number. Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

*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	Bureau, Division or Major Function	Specific Area of Regulation

VOLUME 5, NUMBER 2

SEPTEMBER 1, 1978

PUBLICATION NUMBER 044310

## *Administrative Register of Kentucky*

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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Room 300, State Capitol, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: \$24 per volume of 12 issues, beginning in August and ending with the July issue of the subsequent year.

Second class postage paid at Frankfort, Kentucky.

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# Public Hearings Scheduled

## KENTUCKY BOARD OF MEDICAL LICENSURE

A public hearing will be held at 3 p.m. EDT September 14, 1978, at the office of the Kentucky State Board of Medical Licensure, 3532 Ephraim McDowell Drive, Louisville, Kentucky 40205 on the following proposed regulations:

- 201 KAR 9:101. Definitions relating to paramedics. [5 Ky.R. 72]  
201 KAR 9:121. Certification renewal. [5 Ky.R. 74]

## DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 10 a.m. EDT in the auditorium of the Capital Plaza Tower, Frankfort, Kentucky 40601 on the following proposed regulation, published in this issue:

- 401 KAR 6:050. Fees for analyses of water samples.

# Emergency Regulation Now In Effect

**JULIAN M. CARROLL, GOVERNOR**  
Executive Order 78-644  
July 18, 1978

**EMERGENCY REGULATION**  
Kentucky Board of Nursing Education  
and Nurse Registration

WHEREAS, the 1978 General Assembly enacted House Bill 318 which made various changes with regard to the practice of nursing; and

WHEREAS, the Board of Nursing Education and Nurse Registration is authorized to promulgate regulations concerning "advanced registered nurse practitioners;" and

WHEREAS, House Bill 318's June 17 effective date and United States Public Law 95-210 make it essential that emergency regulations be filed to protect nurse practitioners by defining their training requirements and to enable the Commonwealth to receive funds as the Federal Act provides; and

WHEREAS, the Board of Nursing Education and Nurse Registration has notified the Governor of the necessity of filing emergency regulations and submitted regulations for his approval which it has properly adopted:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Board of Nursing Education and Nurse Registration

that an emergency exists and direct that the attached regulations become effective upon being filed in the Office of the Legislative Research Commission.

**JULIAN M. CARROLL, Governor**  
**DREXELL R. DAVIS, Secretary of State**

**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION**  
Board of Nursing Education  
and Nurse Registration

201 KAR 20:055E. Nurse practitioner.

RELATES TO: KRS 314.011

PURSUANT TO: KRS Chapter 314

EFFECTIVE: July 20, 1978

EXPIRES: November 17, 1978

**NECESSITY AND FUNCTION:** The 1978 revision of the Nurse Practice Act provides for the registration of advanced registered nurse practice. It is necessary to define the qualifications of those to be registered.

Section 1. "Nurse practitioner" means a registered professional nurse who is currently licensed to practice in the state, who meets the state's requirements governing the qualifications of nurse practitioners, and who meets one

(1) of the following conditions:

(1) Is currently certified as a primary care nurse practitioner by the American Nurses' Association or by the National Board of Pediatric Nurse Practitioners and Associates; or

(2) Has satisfactorily completed a formal one (1) academic year educational program that:

(a) Prepares registered nurses to perform an expanded role in the delivery of primary care;

(b) Includes at least four (4) months (in the aggregate) of

classroom instruction and a component of supervised clinical practice; and

(c) Awards a degree, diploma, or certificate to persons who successfully complete the program.

DORIS McDOWELL, Executive Director

ADOPTED: May 24, 1978

APPROVED: RUSSELL McCLURE, Secretary

RECEIVED BY LRC: July 20, 1978 at 4:20 p.m.

## Amended Regulations Now In Effect

(The following regulations, as proposed, were published originally in Volume 4 of the *Administrative Register*. They were approved by the Administrative Regulation Review Subcommittee, as amended, at its August 2, 1978 meeting and became effective on that date. They are republished here as a convenience to subscribers.)

### 103 KAR 27:100. Motor vehicles, mobile homes and trailers.

RELATES TO: KRS 139.050, 139.130

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to sales of motor vehicles, mobile homes and trailers.

Section 1. As used in this regulation, "*motor vehicle*" includes trailers and semitrailers as defined in KRS 189.010(11) [(5)] and (16) [(10)].

Section 2. Gross receipts from sales of motor vehicles including motorcycles, *which are registered for use on the public highways and upon which any applicable* [subject to the] motor vehicle usage tax (103 KAR 44:010) levied by KRS 138.460(1) *has been paid*, are not subject to sales or use tax. Motor vehicle means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires.

Section 3. Mobile homes, camper trailers and boat trailers are not motor vehicles and are subject to the sales or use tax. *Trailers and semitrailers as defined in KRS 189.010(11) [(5)] and 189.010(16) [(10)] are motor vehicles and are not subject to sales or use tax.* [Also, sales of trailers and semitrailers which have been previously registered in Kentucky are subject to tax.]

### 103 KAR 28:050. Rentals and leases.

RELATES TO: KRS 139.050, 139.090, 139.120, 139.290, 139.320, 139.430, 139.470, 139.482, 139.495, 139.600

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it relates to leases and rentals of tangible personal property.

Section 1. (1) In lease or rental transactions it is necessary to classify the lease or rental contract as bona fide or in lieu of a sale as provided in Chapter 1, Internal Revenue Code, and related rulings and regulations. The following is a summary of the sales and use tax consequences for both bona fide leases and leases in lieu of sales by Kentucky and out-of-state lessors of construction and nonconstruction equipment. Construction equipment as used in this regulation means that equipment defined in 103 KAR 25:110. Nonconstruction equipment means all other tangible personal property.

(2) Kentucky lessors: Bona fide leases or rentals:

(a) Construction equipment: A Kentucky lessor of construction equipment under a bona fide lease or rental agreement is considered to be the consumer of the leased or rented equipment. As the consumer, either the sales tax or the use tax applies at the time the equipment is purchased by the lessor. The tax would be measured by the lessor's purchase price of the equipment. An option to this tax status is available if the sole use made of the equipment by a retailer is its use for lease or rental purposes while holding it for resale. Under such circumstances the lessor



may elect to report his receipts from the lease or rental as taxable on his sales and use tax returns in lieu of paying the tax on the entire purchase price. The lessor may not, however, pass the tax along to the lessee as a separate charge since he, not the lessee, is considered to be the taxable user of the property. Any agreement by a lessee to reimburse the lessor for taxes incurred would be strictly a matter between the parties to the contract.

(b) Nonconstruction equipment: The sales and use tax treatment would be the same as for construction equipment indicated in Section 1(2)(a), above.

(3) Out-of-state lessors: Bona fide leases or rentals:

(a) Construction equipment: An out-of-state lessor of construction equipment under a bona fide lease or rental agreement would be liable for Kentucky tax only if he made first use of the property in Kentucky. If first use of property were made in Kentucky, the out-of-state lessor would be liable for Kentucky tax based on his purchase price of the property. The option as to tax treatment described in Section 1(2)(a) above would be available to the lessor under similar circumstances. Construction contractors in Kentucky are liable for use tax based on rental payments for construction equipment leased or rented from out-of-state lessors. The liability of the construction contractor must be paid by him directly to the Department of Revenue. The only exception to this tax status results when the lessor has paid the Kentucky tax on the full purchase price of the equipment or the rental payments. It would, however, be the lessee's responsibility to obtain evidence of such tax payment from the lessor to relieve himself of tax liability to the department on the rental payments. It is presumed that the out-of-state lessor has not paid the Kentucky tax until the contrary is established by the lessee.

(b) Nonconstruction equipment: An out-of-state lessor of nonconstruction equipment under a bona fide lease or rental agreement would be liable for Kentucky tax only if he made first use of the property in Kentucky. If first use of the property were made in Kentucky, the out-of-state lessor would be liable for Kentucky tax based on his purchase price of the property. The option as to tax treatment described in Section 1(2)(a) above would be available to the lessor under similar circumstances. The lessor may not, however, pass the tax along to the lessee as a separate charge since he, not the lessee, is considered to be the taxable user of the property. Any agreement by a lessee to reimburse the lessor for taxes incurred would be strictly a matter between the parties to the contract. The Kentucky lessee of nonconstruction equipment from out-of-state lessors under a bona fide lease or rental agreement would not incur a sales or use tax liability in Kentucky.

(4) Kentucky lessors: Leases in lieu of sales:

(a) Construction equipment: A Kentucky lessor of construction equipment under a contract deemed to be in lieu of a sale is treated in the same manner as if the leased property were sold to the lessee. The lessor-seller would be liable for tax based on the total rents or the total rents and the option price as the case may be. The tax for which the lessor-seller would be liable could be passed on to the lessee-purchaser in accordance with the sales tax collection bracket system established by the Department of Revenue.

(b) Nonconstruction equipment: The sales and use tax treatment would be the same as for construction equipment indicated in Section 1(4)(a), above.

(5) Out-of-state lessors: Leases in lieu of sales:

(a) Construction equipment: The lessee-purchaser of construction equipment from an out-of-state lessor-seller is liable for use tax based on the total rents or the total rents

and the option price as the case may be. His liability is not extinguished until the tax has been paid to this state, except that a receipt for Kentucky tax paid to an out-of-state retailer engaged in business in this state or from an out-of-state retailer who is authorized by the department to collect the tax is sufficient to relieve the lessee-purchaser from further liability for the tax to which the receipt refers. If the Kentucky lessee-purchaser takes possession and first uses the construction equipment in another state, the use tax would apply to the construction contractor's subsequent use of the property in Kentucky provided the Kentucky tax had not been paid on the full purchase price. The tax would be computed in accordance with the formula contained in 103 KAR 25:110. The tax would be due from the construction contractor directly to the Department of Revenue.

(b) Nonconstruction equipment: The sales and use tax treatment would be the same as for construction equipment indicated in Section 1(5)(a) with the exception of the tax applicable under the formula provided by 103 KAR 25:110. Such tax applies only to construction equipment.

**Section 2. Rental of Property Purchased for Resale:** With respect to rentals and leases of property purchased for resale which are not deemed to be in lieu of a sale, the following rules shall apply:

(1) Where the sole use of the property is its rental while holding it for sale, the retailer may elect to include in his gross receipts the amount of the rental charged rather than his cost of the property.

(2) A lessor liable for tax under this section may not pass the tax on to the lessee as a separate charge.

(3) Upon the subsequent sale of the property the retailer shall include in his gross receipts the total sales price of the property.

**Section 3. Bracket System:** As noted in all of the bona fide lease situations described above the tax which applies to the lessor's purchase price of the property (or lease receipts under the option noted) cannot be passed on to the lessee as a separate charge. The lessor should, of course, consider this additional cost of the property in determining the gross rental amount. Any agreement by a lessee to reimburse a lessor for taxes incurred by the lessor is strictly a matter between the parties to the contract.

**Section 4. Reciprocity:** On purchases of nonconstruction equipment, credit for use tax due in Kentucky is granted for sales tax paid in most other states at the time of purchase. Reference should be made to Department of Revenue informational publications to determine if sales tax paid in a particular state is creditable against the use tax due in Kentucky. No credit is granted with regard to use tax due from a construction contractor on bona fide leases or rentals of construction equipment from an out-of-state lessor or to leases or rentals in lieu of a sale involving an out-of-state lessor where the lessee-purchaser takes possession and first uses the construction equipment outside Kentucky before subsequent use in this state.

**Section 5. Exemptions:** Most exemptions contained in the sales and use tax law for purchases of certain kinds of tangible personal property apply to a bona fide lessor's purchase as well as to the actual user's purchase. Such exemptions include purchases of locomotives or rolling stock, machinery for new and expanded industry, farm machinery, and vessels and maritime supplies. When such property is purchased by a bona fide lessor, the lessor



would provide the appropriate exemption certificate to the supplier. The lessee would not be involved in the execution of the certificate. In the event the property were later determined to be taxable, the lessor who executed the certificate would be the party liable for the tax. The lessor should document the exempt nature of the purchase for bona fide lease purposes since all purchases would be presumed taxable until the contrary is established by the bona fide lessor. The purchase exemption authority the Department of Revenue has granted to certain religious, charitable and educational institutions, *historical sites, and units of federal, state and local government* extends only to purchases and lease-purchases by such *organizations* [institutions]. Accordingly, such exemption would not extend to property purchased by a bona fide lessor of equipment for lease to these organizations. Tax would apply at the time the property is purchased by the lessor.

**Section 6. Motor Vehicles:** The sale, lease or rental of motor vehicles including *trailers and semitrailers as defined in KRS 189.010(11) [(5)] and 189.010(16) [(10)]*, and motorcycles, *which are registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid* is [the sale of which is subject to the motor vehicle usage tax leveled by KRS 138.460(1) are] not subject to the sales or use tax (KRS 139.050(3)(f)). The applicable tax is the motor vehicle usage tax administered by the Motor Vehicle Usage Tax Section of the Department of Revenue. Motor vehicles which are not subjected to the motor vehicle usage tax are subject to sales and use tax and the provisions of this regulation will apply to their lease or rental in Kentucky.

#### 200 KAR 4:015. Capital projects.

RELATES TO: KRS Chapter 42  
PURSUANT TO: KRS 42.340

**NECESSITY AND FUNCTION:** Pursuant to the authority vested in the Secretary of the Executive Department for Finance and Administration by KRS 42.340, this regulation establishes procedures relating to submission and approval of proposed capital projects, the expenditure of moneys from the Economic Aid Fund, and title to real property and to capital projects in the coal producing counties.

**Section 1.** All project proposals shall be submitted on forms prescribed by the Executive Department for Finance and Administration, and no proposal shall be considered officially submitted until complete information and documentation required has been received by the Department for Local Government.

**Section 2.** Each proposal submitted by an economic aid board shall be accompanied by the following documentation:

- (1) Copy of the notice of the public meeting at which the project was proposed, with the date of each of the three (3) publications.
- (2) Minutes of the public meeting containing the proposal of the project and such other projects as were proposed.
- (3) Minutes of the economic aid board meeting showing the order of priority established for projects.
- (4) Statement that the beneficiary agency is a county or an incorporated city; or

(a) That it is a special district with a copy of the court order, containing a reference to the authorizing statute, by which the district was established; or

(b) That it is an agency created under the Interlocal Cooperation Act, with a copy of the executed agreement approved by the Attorney General; or

(c) That it is a combination of any of the foregoing, with a copy of the agreement creating the combination; or

(d) That it is a non-profit corporation organized for a public purpose and performing governmental functions and services, with a copy of the official articles of incorporation and by-laws.

(5) Statement by the chief executive officer of the beneficiary agency that such agency is capable of administering the project for its estimated life expectancy.

(6) If funds from other sources are to be used for the project, the availability of such funds shall be shown by:

(a) Resolution, minutes of legislative body, or adopted budget of a local government.

(b) Copy of grant or loan award notice from a federal or state agency, or a letter from the awarding agency which states the amount of funds and date of availability that such grant or loan will be made.

(7) Itemized cost estimates, prepared within thirty (30) days prior to the date of submission, by a licensed architect or engineer; or a price quote on each item, obtained within thirty (30) days prior to the date of submission, from one or more vendors or contractors.

(8) Statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and regulations have been met.

(9) Attestation of county clerk that written assurances are recorded in the office of the clerk of the county in which the project is located.

**Section 3. (1)** In the event the capital project involves improvement or renovation of real property, the beneficiary agency shall submit the following documentation establishing the right to use and possession for the life of the project:

(a) Statement by licensed attorney which sets forth the present holder of title, the book and page number of the deed by which the holder received title and any liens, mortgages or claims against the property.

(b) If the beneficiary agency does not hold fee simple title to the realty, copy of lease, easement or other grant of use or possession, and statement of estimated useful life of project and basis for such estimate.

(2) In the event the capital project involves the acquisition of real property, the beneficiary agency shall submit the following documentation to establish that a marketable title, free of encumbrances, will be acquired:

(a) Title report prepared by licensed attorney in a form acceptable to the Attorney General.

(b) Survey of realty by a registered land surveyor.

(c) Appraisal by one or more qualified appraisers.

**Section 4. (1)** In the event a direct grant is made, the beneficiary agency shall maintain and furnish upon request the following documentation:

(a) Proof of advertisement for bids, indicating the date or dates of publication.

(b) Certification by the chief executive officer of the beneficiary agency that all bids received were opened at the time and place stated in the advertisement and that the tabulation is true and correct as stated.

(c) Copy of the letter awarding each contract, indicating

the date of such award.

(d) Copy of each executed contract and any change order to the contract.

(e) Specifications upon which bid and award was based.

(2) In the event the Executive Department for Finance and Administration delegates award of contracts to a beneficiary agency, the beneficiary agency shall submit all documents applicable to state capital improvement projects and public works contracts as required by the Executive Department for Finance and Administration.

Section 5. (1) Except for direct grants, a project may be given conditional approval pending submission of any documentation or other information required by these regulations, but final payment shall not be made on any project until all documentation has been submitted.

(2) *Beneficiary agencies receiving direct grants in aid as authorized by KRS 42.332(4) shall expend granted funds only for the payment of the costs of the capital project for which such grant was made. Grantee beneficiary agencies shall be liable to the coal severance economic fund any granted funds expended by the agency in violation of this subsection or the provisions of KRS 42.332(4).* [The Secretary of the Executive Department for Finance and Administration may withdraw funding from any project at any time he determines state or federal laws are not being followed in the administration of the project.]

Section 6. 200 KAR 4:020 is hereby repealed.

200 KAR 9:010. Approval of projects; expenditure of funds; title.

RELATES TO: KRS Chapter 42

PURSUANT TO: KRS 42.360

NECESSITY AND FUNCTION: Pursuant to the authority vested in the Secretary of the Executive Department for Finance and Administration by KRS 42.360, this regulation establishes procedures relating to submission and approval of proposed capital projects, the expenditure of moneys from the Area Development Fund and title to real property and to capital projects in the Area Development Districts.

Section 1. (1) The board of directors of each area development district shall select from among capital projects proposed by eligible beneficiary agencies, projects consistent with goals, objectives and priorities of adopted local or regional development plans and shall submit recommended projects to the Department for Local Government for approval by the Executive Department for Finance and Administration.

(2) The board of directors shall give priority consideration to proposed projects which have funds allocated in addition to area development funds and shall consider need and long-term benefits in selection of projects.

(3) Boards of directors of two or more area development districts may propose joint capital projects to be financed by funds allocated to each participating area development district.

Section 2. All project proposals shall be submitted on forms prescribed by the Executive Department for Finance and Administration, and no proposal shall be considered officially submitted until complete information and documentation required has been received by the Department for Local Government.

Section 3. Each proposal submitted by an area development district shall be accompanied by the following documentation:

(1) Minutes of area development district board meeting specifying project approval and amount of area development funds allocated to the project;

(2) Statement that the beneficiary agency is a county or an incorporated city; or

(a) That it is a special district with a copy of the court order, containing a reference to the authorizing statute, by which the district was established; or

(b) That it is an agency created under the Interlocal Cooperation Act, with a copy of the executed agreement approved by the Attorney General; or

(c) That it is a combination of any of the foregoing, with a copy of the agreement creating the combination; or

(d) That it is a non-profit corporation organized for a public purpose and performing governmental functions and services, with a copy of the official articles of incorporation and by-laws.

(3) Statement by the chief executive officer of the beneficiary agency that such agency is capable of administering the project for its estimated life expectancy.

(4) If funds from other sources are to be used for the project, the availability of such funds shall be shown by:

(a) Resolution, minutes of legislative body or adopted budget of a local government.

(b) Copy of grant or loan award notice from a federal or state agency, or a letter from the awarding agency which states the amount of funds and date of availability that such grant or loan will be made.

(5) Itemized cost estimates, prepared within thirty (30) days prior to the date of submission, by a licensed architect or engineer; or a price quote on each item obtained within thirty (30) days prior to the date of submission from one or more vendors or contractors.

(6) Statement of assurances by the chief executive officer of the beneficiary agency that all applicable laws and regulations have been met.

(7) Attestation of county clerk that written assurances required by KRS 42.355 are recorded in the office of the clerk of the county in which the project is located.

Section 4. (1) In the event the capital project involves improvement or renovation of real property, the beneficiary agency shall submit the following documentation establishing the right to use and possession for the life of the project:

(a) Statement by licensed attorney which sets forth the present holder of title, the book and page number of the deed by which the holder received title and any liens, mortgages or claims against the property.

(b) If the beneficiary agency does not hold fee simple title to the realty, copy of lease, easement or other grant of use or possession, and statement of estimated useful life of project and basis for such estimate.

(2) In the event the capital project involves the acquisition of real property, the beneficiary agency shall submit the following documentation to establish that a marketable title, free of encumbrances, will be acquired:

(a) Title report prepared by a licensed attorney in a form acceptable to the Attorney General.

(b) Survey of realty by a registered land surveyor.

(c) Appraisal by one or more qualified appraisers.

Section 5. (1) In the event a direct grant is made the beneficiary agency shall maintain and furnish the following documentation:

(a) Proof of advertisement for bids, indicating the date or dates of publication.

(b) Certification by the chief executive officer of the beneficiary agency that all bids received were opened at the time and place stated in the advertisement and that the tabulation is true and correct as stated.

(c) Copy of the letter awarding each contract, indicating the date of such award.

(d) Copy of each executed contract and any change orders to the contract.

(e) Specifications upon which bid and award was based.

(2) In the event the Executive Department for Finance and Administration delegates award of contracts to a beneficiary agency, the beneficiary agency shall submit all documents applicable to state capital improvement projects and public works contracts as required by the Executive Department for Finance and Administration.

Section 6. (1) Except for direct grants, a project may be given conditional approval pending submission of any documentation or other information required by these regulations, but final payment shall not be made on any project until all documentation has been submitted.

(2) *Beneficiary agencies receiving direct grants in aid as authorized by KRS 42.355(4) shall expend granted funds only for the payment of the costs of the capital project for which such grant was made. Grantee beneficiary agencies shall be liable to repay to the area development fund any granted funds expended by the agency in violation of this subsection or the provisions of KRS 42.355(4).* [The Secretary of the Executive Department for Finance and Administration may withdraw funding from any project at any time he determines state or federal laws are not being followed in the administration of the project.]

Section 7. 200 KAR 10:040 is hereby repealed.

#### 705 KAR 7:050. Adult plan.

RELATES TO: KRS 156.035, 156.116 [156.070, 156.100]

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: An annual program plan for adult education is required in order to be eligible to receive federal funds under the Adult Education Act.

Section 1. Pursuant to the authority vested in the Kentucky State Board for Occupational Education, the Kentucky Annual Program Plan for Adult Education shall be prepared and approved by the State Board for Occupational Education, in accordance with the appropriate federal regulations and guidelines, and submitted annually to the U. S. Commissioner of Education by June 30 for his approval. [Whereas, the duties and responsibilities of the Kentucky State Board of Education have by Executive Order been divided between the Kentucky State Board for Elementary and Secondary Education and the Kentucky State Board for Occupational Education, this document has been approved by both of the aforesaid boards.] This document is incorporated by reference and hereinafter shall be referred to as the Annual Program Plan for the year July 1, 197[7] 8 to June 30, 197[8] 9. Copies of the An-

nual Program Plan may be obtained from the Adult Education Unit, State Department of Education.

#### 803 KAR 1:005. Employer-employee relationship.

RELATES TO: KRS 337.275, 337.285

PURSUANT TO: KRS 13.082, 337.295

NECESSITY AND FUNCTION: KRS 337.010[(2)(c)] defines employe as any person employed by or suffered or permitted to work for an employer. The function of this regulation is to discuss what constitutes an employee-employer relation. This will guide the department in carrying out its responsibilities under the law.

Section 1. The Employment Relation. (1) In order for the Act to apply there must be an employee-employer relation. This requires an employer and employe and the act or condition of employment.

(2) The courts have made it clear that the employment relation under similar laws, such as the Fair Labor Standards Act, is broader than the traditional common law concept of the master and servant relation. The difference between the employment relation in the Act and the common law employment relation arises from the language that employe includes to suffer or permit to work. The courts have indicated that, while "to permit" requires a more positive action than "to suffer," both terms imply much less positive action than required by the common law. Mere knowledge by an employer of work done for him by another is sufficient to create the employment relation under the Act.

(3) The fact that no compensation is paid and the worker is dependent entirely on tips does not negate his status as an employe, if other indications of employment are present. If the worker is paid, the fact that he is paid by the piece or by the job or on a percentage or commission basis rather than on the basis of work time does not preclude a determination that he is, on the facts, an employe with respect to the work for which such compensation is received.

Section 2. Religious, charitable, and nonprofit organizations, schools, institutions, volunteer workers, members of religious orders. (1) There is no special provision in the Act which precludes an employee-employer relationship between a religious, charitable or nonprofit organization and persons who perform work for such an organization. For example, a church or religious order may operate an establishment to print books, magazines, or other publications and employ a regular staff who do this work as a means of livelihood. In such cases there is an employee-employer relationship for purposes of the Act.

(2) Persons such as nuns, monks, lay brothers, deacons, and other members of religious orders who serve pursuant to their religious obligations in the schools, hospitals, and other institutions operated by their church or religious order shall not be considered to be employes.

(3) In many cases the nature of religious, charitable and similar nonprofit organizations, and schools is such that individuals may volunteer their services in one capacity or another, usually on a part-time basis, not as employes or in contemplation of pay for the services rendered. For example, members of civic organizations may help out in a sheltered workshop; women's organizations may send members or students into hospitals or nursing homes to



provide certain personal services for the sick or the elderly; mothers may assist in a school library or cafeteria as a public duty to maintain effective services for their children; or fathers may drive a school bus to carry a football team or band on a trip. Similarly, individuals may volunteer to perform such tasks as driving vehicles or folding bandages for the Red Cross, working with retarded or handicapped children or disadvantaged youth, helping in youth programs as camp counselors, scoutmasters, den mothers, providing child care assistance for needy working mothers, soliciting contributions or participating in benefit programs for such organizations and volunteering other services needed to carry out their charitable educational, or religious programs. The fact that the services are performed under such circumstances is not sufficient to create an employee-employer relationship.

(4) Although the volunteer services (as described in subsection (3) above) are not considered to create an employment relationship, the organizations for which they are performed will generally also have employees performing compensated service whose employment is subject to the standards of the Act. Where such an employment relationship exists, the Act requires payment of not less than the statutory wages for all hours worked in the workweek. However, there are certain circumstances where such an employee may donate services as a volunteer, and the time so spent is not considered to be compensable work. For example, an office employee of a hospital may volunteer to sit with a sick child or elderly person during off-duty hours as an act of charity. The department will not consider that an employee-employer relationship exists with respect to such volunteer time between the establishment and the volunteer or between the volunteer and the person for whose benefit the service is performed. Another example is where an office employee of a church may volunteer to perform non-clerical services in the church preschool during off duty time from his or her office work as an act of charity. Conversely, a preschool employee may volunteer to perform work in some other facets of the church's operations without an employment relationship being formed with respect to such volunteer time. However, this does not mean that a regular office employee of a charitable organization can volunteer services on an uncompensated basis to handle correspondence in connection with a special fund drive or to handle other work arising from exigencies of the operations conducted by the employer.

(5) As part of their overall educational program, public or private schools and institutions of higher learning may permit or require students to engage in activities in connection with dramatics, student publications, glee clubs, bands, choirs, debating teams, radio stations, intramural and interscholastic athletics and other similar endeavors. Activities of students in such programs, conducted primarily for the benefit of the participants as a part of the educational opportunities provided to the students by the school or institution, are not work of a kind contemplated by the Act and do not result in an employee-employer relationship between the student and the school or institution. Also, the fact that a student may receive a minimal payment for participation in such activities would not necessarily create an employment relationship.

(6) The sole fact that a student helps in a school lunchroom or cafeteria for periods of thirty (30) minutes to an hour per day in exchange for his lunch is not considered to be sufficient to make him an employee of the school regardless of whether he performs such work regularly or only on occasion. Also, the fact that students on occasion

do some cleaning up of a classroom, serve the school as junior patrol officers or perform minor clerical work in the school office or library for periods of an hour per day or less without contemplation of compensation or in exchange for a meal or for a cash amount reasonably equivalent to the price of a meal or, when a cash amount is given in addition to a meal, it is only a nominal sum, is not considered sufficient in itself to characterize the students as employees of the school. A similar policy will be followed where the students perform such tasks less frequently but for a full day, with an arrangement to perform their academic work for such days at other times. For example, the students may perform full-day cafeteria service four (4) times per year. In such cases, the time devoted to cafeteria work in the aggregate would be less than if the student worked an hour per day. However, if there are other indicia of employment or the students normally devoted more than an hour each day or equivalent to such work, the circumstances of the arrangement will be reviewed carefully.

(7) In the ordinary case, tasks performed as a normal part of a program of treatment, rehabilitation, or vocational training in the following situations will not be considered as work of a kind requiring a hospital patient, school student, [or] institutional inmate, or *handicapped client*, to be considered an employee of the hospital, school, [or] institution, or *sheltered workshop* conducting the program, for the purpose of the Act:

(a) Tasks performed by patients in tuberculosis, mental, and other hospitals who are required to remain under treatment for extended periods, when performed as a part of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in the treatment of such patients;

(b) Tasks performed by individuals committed to training schools of a correctional nature, which are required as a part of the correctional program of the institution as a part of the institutional discipline and by reason of their value in providing needed therapy, rehabilitation, or training to help prepare the inmate to become self-sustaining in a lawful occupation after release; [and]

(c) Tasks performed by students in special schools for the mentally handicapped or retarded or for the blind or deaf, as a part of the school program to provide activities of therapeutic value for the handicapped student and to develop such capacities as he may have for doing useful things and, to the extent possible, qualifying for gainful employment; and

(d) *Tasks performed by handicapped clients in sheltered workshops, as part of the workshop program, to provide activities of therapeutic, vocational, or training value for the handicapped client and to develop such capacities as he may have for doing useful things and, to the extent possible, qualifying for gainful employment.*

(8) The department will not assert that patients under treatment in mental hospitals, or *handicapped clients of sheltered workshops* are employees when placed in another establishment, such as a private employer, for the performance of tasks which are a continuation of a program of activities which have been determined, as a matter of medical judgment, to have therapeutic or rehabilitative value in their treatment. A different situation prevails, however, after an employment relationship clearly has developed. This shift may occur shortly after the placement or it may occur later. The department will examine the facts of the relationship to determine if an employee-employer relationship exists.

(9) In a program such as described in subsection (8), it is



possible that placements may be made with successive employers for short periods of time. It is not expected in the ordinary course that such successive placements will either be very long with a particular employer or that the total time involved with various employers will last for a long period of time. If situations arise where successive placements as part of therapeutic or rehabilitative treatment continue for more than about six (6) months, all the facts of the situations will be closely examined.

(10) The department will not assert that mentally retarded and other handicapped individuals' [students'] initial participation in a school-work program, or sheltered workshop program constitute an employment relationship if certain conditions are met. However, after an employment relationship has developed, the provisions of the Act will be applicable. The conditions under which an employment relationship initially will not be asserted are:

(a) The activities are basically educational, are conducted primarily for the benefit of the participants, and comprise one of the facets of the educational opportunities provided to the *individuals*. [students.] The *individual* [student] may receive some payment for his work in order to have a more realistic work situation, or as an incentive to the *individual* [student] or to insure that the employer will treat the *individual* [student] as a worker; and

(b) The time in attendance at the school plus the time in attendance at the experience station (either in the school or with an outside employer) does not substantially exceed time the *individual* [student] would be required to attend school if following a normal academic schedule. Time in excess of one (1) hour beyond the normal school schedule or attendance at the experience station on days when school is not in session would be considered substantial; and

(c) The *individual* [student] does not displace a regular employe or impair the employment opportunities of others by performing work which would otherwise be performed by regular employes who would be employed by the school or an outside employer.

(11) The shift to an employment relationship may occur shortly after the placement or it may occur later. As a general guide, work for a particular employer, either a private employer or the school, after three (3) months will be assumed by the Department to be part of an employment relationship unless the facts indicate that the training situation has not materially changed.

Section 3. Outside work or homework performed by independent contractor. (1) For investigation purposes, it can be assumed that a homeworker is an employe, even though there may be a buying and selling arrangement between the parties.

(2) If the employer asserts his outside work or homework is performed by independent contractors, the following factors will be considered concerning the employe-employer relationship:

(a) Does the employer have the right to control the manner of the performance of the work or the time in which the work is to be done?

(b) Is the employer paying taxes for social security, unemployment, or workmen's compensation insurance?

(c) Has the homeworker ever collected any benefits, such as unemployment or workmen's compensation, because of unemployment by the employer?

(d) Does the employer furnish the material or finance directly or indirectly the purchase of the material which the homeworker uses?

(e) When did the practice of buying and selling between

the employer and the homeworker begin, and what are the mechanics of the transaction?

(f) Does the homeworker bill the employer for the work done? Are bills of sale prepared? Are sales taxes paid, or are state or local exemptions obtained because of retail purposes? Are payments made in cash or by check?

(g) How does the homeworker's profit under the buying-selling arrangement compare with his or her wages as a homeworker?

(h) Whom does the homeworker consider to be the employer?

(i) Does the homeworker have a license to do business?

(j) What equipment is used, what is its value, and who furnishes it?

Section 4. Test of the employment relation. (1) The principal test for determining whether an employment relation exists is whether the possible employer controls or has the right to control the work to be done by the possible employe to the extent of prescribing how the work shall be performed. Additional considerations are the method of payment and how free the possible employer is to replace the possible employe with another. A determination of the employer-employe relationship cannot be based on isolated factors or upon a single characteristic, but rather upon the circumstances of the whole activity.

(2) The factors which are considered significant, although no single one is regarded as controlling are:

(a) The extent to which the services in question are an integral part of the employer's business;

(b) The amount of the alleged contractor's investment in facilities and equipment;

(c) The alleged contractor's opportunities for profit and loss; and

(d) The amount of initiative, judgment, or foresight in open market competition with others required for the success of the claimed independent enterprise.

(3) Where the facts clearly establish that the possible employe is the subordinate party, the relation is one of employment. To determine the amount of control consider:

(a) Whether there are restrictive provisions in the contract between the possible employer and possible employe which require that the work must be satisfactory to the possible employer and detailing, or giving the possible employe the right to detail how the work is to be performed;

(b) Whether the possible employer has control over the business of the person performing work for him even though the possible employer does not control the particular circumstances of the work;

(c) Whether the contract is for an indefinite period or for a relatively long period;

(d) Whether the possible employer may discharge employes of the alleged independent contractor;

(e) Whether the possible employer may cancel the contract at his discretion, and on how much notice;

(f) Whether the work done by the alleged independent contractor is the same or similar to that done by admitted employes.

(4) Since the determination of whether an employment relation exists depends upon the circumstances of the whole activity, particular factors to be considered are:

(a) Is the alleged independent contractor listed on the payroll with the appropriate tax deductions, or are the payments to him charged to the labor and salary account or selling expense account instead of to the account to which attorney's fees, auditor's fees, and the like are



charged?

(b) Must employes of the alleged independent contractor be approved by the possible employer?

(c) Does the possible employer keep the books and prepare the payroll for the possible employee?

(d) Is the alleged independent contractor assigned to a particular territory without freedom of movement outside thereof?

(e) Does the alleged independent contractor have an independent economic or other interest in his work, other than increasing his own pay?

(f) How do the respective tax returns of the parties list the remuneration paid?

(g) If the possible employer has control over the manner in which the work is to be performed, the absence of any or all of the factors will not indicate an absence of the employee-employer relation. However, where the element of control cannot be firmly established, they will help in determining whether the relation is one of employer and employee or of independent contractor.

(5) The following factors are immaterial to the determination of whether the relation is one of employer-employee or of independent contractors:

(a) The state or local government grants a license to the alleged independent contractor;

(b) The measurement, method, or designation of compensation;

(c) The fact that no compensation is paid and the alleged independent contractor must rely entirely on tips;

(d) The place where the work is performed; and

(e) The absence of a formal employment agreement.

(6) (a) An employment relation may exist between the parties to a transaction which is nominally a sale. Thus, house-to-house canvassers who sell at retail the products of a particular company are employes of the company, although their contracts with the company are in the form of dealer contracts under which the company purports to sell its products to them at fixed wholesale prices and to recommend retail prices at which the products should be sold where the control exercised by the company over the so-called dealers is not substantially different than that exercised by an employer over his outside salesman.

(b) Likewise, an employee is not converted into an independent contractor by virtue of a fictitious sale of the goods produced by him to an employer, so long as the other indication of the employment relation exist. Homeworkers who sell their products to a manufacturer are his employes where the control exercised by him over the homeworkers through his ability to reject or refuse to buy the product is not essentially different from the control ordinarily exercised by a manufacturer over employes performing work for him at home on a piece rate basis.

(7) The subject matter of the employment relation must be work or its equivalent. The essential elements of work are:

(a) Physical or mental exertion (whether burdensome or not);

(b) Controlled or required by the employer; and

(c) Pursued necessarily and primarily for the benefit of the employer and his business.

(d) Once it is determined that one who is reputedly an independent contractor, lessee, partner, or the like, is in fact an employee, then all the employes of the so-called independent contractor engaged in the work for the principal employer likewise become the employes of the principal employer, who must guarantee compliance with the Act. Thus, the one who is responsible will be charged with see-

ing to compliance with the Act and must keep the records of the employes.

Section 5. Trainees and student-trainees. (1) The Supreme Court has held that the words "to suffer or permit to work, to define employ, do not make all persons employes who, without any express or implied compensation agreement, may work for their own advantage on the premises of another."

(2) Whether trainees or students are employes of an employer under the Act will depend upon all of the circumstances surrounding their activities on the premises of the employer. If all six (6) of the following criteria apply, the trainees or students are not employes within the meaning of the Act:

(a) The training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

(b) The training is for the benefit of the trainees or students;

(c) The trainees or students do not displace regular employes, but work under their close observation;

(d) The employer that provides the training derives no immediate advantage from the activities of the trainees or students and on occasion his operations may actually be impeded;

(e) The trainees or students are not necessarily entitled to a job at the conclusion of the training period; and

(f) The employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

#### 803 KAR 1:087. Benefits as wages.

RELATES TO: KRS 337.310, 337.385 [337.010(c), 337.020, 337.055]

PURSUANT TO: KRS 13.082, 337.295

NECESSITY AND FUNCTION: The statutory definition of "wages" when used in the Act includes any compensation due to an employee by reason of his or her employment, payable in legal tender of the United States or checks on banks convertible into cash on demand and full face value, subject to such allowances made in the Act. KRS 337.295 authorized the commissioner to promulgate regulations permitting allowances as part of the wage rates applicable and payable as wages. The function of this regulation is to set forth benefits payable to an employee as part of wages earned and provided to employees by the employer as an established policy.

Section 1. Vested Vacation. (1) An employee, upon termination from a place of employment, must be paid his earned vacation pay within the next regular pay period in accordance with the general or established policy on vacations provided for the employees.

(2) The employer may require the employee to take his or her vacation within a certain period after he or she has accrued vacation time. Such policy should be in writing.

(3) An employer may discontinue the vacation benefits of his employees at any time; however, vacations must be paid to the employees up to the time the vacation policy is discontinued.

(4) No forfeiture of vacation will be permitted unless conditions of forfeiture were pre-existing and understood



by the employee.

(5) Vested vacations shall be payable at the current rate of pay for the employee, unless otherwise agreed in writing.

(6) Denial of time for a paid vacation must be in writing specifying the reason for denial.

**Section 2. Severance Pay.** All severance pay must be paid upon termination unless a written agreement stating the conditions an employer may revoke such payment of severance pay.

**Section 3. Earned Bonuses, Commissions, and Other Similar Advantages.** Earned bonuses, commissions, and other similar advantages provided by the employer for the employee as part of his wages and agreed upon by the employer and the employee as an established policy, is payable in legal tender upon termination unless a written agreement stating the conditions an employer may revoke such payments is provided.

**Section 4. Other Benefits.** Any other benefits promised any employee as an enticement to become employed or to remain employed shall be paid at the agreed rate or fair value at the time promised or in such part as may be earned at the time of termination. Such benefits shall include, but not be limited to bonuses, profit sharing proceeds, incentive payments, in either merchandise or cash, or contributions to independent funds in behalf of an employee.

#### 803 KAR 1:088. Illegal deductions.

RELATES TO: KRS 337.310, 337.385 [337.060]

PURSUANT TO: KRS 13.082, 337.295

**NECESSITY AND FUNCTION:** KRS 337.060 provides exceptions for deductions made from any part of the agreed wages of an employee. It is the function of this regulation to set forth such exceptions of the Act, and to set forth criteria for approved and/or illegal deductions by the employer from the agreed wages of the employee.

**Section 1. Unlawful for Employer to Withhold Wages.** No employer shall withhold from any employee's wages any part of the agreed wage rate; unless:

(1) The employer is required to do so by local, state, or federal law; or

(2) When a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital, or medical dues; or

(3) Other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreements or statutes; or

(4) Deductions for union dues where such deductions are authorized by joint wage agreements or collective bargaining contracts negotiated between employers and employees or their representatives.

**Section 2. Illegal Deductions.** It shall be illegal for an employer to withhold the following deductions from an employee's wages:

(1) Cash shortages in a common money till, cash box, or register operated by two (2) or more employees, or by an employee and employer; or

(2) Any other cash or project loss that cannot be shown to be directly attributed to an employee's willful misconduct; or

(3) Losses due to acceptance by an employee on behalf of the employer of checks and/or credit cards which are subsequently dishonored if the employee has been given the discretion to accept or reject such checks and/or credit cards; or

(4) Losses due to breakage, lost or stolen property, unless such tools and equipment are specifically assigned to the employee and their receipt acknowledged in writing by the employee from whom the deduction is made; or

(5) Losses due to faulty workmanship or damage to property, unless such damage or faulty workmanship is due to employee's willful and intentional misconduct, and such employee is found guilty or held liable in a court of competent jurisdiction by reason thereof; or

(6) Losses due to inventory shortages in stock of merchandise or commodities purchased by the employer for operation of the business establishment, factory, or plant where employee is subjected to use or handling of stock of merchandise or commodities in carrying out his duties of work; or

(7) If cash advances or charges on merchandise are to be paid through payroll deductions, both the employer and employee must sign an agreement specifying the amount of the advances or charges, the repayment schedule and the method of repayment:

(a) No such agreement shall provide for a repayment schedule more than fifteen (15) percent of the employee's gross wages per paycheck;

(b) If upon termination, an employee owes an amount greater than fifteen (15) percent of gross wages, that amount may be withheld from the employee's final paycheck; and

(c) The acceptance by an employee of a disputed paycheck will not be considered as evidence that the employee has agreed to the deductions in question.

(8) In no case shall an employer withhold all or part of the final compensation due an employee while the employer awaits the return of property in the possession of the employee; or

(9) An employer may request that a deposit be paid on a particular piece of property but such deposit may not be deducted from the employee's wages without the employee's written consent. A deposit must be returned to the employee along with the final compensation, provided the employee has returned the property on which the deposit was paid.

**Section 3. Required Agreements.** Where an employer requires an employee to agree, either in writing or orally, to any deductions or rebates prohibited by this regulation or referenced statutes as a condition of employment, such action shall constitute prima facie evidence of violation of KRS 337.060.

#### 803 KAR 2:017. Fire fighters' clothing and equipment standards.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** Pursuant to the authority granted the Kentucky Occupational Safety and Health Standards Board by KRS 338.051 and 338.061, the following regulation is adopted. The function of this regulation is to set forth minimum requirements for personal protective clothing and equipment for structural fire fighters when engaged in fire fighting activity.

Section 1. Definitions. As used in this regulation: (1) "Break-away device" means a type of chin strap connection designed so that excessive pressure exerted on the helmet in the form of upward force will cause the chin strip to open and release the helmet from the head.

(2) "Emergency pick-up labor" means personnel consisting of National Guard, military forces, forest product workers, farm workers, and other persons who may be recruited from time to time to help contain and control fires.

(3) "Energy absorption system" means a material or suspension system, or combination thereof, placed inside the helmet between the exterior shell and the wearer's head to absorb and distribute impact energy.

(4) "Face shield" means a heat and flame resistant device worn in front of the eyes and face, whose predominant function is protection of the eyes and face.

(5) "Fire fighter" means an employee who is assigned to fire fighting activity, and is required to respond to alarms and perform emergency action at the location of a fire or fire related danger. Included are employees of fire departments, fire protection districts, organized fire companies, and private fire brigades when engaged in firefighting activity. The term does not apply to first-aid brigades, emergency pick-up labor, or other persons who may perform first-aid fire extinguishment as collateral to their regular duties and *unsalaried volunteer firefighters*.

(6) "Fire fighter structural" means a fire fighter trained for, and assigned principally to fire fighting activity involving buildings, structures, vehicles, vessels, transportation facilities, materials storage, plant equipment, or like property improvements common to populated areas. Not included in this classification are fire fighters assigned principally to wildland, air crash, major petroleum drilling or production, rocket fuel, and similar fire exposures requiring special protective techniques.

(7) "Fire fighter wildland" means a regularly employed person trained and assigned principally to wildland fire response, and normally having assigned tours of duty.

(8) "Fire fighting activity" means physical action taken in the direct act of fire suppression, and rescue or hazardous duties performed at the location of a fire emergency.

(9) "Fire fighting structural" means the comprehensive physical fire suppression activity of public fire departments.

(10) "First aid fire brigade" means selected employees engaged in non-fire related activity who have basic instruction and limited assignment in the first reaction phase of fire control. Actions taken typically include the sending of alarms, evacuation of handicapped, actuating fire doors or other containment devices, use of portable extinguishers and fixed hose, all in advance of regularly responding fire fighting service. Fire responsibilities are limited to elementary measures of low personal risk.

(11) "Flame resistance" means a property of materials which causes resistance to ignition or combustion, provided through the use of inherently flame resistant materials, or materials treated to be flame resistant in manner that the treatment will remain effective for the service life of the material under conditions anticipated for its use.

(12) "Harmful exposure" means an exposure to oxygen-deficient atmosphere, or to dusts, fumes, mists, vapors, chemicals or gases of such concentration and duration as to cause injury and/or illness.

(13) "Hazardous environment" means a place where a fire fighter is likely to receive a harmful exposure to a hazardous substance, or be exposed to physical or

mechanical hazards which are likely to cause injury and/or illness.

(14) "Hazardous substance" means a substance which by reason of being explosive, flammable, poisonous, corrosive, oxidizing, irritant or otherwise harmful, is likely to cause injury and/or illness.

(15) "Heat resistance" means the ability of a material to retain its original properties such as shape, size, strength, hardness, resilience, non-conductivity, or appearance when subjected to temperatures specified in heat resistance tests.

(16) "Helmet" means a device consisting of a rigid shell, energy absorption system, and chin strap intended to be worn to provide protection for the head or portions thereof against impact, flying or falling objects, electric shock, penetration, heat and flame, or any combination thereof.

(17) "Injury/illness" includes work related illness, disease, impairment, disfigurement, loss of function of any part of the body, as well as symptoms of significant adverse effects or damage.

(18) "Private fire brigade" means an organized group of private industrial fire-fighting employees who may also be assigned to other functions, but who have priority obligation to fire protection. Fire fighting responsibility may be independent, under mutual aid agreement or supported by regular fire service assistance. Organizational and operational guidelines are contained in NFPA 27 (1975) "Recommendations, Training and Equipment of Private Fire Brigades."

(19) "Self extinguishing" is a term applied to a material which when subjected to flaming ignition, may ignite and propagate only until removal of the source of ignition.

(20) "Trousers" means a garment worn to protect the lower part of the human body from the waist to the ankles.

(21) "Turnout clothing" means protective clothing consisting of a coat and trousers as specified in NFPA 1971 (1975) "Protective Clothing for Structural Fire Fighting" except as modified by Section 6 of this regulation.

(22) "Wildlands" means sparsely populated geographical areas covered primarily by grass, brush, trees, crops, or combination thereof.

(23) "Winter liner" means a detachable extra lining worn inside turnout garments to give added protection to the wearer against the effects of cold weather and wind.

(24) "Respiratory protective device (RPD)" means a breathing device designed to protect the wearer from oxygen-deficient, or hazardous atmosphere.

(25) "Self-contained breathing apparatus (SCBA)" means a portable respiratory protective device, normally designed to be worn by the user by means of an incorporated harness assembly, with its own supply of air, oxygen or oxygen generating material. It is equipped with a full facepiece.

(26) "Closed circuit self-contained breathing apparatus" means a device in which oxygen is supplied from either a compressed oxygen releasing canister. Exhaled breath is scrubbed of carbon dioxide, and recycled with added oxygen for re-breathing.

(27) "Open-circuit self-contained breathing apparatus" means a device in which compressed air is released to the facepiece from a storage cylinder, and exhaled air is expelled to the atmosphere (oxygen supply is not permitted in open-circuited breathing apparatus used in fire fighting).

(28) "Demand-type breathing apparatus" means equipment in which pressure inside the facepiece is slightly negative on inhalation, and positive on exhalation.

(29) "Pressure-demand type breathing apparatus"

means equipment in which the pressure inside the facepiece is positive during both inhalation and exhalation.

(30) "Combination breathing apparatus-respirator" means a combination of compressed air self-contained breathing apparatus and NIOSH Type C supplied-air respiratory protective device of the demand type.

**Section 2. General Requirements.** These standards establish minimum requirements for personal protective clothing and equipment for fire fighters when engaged in fire fighting activity.

(1) Personal protective clothing and equipment specified in these standards shall be provided and used whenever employees are required to work in a hazardous environment that may be encountered during fire fighting activities.

(2) The employer shall assure the availability, maintenance, sanitation, and use of all protective clothing and equipment in conformance with these standards.

(3) Employees shall wear or utilize appropriate personal clothing and equipment when directed to work in a hazardous environment until such time as the officer in charge determines that such protection is no longer required.

(4) Personal protective clothing and equipment that has become damaged or otherwise defective to the point of voiding its intended protection shall be removed from service.

(5) Fire fighters engaged in emergency activities requiring special protective techniques and equipment shall be protected for the particular hazards encountered.

(6) Employers shall develop and require use of a written plan covering the safe use, maintenance, utilization and replacement of the equipment required in these standards, and all affected employees shall be trained in accordance with such plan.

**Section 3. Head Protection.** (1) General. Head Protection shall be provided for each fire fighter, and shall be maintained in a location of readiness for immediate response to fires and like emergencies. Head protection shall be worn by the fire fighters whenever responding to a fire or like emergency. Head protection is normally provided for fire fighters through the use of helmets.

(2) Minimum requirements, structural fire fighters. Helmets for use in structural fire fighting first placed in service ninety (90) days or more after the effective date of these standards shall meet the following requirement. (Note: See subsection (3) this section for helmets placed in service after January 1, 1980. ANSI standards hereinafter referred to in this section shall read Z 89.1 (1969) and Z 90.1 (1971).)

(a) Configuration. The helmet shall be designed to divert falling liquid and debris away from the face and neck, and shall have no slits, holes or other openings penetrating the shell except those provided by the manufacturer for mounting suspension systems or accessories. Provision shall be incorporated for the attachment of accessories.

(b) Impact. Helmets shall meet the impact resistance requirements of ANSI Z 89.1, "Safety Requirements for Industrial Head Protection," or the impact attenuation requirements of ANSI Z 90.1, "Specifications for Protective Headgear for Vehicular Users."

(c) Penetration. Helmets shall meet the penetration resistance requirements of ANSI Z 89.1 or ANSI Z 90.1.

(d) Flame resistance. Helmets shall meet the flammability resistance requirements of ANSI Z 89.1 for Class D. For the purpose of this test, self-extinguishing shall mean that there shall be no visible flame or after-glow five seconds

after the impinging flame has been removed.

(e) Heat resistance. When placed in a forced air laboratory oven at a temperature of 300 degrees Fahrenheit (150 degrees Centigrade) for a period of five (5) minutes, the helmet shall not undergo softening, melting shrinking or visible distortion.

(f) Electrical insulation resistance. Helmets shall meet the electrical insulation resistance requirements of ANSI Z 89.1 for Class D.

(g) Water absorption. Helmets shall meet the water absorption requirements of ANSI Z 89.1 as applied to the helmet shell.

(h) Retention ability. The chin strap and its attachment to the helmet, together with the break-away device if so equipped, shall be capable of supporting a load increase from ten (10) to one hundred (100) pounds at the rate of three (3) pounds per second over a period of thirty (30) seconds, and the continuation of the 100 pound load for an additional two (2) minutes. The chin strap and its attachment to the helmet shall remain 1.0 inches (25 mm) as measured from the top of the helmet to the midpoint of the closed chin strap. Testing shall be performed in accordance with ANSI Z 90.1 except as modified herein.

(i) Labeling. Each helmet shall be durable and legibly labeled in a manner such that the label can be easily read without removing padding or any permanent label, and shall include the following:

1. Name or designation of manufacturer;
2. Month and year of manufacturer;
3. Lot number;
4. Model designation;
5. ANSI Z 89.1 or Z 90.1 approval.

(3) Helmets for use by structural fire-fighters, first placed in service on or after January 1, 1980, shall meet the following requirements to the extent that they conflict with the provisions of subsection (2) of this section.

(a) Impact. Helmets shall be tested for impact attenuation at the apex, sides, front and rear using the test methods prescribed in ANSI Z 90.1, except utilizing an impact force of forty-eight (48) foot-pounds and a hemispherical anvil. A peak acceleration of the headform exceeding eighty (80) G shall be cause for failure.

(b) Penetration. Helmets shall be tested for penetration resistance at the apex, sides, front and rear using the test methods prescribed in ANSI Z 90.1 except utilizing a 2.2 pound plumb bob with a point angle of thirty (30) degrees dropped from a distance of 120 inches.

(c) Flame resistance. Helmets shall be self extinguishing when tested for flame resistance by pre-conditioning the test sample with a radiant heat flux of 0.8 watts/cm squared from a radiant heat source as prescribed in ASTM E-162 (test for surface flammability of materials using radiant heat energy) for sixty (60) seconds prior to performing the test specified in ANSI Z 89.1 for Class D, and continuing until the impinging flame is removed.

(4) All helmets for structural fire fighters not meeting the requirements of subsection (2) of this section shall be removed from service on or before January 1, 1980.

(5) All helmets for structural fire fighters not meeting the requirements of subsection (3) of this section shall be removed from service on or before January 1, 1985.

**Section 4. Eye and Face Protection.** (1) General:

(a) Employees exposed to eye injury hazards shall be protected in accordance with the provisions Subpart I, 29 CFR 1910, as adopted by 803 KAR 2:020.

(b) In addition to the requirements of Subpart I, 29 CFR 1910, as adopted by 803 KAR 2:020, and wherever eye and



face protection is not provided by breathing apparatus facepiece, the fire fighter's face shall be protected by one or more of the following means, or other equivalent methods when exposed to injurious heat and flame:

1. Faceshield attached to the helmet;
2. Heat and flame resistant hood;
3. High collar and throat strap.

(2) Faceshields of plastic or glass shall transmit light as specified in ANSI Z 87.1 (1968), "Practice for Occupational and Educational Eye and Face Protection." Faceshields constructed of other materials such as wire mesh shall provide visibility not less than required by ANSI Z 87.1. All faceshields shall be capable of withstanding heat in accordance with the provisions of Section 3(2)(e).

(3) Hood and coat collars. Such devices shall be constructed and tested in accordance with the provisions of Section 6, body protection.

Section 5. Ear and Neck Protection. (1) Protection against burns on the ear and neck shall be provided by one or more of the following means, or other equivalent methods, when fire fighters are exposed to injurious heat and flame:

- (a) Helmet configuration;
- (b) Ear flap attachment to helmet;
- (c) Flexible neck protector cape or winter liner worn with helmet;
- (d) Flared neck shield attached to brim of helmet;
- (e) Hood, shroud or snood;
- (f) High collar and throat strap.

(2) Fabric specified in this section shall be constructed and tested in accordance with the provisions of Section 6, body protection.

(3) Non-fabric materials shall meet heat and flame resistance requirements of Section 3, head protection.

Section 6. Body Protection. (1) Body protection shall be provided for each fire fighter in the form of turnout clothing, ancillary clothing or appropriate combination of both in accordance with these standards.

(2) Turnout clothing. Performance, construction, testing and certification of fire fighter turnout clothing shall be at least equivalent to the requirements of National Fire Protection Association (NFPA) publication 1971 (1975), "Protective Clothing for Structural Fire Fighting," with the following permissible variations:

(a) The vapor liner may be detachable for cleaning purposes only.

(b) To achieve increased ventilation of trapped body heat, the protective clothing outer shell and impermeable vapor barrier (liner) may be penetrated by ventilation openings protected by nonmetallic fire resistant materials equal to this standard. Openings in the coat shall be restricted to the underside of the upper arm, and the upper portion of the front and back with water deflecting flaps. Openings in the trousers shall be restricted to the areas of the groin and the outseam of the leg between the knee and the waist-band. Vents shall be made of nonmetallic resistant materials equal to this standard.

(c) Tearing strength of the outer shell to be a minimum of seven (7) pounds.

(d) Flame resistance, including that of trim, not to exceed:

1. 2.0 seconds after flame;
2. 4.0 seconds after glow;
3. 6.0 inches char length.

(e) When placed in a forced air laboratory oven at a temperature of 500 degrees Fahrenheit (269 degrees Cen-

tigrade) for a period of five (5) minutes, the outer shell and lining may char but shall not separate or melt.

(f) Shrinkage in laundering. Maximum change in length or width to be within four (4) percent of the total surface measurement.

Section 7. Hand Protection. (1) Protective gloves shall be provided for each fire fighter, properly sized and suitable to the hazards encountered in fires and fire related emergencies.

(2) Fire fighters shall wear protective gloves whenever exposed to a hazardous environment that may cause injury to the hand or wrist.

(3) Protective glove material and pattern shall allow dexterity of hand movement and sense of feel for objects. Gloves shall be of the gunn cut having separate finger compartments free of seams on the palm side, and shall have integral knit wristlets designed to protect the wrist area when the arms are extended upward and outward from the body.

(4) Hand protection in use one year after the effective date of these standards must meet the requirements of this standard.

Section 8. Foot Protection. (1) Foot protection in the form of safety shoes or turnout boots shall be provided for and worn by fire fighters while engaged in fire fighting activity and like emergency.

(2) The use of protective footwear shall be coordinated with the wearing of the protective clothing system to insure full body protection.

(3) Safety shoes. Safety shoes shall provide firm ankle support, be equipped with anti-slip outsoles, and shall also provide:

(a) Puncture resistance from the bottom as required in MIL-B-2885D (5-2-73) "Military Specification for Firemen's Boots," and amendment dated 12-29-75.

(b) Impact protection for toes as required in ANSI Z 41.1 (1967), "Standard for Safety Toe Footwear," Class 75.

(c) Water resistance for at least five (5) inches above the heel.

(d) Resistance to ozone cracking. Performance shall not be less than that provided for in ANSI Z41.1 (1967).

(4) Turnout boots. Fire fighter boots shall meet the requirements of MIL-B-2885-D (5-23-73) and amendment dated 12-31-75.

(5) Lesser levels of foot protection:

(a) Paid professional fire fighters involved in substantial amounts of both structural and wildland fire fighting shall wear shoes meeting the requirements of subsection (3) of this section, except that steel toes and puncture resistant inner-soles required by subsection (3)(a) are optional when engaged in wildland firefighting only.

(6) Foot protection placed in use in fire fighting after the effective date of these standards shall meet the requirements set forth in this standard.

Section 9. Respiratory Protection. (1) Approved equipment:

(a) Approvals. Fire fighters exposed to harmful exposure in the course of their assigned activities shall be provided with, and shall use respiratory protective devices that are approved and certified in accordance with the U.S. Department of Health, Education and Welfare publication (NIOSH) 76-145, "Certified Equipment."

(b) Permissible devices. Respiratory protective devices provided for and used by fire fighters in structural fire



fighting shall be limited to those types classified as self-contained breathing apparatus (SCBA), and combination breathing apparatus of the supplied-air demand type.

(c) Pressure demand. All compressed air self-contained breathing apparatus for use in fire fighting, first placed in service after January 1, 1980, shall be of the pressure demand type.

(2) General Requirements:

(a) Written standard procedures. The employer shall develop and implement comprehensive written standard operating procedures for the use, care, maintenance, and training relating to respiratory protective equipment in accordance with ANSI Z 88.5 (1973), "Practices for Respiratory Protection for the Fire Service," and 29 CFR 1910.134, as adopted by 803 KAR 2:020.

(b) Operating service time. Respiratory protective devices provided for use by fire fighters shall have a rated service time of at least thirty (30) minutes.

(c) Automatic warning signal. Respiratory protective devices provided for use by fire fighters shall be equipped with an automatic device that produces an audible signal to warn the user that the remaining service time of the unit has been reduced to twenty (20) to twenty-five (25) percent.

(3) Facepiece construction. Facepieces used in fire fighting shall have a scratch resistant one (1) piece lens. Design and material shall resist ozone cracking, minimize slippage on the user's face, and withstand repeated disinfection without reducing the effectiveness of the unit.

(4) Statement of performance. The employer shall insure that any new respiratory protective device be furnished with a statement of performance declaring that the product has been tested, and meets the minimum requirements of these standards.

**803 KAR 4:021. Elevator and escalator inspection fees.**

RELATES TO: KRS 336.510 to 336.680

PURSUANT TO: KRS 13.082, 336.620

NECESSITY AND FUNCTION: KRS 336.620 authorizes the commissioner to prescribe the fee to be charged for each inspection of an elevator. The function of this regulation is to set forth the fee to be charged in order to raise enough revenue to properly administer the inspection program.

Section 1. Schedule of Fees: (1) Construction permit fee for installation of each new elevator shall be *based on the horsepower of the motor used on the elevator* [thirty-five dollars (\$35) plus four dollars (\$4) per door opening.] as follows:

(a) Zero (0) to five (5) horsepower, per unit: \$40;

(b) Six (6) to ten (10) horsepower, per unit: \$60;

(c) Eleven (11) horsepower and over, per unit: \$60, plus \$5 for each horsepower over ten (10).

(2) (a) Alteration permit fee of existing elevator shall be *based on the horsepower of the motor used on the elevator* [thirty-five dollars (\$35) plus four dollars (\$4) per door opening.] as follows:

1. Zero (0) to five (5) horsepower, per unit: \$40;

2. Six (6) to ten (10) horsepower, per unit: \$60;

3. Eleven (11) horsepower and over, per unit: \$60, plus \$5 for each horsepower over ten (10).

(b) An alteration shall be anything as defined in Part XII of the American Standard Safety Code for elevators, dumbwaiters, escalators, and moving walks, as adopted by

reference in 803 KAR 4:010.

(3) Construction permit fee for installation of each escalator shall be *based on the horsepower of the motor used on the escalator* [thirty-five dollars (\$35) per unit.] as follows:

(a) Zero (0) to five (5) horsepower, per unit: \$40;

(b) Six (6) to ten (10) horsepower, per unit: \$60;

(c) Eleven (11) horsepower and over, per unit: \$60, plus \$5 for each horsepower over ten (10).

(4) General inspection fee for each passenger elevator and escalator shall be *fifty-five dollars (\$55)* [thirty-five dollars (\$35)] per annual inspection.

(5) Inspection fee for each inspection by a general inspector made on request by the owner or user of each elevator shall be *fifty-five dollars (\$55)* [thirty-five dollars (\$35)].

(6) As used in this section, an escalator shall mean a moving inclined continuous stairway or runway used for raising or lowering passengers that is independently powered by its own unit. If two (2) escalators serve each floor, one (1) up and one (1) down, this would be considered as two (2) separate units; such as, first to second, up; second to first, down. A four (4) story building using escalators to serve all four (4) floors would require a total of eight (8) units.

**805 KAR 1:020. Protection of fresh water zones.**

RELATES TO: KRS 353.520

PURSUANT TO: KRS 13.082, 353.540, 353.550, 353.560

NECESSITY AND FUNCTION: [KRS 353.070(12) provides that the Commissioner, Department of Mines and Minerals, shall have the power and authority to adopt such regulations as he deems necessary and suitable for the proper administration of the department.] 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: (1) the unreasonable damage to underground, fresh or [to] mineral water supply, workable coal seams, or other mineral deposits in the operations for the discovery, development, production, or handling of oil and gas, (2) the unnecessary or excessive surface loss or destruction of oil or gas or their constituents, and (3) 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. It is the purpose of this regulation to protect fresh water zones from contamination associated with the production of oil and gas. KRS 353.550 provides that the department shall have the authority to set forth the requirements for casing, operation and plugging of wells to prevent escape of oil or gas, the detrimental intrusion of water, blowouts, caveings, seepages and fires.

Section 1. Definitions. The definitions contained in KRS 353.510 and the following additional definitions shall apply to this regulation:

(1) "Abnormal pressure" means a reservoir pressure that exceeds the hydrostatic pressure of fresh water extending from the reservoir to the surface.

(2) "Annulus" means the space between two (2) strings

of casing or between a string of casing and the bore hole wall.

(3) "Casing (casing string)" means steel tubes or pipes installed in a well.

(4) "Surface casing" means the first and largest diameter casing installed in a well and its primary uses are to make the borehole stand up and to protect the fresh water zones.

(5) "Intermediate casing" means one or more strings of pipes installed in a well in addition to the surface casing in which each string is smaller in diameter than the previous.

(6) "Long casing string" means the last casing installed in a well to be used for production or injection purposes.

(7) "Zone" means a layer of strata capable of producing or receiving fluids.

**Section 2. Protection of Fresh Water Zones for Drilling and/or Plugging Operations.** (1) During drilling operations, one (1) of the following methods shall be used to protect Fresh Water Zones:

(a) Method A: Casing shall be set on a casing shoulder and said casing shall have a shoe installed on the bottom of the bottom joint. Upon the completion of the drilling program, all the recoverable casing must be removed or cemented to the surface.

(b) Method B: Casing shall be set on a shoulder and cemented sufficiently to cover 100 feet including the shoe. Upon completion of the drilling, all of the recoverable casing must be removed or cemented to the surface.

(c) Method C: A top to bottom drilling mud system with a filtrate water loss of less than ten (10) cubic centimeters, as determined by American Petroleum Institute standards, in its publication "Standard Procedure for Testing Drilling Fluids" API RP 13B [138], Sections 1, 2 and 3, April, 1976, filed herein by reference. Copies may be obtained from the Department of Mines and Minerals, P. O. Box 680, Lexington, Kentucky 40586. Certification of filtrate water loss must be made by the operator.

(2) In the event a well is to be plugged, then it shall be plugged in the manner prescribed by 805 KAR 1:060 or 805 KAR 1:080.

**Section 3. Protection of Fresh Water Zones.** Any well drilled in the Commonwealth of Kentucky subject to the jurisdiction of the Department of Mines and Minerals subsequent to the effective date of this regulation shall be equipped with the following fresh water protection prior to production or injection.

(1) A protective string of casing, be it surface, intermediate, or long string, shall extend thirty (30) feet below the deepest known fresh water zone. Such protective string shall have cement circulated in the annular space outside said casing of a sufficient volume of cement, calculated using approved engineering methods, to assure the return of the cement to the surface. In the event cement does not return to the surface, every reasonable attempt will be made to fill the annular spaces by introducing cement from the surface. If the intermediate casing or long casing string is (i) cemented to the surface, or (ii) cemented thirty feet into the next larger string of cemented casing in conformity with prescribed procedure, the string or combination of strings shall be considered as the fresh water protection.

(2) In areas where abnormal pressures are expected or encountered, the surface and/or intermediate casing string shall be anchored in sufficient cement, at a sufficient depth to contain said pressures, and blow-out prevention valves and related equipment shall be installed.

**Section 4. Wells Used for Injection of Fluids.** (1) The injection of fluids shall be accomplished through a tubing and packer arrangement with the packer set immediately above the injection zone, and the annulus between the tubing and casing shall be monitored by pressure sensitive devices. The injection pressure shall be regulated to minimize the possibility of fracturing the confining strata. Upon application, and after notice and hearing, a variance from this requirement may be granted by the Director, upon a showing by an individual operator that alternate prudent engineering practices shall result in fresh water protection. The following are exempted from the requirements of this section:

(a) Injection of fluids for the purpose of well stimulation; and

(b) Injection of gas for the purpose of storage.

(2) Before injecting fluids into a well not previously permitted for injection purposes, the operator shall make application to the department for an injection permit for said well. The application for a permit to drill, deepen or convert a well for the purpose of injection of fluids shall include:

(a) A statement by the operator as to whether the well is to be used for pressure maintenance, secondary recovery, tertiary recovery, gas storage or for disposal purposes;

(b) The approximate depths of the known fresh water zones; and

(c) A plat showing:

1. The names of all lessees and lessors contiguous to the tract on which the injection shall occur;

2. The Carter Coordinate location and the elevation of the well site;

3. The geologic name and depth of the injection zone;

4. At least two (2) surface features, by bearing and distance from the proposed well site, which appear on the U.S.G.S. 7½ minute topographic map of the area;

5. The name of said topographic map and county;

6. The location of all known fresh water wells within a radius of 1,000 feet of the proposed injection well site;

7. The location and completion and/or plugging record of all wells whether producing or plugged, within a radius of 1,000 feet of the proposed injection well site.

(3) Prior to injection into any well, the operator shall furnish the department with a certificate indicating that all requirements of this regulation have been met. The certificate shall include the following:

(a) The identification of said well by permit number, operator's name, lease name, well number, Carter Coordinate location, elevation and county;

(b) The entire casing and cementing record, any packers and other special down hole equipment, and cement bond logs, if run;

(c) The anticipated maximum bottom hole pressure (psi) and volume in barrels or cubic feet, per day;

(d) 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; and

(e) Certification by the operator that the mechanical integrity of the well has been tested.

**Section 5. Exemptions for Pre-existing Wells.** Any injection well in existence prior to the effective date of this regulation shall be exempt from the requirements of this regulation until such time as in the opinion of the department, said well is leaking fluids to other zones, or to the surface; provided, however, that this exemption shall not apply unless within one (1) year from the effective date of this regulation, the operator files an area plat, or plats,

showing all of such operators injection and associated production wells.

Section 6. Record Keeping. The operator of an injection project shall monitor injection pressures and volumes at least monthly, and shall keep said records on file in his place of business for the life of the project; plus five (5) years. The director may require more frequent monitoring, if in his opinion, good reason therefor exists.

#### 806 KAR 39:060. Stickers or emblems.

RELATES TO: KRS 304.39-085

PURSUANT TO: KRS 13.082, 304.2-110

NECESSITY AND FUNCTION: KRS 304.39-085(2) requires the commissioner to prescribe by regulation the form, content and location in which the sticker or emblem required by KRS 304.39-085(1) shall be affixed. This regulation provides the definitions and exceptions facilitating the required regulation. Also, KRS 304.39-085(10) provides for a form to be prescribed by the commissioner and is described in this regulation.

Section 1. Definitions. (1) The term "rear window" means the lower left hand rear [(interior)] corner of the rear window; or on the windshield on those vehicles without a rear window or when the rear window is inappropriate. [windshield;]

(2) The term "sticker" means a prescribed, gummed label issued under the authority of the commissioner for attachment to the windshield;

(3) The term "emblem" means a prescribed sticker encased in plastic or any durable facsimile thereof;

(4) The terms "affix" or "affixed" mean the attachment of a sticker to the window of the vehicle as defined herein or the carrying of an emblem upon the vehicle or upon the person of the operator thereof;

(5) The term "temporary certificate" or "binder" means any written evidence of the required security that includes the name and address of the motor vehicle owner, description of the motor vehicle, the inception and expiration date of such security and the name of the reparation obligor and signed by a licensed insurance agent or officer of the reparation obligor.

Section 2. (1) Emblems may only be used in lieu of stickers when either:

(a) The vehicle is not equipped with a windshield; or

(b) The vehicle is one described under KRS 304.39-085(11)(b).

(2) A binder or certificate may not be issued for a period in excess of thirty (30) days, but this shall not preclude the issuance of a renewal binder or certificate for a second thirty (30) day period.

(3) A person whose license plate has been suspended shall fulfill the proof requirements of KRS 304.99-060 by filing with the commissioner a sworn statement that a new and valid sticker has been affixed to the vehicle together with:

(a) A certificate of insurance issued by the reparation obligor to the commissioner for a term of one (1) year containing a cancellation clause of not less than thirty (30) days; or

(b) Shall qualify as a self-insurer pursuant to regulation 806 KAR 39:050.

(4) Upon receipt of such forms the commissioner shall issue to the owner certification acceptable to the Bureau of State Police that the period of suspension shall terminate.

(5) Upon receipt of notice by the commissioner that the required security has been cancelled or that the qualification as a self-insured has been impaired, the commissioner shall notify the Bureau of State Police.

Section 3. Any written communication requesting that the commissioner make the investigation required by him under KRS 304.39-085(10), which supplies the commissioner with the date of the accident and the sticker number on the other vehicle, shall be considered to comply with the form requirement.

#### 812 KAR 1:020. Licensing procedures.

RELATES TO: KRS 230.410 to 230.447

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the licensing procedures and requirements.

Section 1. License Required. No person, legal entity, or association shall conduct any quarter horse or appaloosa race for any stakes, purse, or reward in the Commonwealth without first securing a license therefor from the commission. No person shall participate in quarter horse or appaloosa racing in the Commonwealth as a horse owner, trainer, jockey, [apprentice jockey] agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, without first securing a license therefor from the commission.

Section 2. Conditions precedent to issuance of license. Quarter horse and appaloosa racing and participation therein in the Commonwealth are privileges, not rights, granted only by the commission by license subject to the hereinafter set out conditions precedent. Acceptance of a license shall be construed as consent and agreement to the following conditions precedent by the licensee and failure to comply therewith shall be grounds for immediate voidance or revocation of such license:

(1) Representations made or with license application are complete and correct.

(2) Licensee shall abide by all rulings, and decisions of the stewards and all such decisions by the stewards shall remain in force unless reversed or modified only by the commission upon proper appeal thereto. All rulings and decisions of the stewards may be appealed to the commission except those made by the stewards as to findings of fact as occurred during and incident to the running of a race and as to determination of the extent of disqualification of horses in a race for fouls committed during such race, and all such excepted rulings and decisions by the stewards shall be final with no right of review thereof by the commission or courts.

(3) Licensee shall consent to a reasonable search of his person and property in his possession by the commission or

its representatives, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes, and containers of any sort, and licensee shall consent to seizure of any object which may be evidence indicating a rule violation. Licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding correctly under oath to the best of his knowledge all questions asked by the commission or its representatives pertaining to racing matters.

(4) A licensed trainer shall be responsible for the condition of horses in his charge and shall be held to a high standard of care in taking all precautions as are reasonable and necessary to safeguard such horses from tampering. Upon a finding of a positive for a prohibited medication, drug, or substance, in a saliva, urine, or blood specimen taken from a horse, the trainer of such horse shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering.

Section 3. Standards for granting licenses and racing dates to associations. The commission may issue a license to any association which applies for same to conduct a quarter horse or appaloosa race meeting on such days as the commission may deem appropriate, if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all person identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposed to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, or improve the quarter horse and appaloosa industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

Section 4. Standards for granting licenses to participants in racing. The commission may issue a license to any person who applies for same to participate in quarter horse or appaloosa racing in the Commonwealth as a horse owner, trainer, jockey, [apprentice jockey,] agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, if the commission finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.

Section 5. Grounds for refusal, suspension, or revocation of a license. The commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

(1) Denial of a license to an applicant, or suspension or revocation of a license in another racing jurisdiction; the commission may require re-instatement in the original racing jurisdiction where applicant was denied a license or where his license was suspended or revoked;

(2) Conviction of a crime or violation of any narcotic regulation;

(3) Falsification, misrepresentation, or omission of required information in license application to the commission; failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of quarter horses or appaloosas.

(4) Failure to comply with any order or ruling of the commission, stewards, or racing official pertaining to a racing matter;

(5) Ownership of any interest in, or participation by any manner in, any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise, or association with any person so engaged in such activity;

(6) Person less than sixteen (16) years of age;

(7) Person unqualified by experience or competence to perform the activity permitted by license as determined by standard examinations prescribed by the stewards;

(8) Intoxication, use of profanity, fighting or any conduct of a disorderly nature, on association grounds;

(9) Employment or harboring of unlicensed persons required by these rules to be licensed;

(10) Discontinuance of or ineligibility for activity for which license was issued;

(11) Possession on association grounds, without written permission therefor from the commission or stewards, of:

(a) Firearms;

(b) Battery, or buzzer, or electrical device, or other appliance other than an ordinary whip which could be used to alter the speed of a horse in a race or workout.

(12) Possession on association grounds by a person other than a licensed veterinarian of:

(a) Hypodermic needle, or hypodermic syringe, or other device which could be used to administer any substance to a horse;

(b) Narcotics, or medication, or drug, or substance which could be used to alter the speed of a horse in a race.

(13) Use of profane, abusive, or insulting language to or interference with a commissioner, member of the commission staff, or racing official, while such persons are in the discharge of their duties;

(14) Cruelty to a horse or neglect of a horse entrusted to a licensee's care;

(15) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards;

(16) Causing, or attempting to cause, or participation in any way in any attempt to cause the pre-arrangement of a race result, or failure to report knowledge of same immediately to the stewards;

(17) Entering, or aiding and abetting the entering of, a horse ineligible or unqualified for the race entered;

(18) Drug addiction, bad moral character, intemperate



habits, bad reputation for honesty, truth and veracity, or involvement in a subject of public notice as involved in any activity which, in the opinion of the commission, would be inconsistent with the best interests of racing by reflection on the honesty and integrity of the sport of racing; or association with persons so characterized;

(19) Violation of any rule of the commission, or aiding or abetting any person in the violation of any such rule.

Section 6. License applications for associations. Any person or legal entity desiring to conduct quarter horse or appaloosa racing in the Commonwealth may apply to the commission for association license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office on or before September 1 of the year preceding the calendar year in which the license is to be in force. Such application shall contain:

(1) Name and location of track. Initial applications shall be accompanied by such physical information as the commission may require.

(2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the association with such degree of ownership or type of interest shown; names and addresses of all persons capable of exercising any control over affairs of the association as trustee or guardian or lessor, or mortgagee, or fiduciary. Any corporation, partnership, or other legal entity which owns or controls a beneficial interest in the association directly, or through other corporations or legal entities, shall similarly file with the application lists showing the names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in such legal entities with such degree of ownership or type of interest thereunto pertaining. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(3) Days and hours thereof on which racing is requested to be conducted.

(4) Names of racing officials and persons responsible for track security and fire protection.

(5) Proposed purse schedule, showing minimum purse, average daily distribution, added money for each stake, if any.

(6) An operating report on forms prescribed by the commission if applicant is currently licensed.

(7) Such other information as the commission may from time to time require to ascertain the fitness of the applicant to conduct quarter horse and appaloosa racing.

(8) Based on their prior year's average daily mutuel handle, all associations and tracks shall pay a daily licensing fee to the Kentucky Quarter Horse and Appaloosa Commission as follows:

Previous Year's Daily Mutuel Handle	Daily Licensing Fee
From:	But Less Than
\$ 0	\$ 175,000
175,000	300,000
300,000	450,000
over \$450,000	
	\$ 25.00
	75.00
	125.00
	250.00

As used in this section the term "daily mutuel" is understood to be the total gross amount of money bet or wagered by the track's patrons.

[(8) All associations and tracks having gross wagering of

less than an average of \$100,000 per day based on their prior year's average daily handle shall pay a daily licensing fee of \$125 to the Kentucky Quarter Horse and Appaloosa Commission for each day of racing. All tracks and associations having gross wagering of \$100,000 and above per day, based on their prior year's average daily handle shall pay a daily licensing fee of \$175 for each day of racing. In the event the commission allows two (2) racing programs on one (1) day, a separate daily fee for each racing program shall be paid (example: If an afternoon and evening program are scheduled, the fee shall be \$250 and \$350 respectively for that day).]

Section 7. License application for participants in racing. (1) Any person other than an association required to be licensed by Section 1 and desiring to participate in quarter horse and appaloosa racing in the Commonwealth may apply to the commission for a license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office or with the commission license administrator at the association on or after January 2 of the calendar year in which the license is to be in force, but not later than twenty-four (24) hours after applicant has arrived on association grounds.

(2) Applications from persons not previously licensed in Kentucky shall include the names of two (2) reputable persons who will attest to the good reputation of the applicant and to the capability and general fitness of the applicant to perform the activity permitted by the license.

(3) Applications from persons whose age is not readily ascertainable by the licensing committee shall be accompanied by an attested copy of birth certificate or work permit showing applicant is sixteen (16) years or older.

(4) Fingerprint identification will be required of all licensees unless waived by the commission (i.e., absentee owners and casual delivery personnel who do not enter the stable area).

(5) Applications from persons, corporations, partnerships, lessors, or other legal entities involving more than one (1) individual person desiring to race horses in the Commonwealth shall, in addition to designating the person or persons to represent the entire ownership of such horses, be accompanied by documents which fully disclose the identity and degree and type of ownership held by all individual persons who own or control a present or reversionary interest in such horses. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(6) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a practicing veterinarian, shall be accompanied by evidence that such person is currently licensed as a veterinarian by the Commonwealth of Kentucky. An accredited practicing veterinarian not licensed by the commission or the Commonwealth, however, may with permission of the stewards in an emergency be called in as a consultant, or to serve as a veterinarian for one (1) horse on a temporary basis, and shall not thereby be considered as participating in racing in this state.

(7) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a dental technician shall be accompanied by the name of a licensed veterinarian who will attest to the technical competence of such applicant and under whose sponsorship and direction such applicant will work on association grounds.

(8) Applications from persons not previously licensed in



the capacity of farrier shall not be forwarded with recommendation to the commission by the licensing committee until such applicant has been administered a standard examination by an experienced farrier known to the stewards so as to provide the licensing committee a reasonable basis for recommendation as to the technical proficiency of such applicant for a farrier's license.

(9) The following annual fees shall accompany the application and shall not be refundable:

- (a) \$20—Owner license and annual color registration;
- (b) \$15—Trainer, jockey, [apprentice jockey,] or jockey's agent license;
- (c) \$10—Veterinarian, dental technician, assistant trainer, farrier, or apprentice farrier license;
- (d) \$5—Stable employee license (foreman, authorized agent, exercise boy, groom, hotwalker, watchman, or pony boy);
- (e) \$5—Stable area supplier license (suppliers of horse feed, tack, medication, or food vendors);
- (f) \$5—Racing department employee license, steward, racing secretary, assistant racing secretary, director of racing, starter and assistant starter, paddock judge, patrol judge, placing judge, timer, commission veterinarian, commission chemist, commission supervisor of pari-mutuel betting, commission director of security, commission license administrator, commission inspector, association veterinarian, testing laboratory employee, horse identifier, valet, jockey room custodian, clerk of scales, entry clerk, photo finish operator, film patrol or video tape operator and projectionist, flagman, or outrider;
- (g) \$5—Mutuel department employee license, manager, calculator sheet writer, supervisor, ticket checker, ticket seller, ticket cashier, messenger, runner, outbook clerk, program clerk, porter, information and change clerk, boardman, ticket room and money room clerk, assistant, totalizer employee;
- (h) \$5—Occupational license, admission department manager and employees; concessions manager and employees; parking manager and employees; association security department including police chief, detectives, policemen, watchmen, fire, ambulance drivers and attendants; track superintendent, groundsmen, mechanics, carpenters; maintenance department manager and employees; all other persons employed by the association or employed by a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting;
- (i) \$3—Temporary occupational license for persons to be employed in occupations listed in paragraph (h) above for ten (10) days or less during a calendar year.

Section 8. Licensing committee. The commission may appoint a licensing committee including the commission secretary and commission steward or their designated representative. Such licensing committee shall review all applications for all licenses, and forward all such applications to the commission with recommendations thereon, subject to security checks, for final action. Such licensing committee may issue to a license applicant a temporary permit to participate in the activity for which such license application was made pending administrative processing and final action on such license application by the commission.

Section 9. Term of license. Licenses issued by the commission for participation in quarter horse and appaloosa

racing shall be valid from the date of issuance through the calendar year shown on such license at all race meetings conducted by associations in the Commonwealth during such calendar year, unless sooner suspended, revoked, or voided. The commission may renew any license and any such renewal shall not be construed to be a waiver or condonement of any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor. The validity of a license does not preclude or infringe upon the common law right of associations to eject or exclude any persons, licensed or unlicensed, from association grounds

Section 10. Possession of license required. No person required to be licensed by these rules may participate in any activity required to be licensed on association grounds during a race meeting without having been issued a valid license therefor and having same in his possession. All licenses specified under subsection (9)(b) to (i) shall include a color photograph of the licensee.

Section 11. Applicability of rules and rulings to household. Rules pertaining to, and rulings against, licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

Section 12. Notice for discontinuance of employment. Licensed associations, racing officials, owners, trainers, jockeys, agents, farriers, stable employees, and all other licensees who have accepted with advance notice the conditions under which a race meeting is planned to be conducted, shall before terminating employment, engagements, or activities under such conditions, so notify the commission and respective interested persons or associations of such intention at least fifteen (15) days before such termination. The commission shall upon notice to parties in interest conduct a hearing on the matter. If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these rules, the commission shall so advise all parties in interest and shall take appropriate action against offending parties. If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these rules, the commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.



# Proposed Amendments

## SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

### 101 KAR 1:030. Personnel Board procedures.

RELATES TO: KRS 18.160

PURSUANT TO: KRS 13.082, 18.160, 18.170

NECESSITY AND FUNCTION: KRS 18.160 establishes the State Personnel Board and sets forth the procedures for operation of the board. KRS 18.170 further expands on the duties of the board. This rule is to assure compliance with these statutes and to define specific methods of compliance.

Section 1. Regular Meetings. Regular meetings of the board shall be held on the second Friday of each month. The chairman or the commissioner may provide the time, date, and place of any meeting when deemed necessary and give due notice in writing of the change to the board members, the commissioner, and the several appointing authorities.

Section 2. Chairman. At the regular meeting in January of each year, the board shall elect one (1) member to act as chairman for a term of one (1) year, or until a successor is duly elected. If the office of chairman is vacated because of death or resignation, or in any other manner, before the expiration of his term as chairman, the board shall elect his successor at the next meeting who shall serve for the unexpired term.

Section 3. Rules of Order. Meetings of the board may be informal, subject to such rules of order as may be promulgated by the chairman.

Section 4. Minutes. The commissioner shall attend all meetings of the board, act as its secretary, and record its official actions in the minutes. The time and place of each meeting of the board, names of the board members present, all official acts of the board, the votes of each board member except when the acts are unanimous, and when requested a board member's dissent with his reasons shall be recorded in the minutes. The commissioner shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof certified by a majority of the board shall be open to public inspection.

Section 5. Reports of Commissioner. The commissioner shall report in writing to the board:

(1) [In advance.] Any new or revised job specification or grade change for each administrative, professional, or supervisory position;

(2) Monthly, the name, classification, grade, salary and department of each disciplined employee and of each employee granted a qualification waiver or exceptional salary increase;

(3) Educational background, and prior experience of each new administrative, professional or supervisory employee in the Department of Personnel, or in agency personnel offices;

(4) Within thirty (30) days, any information concerning personnel or related matters requested in writing by the board;

(5) Semi-annually (April and October), the name, classification, grade, salary, and department of each provisional, seasonal, temporary, or emergency employee.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

## SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

### 101 KAR 1:040. Classification plan.

RELATES TO: KRS 18.110, 18.170, 18.210, 18.220, 18.240

PURSUANT TO: KRS 13.082, 18.170, 18.210

NECESSITY AND FUNCTION: KRS 18.210 requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a position classification plan for all positions in the classified service so that the same qualifications may reasonably be required for and the same schedule of pay equitably applied to all positions in the same class. This rule is to assure uniformity and equity in administering the plan, in accordance with requirements of the statutes.

Section 1. Preparation of Plan. The commissioner shall, after consultation with the appointing authorities, prepare and recommend to the board a comprehensive classification plan. The board shall present the plan to the Governor, through the *Secretary* [Commissioner] of the Executive Department for Finance and Administration, for his adoption. The plan shall be based on investigation and analysis of all the duties and responsibilities assigned to each position, and each position shall be allocated to its proper class in the classification plan after consultation with appointing authorities. When complete, the classification plan shall include for each class of position an appropriate title, description of duties and responsibilities, and the required education, experience and other qualifications.

Section 2. Allocations of Positions. (1) Every position shall be allocated to the appropriate class by the Commissioner who shall consult with appointing authorities and take their recommendations into consideration in making the decision. Every position shall be placed in a specific



class before final administrative action can be taken on appointments, transfers, promotions, changes in pay-grade status, or payment of salary involving the position. Such allocations become effective only after written approval of the commissioner.

(2) The *Secretary* [Commissioner] of the Executive Department for Finance and Administration may review and approve all proposed position establishments, allocations, and reallocations on the basis of the availability of funds.

(3) Those positions which are sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and which merit approximately equal pay shall be allocated to the same class.

(4) The commissioner shall allocate new positions to classes upon receipt of the prescribed forms of statements of duties, responsibilities and requirements of such positions from the appointing authority.

(5) The commissioner shall change the classification of existing positions when a material and permanent change in the duties or responsibilities of a position occurs. This type of action is known as reclassification. In all cases of reclassification, the employee within a position at the time it is reclassified, shall be entitled to serve therein with the corresponding status he had before the position was reclassified, providing he meets the qualification requirements for the class to which his position is reclassified.

(6) The commissioner shall change the allocation of existing positions when it is determined that the position is incorrectly allocated, and that there has been no substantial change in duties from those in effect when the position was immediately previously classified. This type of action is known as reallocation. In all cases of reallocation, the employee within the class of position when it is reallocated shall be entitled to serve therein with the corresponding status that he had before the position was reallocated.

(7) Any employee affected by the allocation of his position to a class shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon.

**Section 3. Interpretation of Class Specifications.** (1) Class specifications are descriptive and explanatory and are not restrictive. They are designed to indicate the kinds of positions which should be allocated to the several classes as determined by their duties or responsibilities and shall not be construed as describing what the duties or responsibilities of any position shall be. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignment of others not mentioned which are of similar kind or quality. The language of class specifications is not to be construed as limiting or modifying the authority which appointing authorities have to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities, to assign duties or delegate responsibility to employees, or direct and control their work.

(2) In determining the class to which any position shall be allocated, the specification for each class shall be considered as a whole and be construed as a general description of the kinds of work characteristics of positions which shall be allocated to the class and not as limiting the authority to prescribe or alter the duties of any position.

(3) Minimum qualifications are comprehensive

statements of the minimum background as to education, experience, and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly. Although not expressed, such qualifications as should properly be required of all persons applying for or holding any positions such as *suitable* [good] physical condition, [freedom from disabling defects,] honesty, [sobriety,] and industry are to be considered as being required.

**Section 4. Title of Position.** The class title of a position shall be used to designate such position in all budget estimates, payrolls and other official records, documents, vouchers, and communications in connection with all personnel processes. For purposes of internal administration or for any other purposes not involving the personnel processes, any abbreviation or code symbol may be used in lieu of the class title in such instances and any other office title desired by the appointing authority may be used alone to designate the position for purposes not involving personnel processes.

**Section 5. Official Copy of Class Specifications.** (1) The Department of Personnel shall maintain a master set of all approved class specifications. Such specifications shall constitute the official class specifications in the classification plan. The copies of the specification for each class shall indicate the date of adoption or the last revision of the specification for such class.

(2) The Department of Personnel shall provide each appointing authority with a set of the class specifications of those classes to which positions in his department are allocated and such other classes as it sees fit. Such class specifications in the Department of Personnel or office of the appointing authorities shall be open for inspection by the appointing authorities and the employees or the public under reasonable conditions during business hours.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

### SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

#### 101 KAR 1:050. Compensation plan.

RELATES TO: KRS 18.170, 18.190, 18.210, 18.240  
PURSUANT TO: KRS 13.082, 18.170, 18.210

NECESSITY AND FUNCTION: KRS 18.210 requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a pay plan for all employees in the classified service, taking into account such factors as the relative level of duties and responsibilities of various classes, rates paid for comparable posi-



tions elsewhere, and the state's financial resources. This rule is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. Preparation, Approval, and Amendment of the Plan. After consultation with appointing authorities and the Secretary of the Executive Department for Finance and Administration, the commissioner shall prepare and recommend to the board a compensation plan for all classes of position. The board shall present the plan, through the Secretary of the Executive Department for Finance and Administration, to the Governor for his approval. The plan shall provide salary ranges for the various classes, with the salaries consistent with the functions outlined in the classification plan. Such salary ranges shall include minimum, intervening, maximum, and longevity rates of pay for each class. Each class of position in the classification plan shall be assigned to a salary range in the compensation plan.

Section 2. Entrance Salary. Initial appointments to state service shall be made at the minimum of the pay range for the class unless:

(1) The commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area, in which case, he may, at the request of the appointing authority, authorize the recruitment for a class of position at a higher step of the range, provided that all other employees in the same class of position in the same agency in the same locality are adjusted in salary to the same step.

(2) The commissioner authorizes the appointment of a qualified applicant at the second or third step of the range, provided that any such exception is based on the outstanding and unusual character of the employee's experience, education and ability over and above the minimum qualifications specified for the class, provided that all other employees possessing similar qualifications in the same class of position in the same agency in the same locality are adjusted in salary to the same step.

Section 3. Re-Entrance to State Service. Appointing authorities, with the approval of the commissioner, may place re-employed, reinstated and probationarily appointed former employees at a salary determined by one (1) of the following methods:

(1) The same class:

(a) Request the same salary that was paid at the time of separation if such salary is within the current salary range;

(b) Request a salary relative to that which was paid employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the current salary range;

(c) Request a lower salary within the current salary range which falls in one (1) of the steps within the salary range;

(d) Request a salary in accordance with the standards used for making new appointments.

(2) A higher class:

(a) Request the same salary that was paid at the time of separation if such salary is within the higher salary range;

(b) Request a salary relative to that which was paid the employee at time of separation (original salary plus increases resulting from a change of salary range) if such salary is within the higher salary range;

(c) Request a salary in accordance with the standards used for making new appointments.

(3) A lower class:

(a) Request the same salary that was paid at the time of separation if such salary is within the lower salary range;

(b) Request a salary relative to that which was paid the employee at the time of separation (original salary plus increases resulting from the change of salary range) if such salary is within the lower salary range;

(c) Request a salary in accordance with the standards used for making new appointments.

Section 4. Salary Adjustments. (1) Change in Salary Range. Whenever a new or different salary range is made applicable to a class of position, persons employed in positions of that class at the effective date of the *change in salary range* [adjustment] shall have their salary placed at least at the minimum salary step of the new range. *In no event shall the employee's salary be placed at a step which provides a salary rate less than the employee was receiving prior to the change in the salary range.* An adjustment may be made to the salary step of the new range corresponding to that step which an employee held under the range formerly applicable to his class of position. [In fixing salaries on an adjustment, an appointing authority shall afford equitable treatment to all employees affected by the adjustment.] Salary adjustments resulting from different salary ranges being made applicable to a class of position shall not affect an employee's normal anniversary increment date.

(2) An employee who is promoted may have his salary raised to the lowest step of the salary range for the class of his new position which will provide an increase over the salary received prior to promotion. If the promotion is to a classification which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the commissioner, may grant a two (2) or three (3) step salary increase over the employee's previous salary, provided the proposed salary is within the salary range for the position.

(3) An employee who is demoted shall have his salary reduced to a rate which is in the grade for the new class, excluding longevity steps; this rate shall not exceed the rate which the employee was receiving prior to the demotion. [at least the maximum rate of the new class; however,] If an employee whose performance is satisfactory is demoted through no fault of his own as a result of the reallocation of his position to a lower class and his salary is above the maximum rate for this class, he may retain the salary he received before the reallocation, but he shall not receive salary advancements so long as he remains in a position with a maximum rate no higher than this salary.

(4) Transfer. An employee who is transferred to the same class of position shall be paid the same salary that he received prior to transfer.

(5) Reclassification. An employee who is advanced to a higher pay grade through a reclassification of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(6) Reallocation. An employee who is advanced to a higher pay grade through a reallocation of his position shall have his salary raised to the lowest step of the salary range for the class which will provide an increase over the salary received prior to the advancement.

(7) Detail to special duty. An employee who is approved for detail to special duty as provided by 101 KAR 1:110, Section 4, may have his salary raised to the lowest step of the salary range for the class of the new position which will



provide an increase over the salary received prior to the detailed assignment. Annual increments will not be permitted while an employee is on detail to special duty.

(8) Salary reduction. Employees who are transferred back to their old class, after completion of a detail assignment or unsatisfactory probationary period following a promotion, shall have their salary reduced to the salary rate received prior to the detail assignment or promotion. An employee who reverts back to his old class after a detail to special duty is entitled to all salary advancements he would have received had he not been on detail to special duty.

Section 5. Salary Advancements. (1) Annual increments shall be based upon length of service, and shall correspond with the steps of the approved salary range, and shall, in the classified service, be limited to full-time employees *having status* and those part-time employees having status who work at least 100 hours a month. Employees who are on educational leave with pay shall receive annual increments.

(2) Employees shall be eligible and may be given consideration by the appointing authority for a one (1) step salary advancement at the beginning of any month following the successful completion of the probationary period. The service may be provisional or probationary. *In no case shall the period for awarding a one (1) step salary advancement exceed twelve (12) months' continuous service from the date the probationary period began.* Thereafter, an employee shall be given a one (1) step salary advancement at the beginning of the month following completion of twelve (12) months continuous service since last receiving an annual or probationary increment. *In computing continuous service for the purpose of determining annual increment eligibility only those months for which an employee earned annual leave or was on educational leave with pay shall be used. Former employees reinstated, re-employed or probationarily appointed to the same class or a lower class in the same class series in which they formerly served may not be given a salary advancement for the successful completion of a probationary period resulting from such reinstatement, re-employment or probationary appointment.* [An employee may not be given salary advancement more than once for successful completion of a probationary period] except as provided in paragraphs (a) or (b).

(a) Former employees reinstated, re-employed or probationarily appointed to a lower salary shall be eligible for a one-step salary advancement at the beginning of any month following successful completion of a probationary period. [Former employees reinstated to a lower step shall be eligible for a one-step salary advancement at the beginning of any month following successful completion of a probationary period.]

(b) A former [An] employee reinstated, [or] re-employed, or probationarily appointed at the same or higher salary may be considered for a one (1) step salary advancement when he has completed twelve (12) months' service since the date he last received a probationary or annual increment. However, a maximum of six (6) months of that twelve (12) months' service may have been earned during the last period of service in which he held status.

(c) In no case shall the period for awarding a one-step salary advancement exceed twelve (12) months' continuous service from the date of reinstatement, re-employment or probationary appointment.

(3) Any permanent full-time employee who has served

continuously for one (1) year immediately preceding the recommendation and who has not received an outstanding merit advancement within twelve (12) months, is eligible for a one (1) step outstanding merit advancement in his present grade in addition to any other salary advancements to which he might be entitled if:

(a) His acts or ideas have resulted in significant financial savings to the Commonwealth, or to a significant improvement in service to its citizens; or,

(b) His job performance is outstanding. The appointing agency must submit written justification to the commissioner and the personnel action form must be approved by the agency head and the commissioner to be effective. In a fiscal year, an agency with sufficient budgeted funds may grant as many outstanding merit salary advancements as thirty (30) percent of the number of its employees at the close of the prior fiscal year.

(4) Subject to the approval of the commissioner, any permanent, full-time employee who, after his probationary period, satisfactorily completes 260 classroom hours of job-related instruction, is eligible for an educational achievement one (1) step salary advancement.

(5) *Increment anniversary dates will be established when an employee receives a probationary or annual increment or when an employee receives an increase in salary as a result of a promotion.* [New increment anniversary dates will be established when:]

[(a) An employee first enters on duty. Increment anniversary date will be the first of the month if the employee enters on duty the first work day of the month. For employees entering on duty after the first work day of the month, the anniversary date shall be the first day of the following month;]

[(b) An employee receives an increase in salary as a result of a promotion;]

[(c) An employee going on leave without pay, shall result in a postponement of employee's receiving an increment one (1) full month for each full or partial month he is on leave.]

(6) Increment anniversary dates will not change when:

(a) An employee's position class receives a new or different salary range;

(b) An employee receives a salary adjustment as a result of his position being reallocated or reclassified;

(c) An employee is transferred from one department to another in the same salary grade and at the same rate of pay;

(d) An employee receives a demotion to a position of a lower class or his position receives a lower classification;

(e) An employee is approved for detail to special duty as provided by 101 KAR 1:110, Section 4. The increment anniversary date will remain the same for the last position in which the employee had status;

(f) An employee receives an outstanding merit salary advancement under 101 KAR 1:050, Section 5(3), or an educational achievement salary advancement under 101 KAR 1:050, Section 5(4);

(g) An employee receives an adjusted increment based on the fact that the employee had not received the maximum number of salary advancements permitted.

(7) An employee who has not received the maximum number of salary advancements permitted by the time limits set forth may be given additional salary advancements at the beginning of any month provided his salary is not advanced to a step of the salary range higher than he would have reached had he received all salary advancements permitted. [;]

(8) No employee shall have his salary advanced to a point above the maximum of the salary range applicable to the class of his position except as provided by 101 KAR 1:050, Section 5(3), (4), and 101 KAR 1:050, Section 6.

Section 6. Longevity Increases. (1) All salary advancements *within* [with] the longevity plan shall be based upon length of service, and shall correspond with the steps of the approved salary range, and shall, in the classified service, be limited to *full-time* employees having status and *those part-time employees having status who work at least 100 hours a month*.

(2) An employee shall be eligible and advanced to the first longevity step after completion of twelve (12) months service at the salary rate *or step* preceding the first longevity step and seven (7) years of [total] state service.

(3) An employee shall be eligible and advanced to the second longevity step after completion of twelve (12) months service at the salary rate *or step* preceding the second longevity step and nine (9) years of [total] state service.

(4) An employee shall be eligible and advanced to the third longevity step after completion of twelve (12) months service at the salary rate *or step* preceding the third longevity step and eleven (11) years of [total] state service.

(5) Requirements as to [total] service. The service does not have to be continuous. *In computing service for the purpose of determining longevity eligibility only those months for which an employee earned annual leave or was on educational leave with pay shall be used. In computing service for the purpose of determining longevity eligibility for part-time employees, only those months in which the employee worked at least 100 hours shall be used.* [Absences of leave without pay, except approved educational leave, in excess of thirty (30) working days shall be deducted in computing total service.] *Former employees who have been rehired and [re-employed persons] who had [have] been previously dismissed for cause from state service shall [not] receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18.310, 18.320, or 18.990. [In computing years of total service for the purpose of determining longevity eligibility only those months for which an employee earned annual leave shall be used.]*

(6) The longevity steps may be used for promotions, demotions, and changes in pay grade, provided the employee possesses the total service required for advancement to the longevity step.

Section 7. Paid Overtime. Overtime for which pay is authorized shall have the approval of the Commissioner of Personnel and the Secretary of the Executive Department for Finance and Administration.

Section 8. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, such compensation in kind shall be treated as part payment and its value shall be deducted from the appropriate salary rate in accordance with the schedule promulgated by the commissioner after consultation with appointing authorities and the Secretary of the Executive Department for Finance and Administration.

Section 9. Supplemental Shift Premium. Upon request of the appointing authority, the commissioner may authorize the payment of a supplemental shift premium for

those employees directed to work an evening or night shift. However, no employee shall receive a supplemental shift premium subsequent to a transfer to a position that is ineligible for a shift differential premium payment. The employee's loss of shift differential pay shall not be a basis for an appeal to the Personnel Board.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET  
Department of Personnel  
(Proposed Amendment)

101 KAR 1:060. Applications and examinations.

RELATES TO: KRS 18.190, 18.210, 18.250

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210,  
18.212

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with the provisions of KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules relating to competitive examinations. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for open competitive exams to test the relative fitness of applicants; and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This rule is necessary to implement these statutory requirements and to assure uniformity in administering exams.

Section 1. Notices of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those classes in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. Eligibles will be listed in rank order irrespective of dates on which the examination was taken. Notice of examinations shall be posted in important centers throughout the Commonwealth; and copies shall be sent to public officials, employment service offices, newspapers, educational institutions, professional and vocational societies, and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and salary range of the class positions; typical duties to be performed; the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

Section 2. Minimum Qualifications for Filing. Open-competitive examinations shall be open to all applicants who are citizens of the United States and who are residents of the Commonwealth of Kentucky, and who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position. The citizenship and residence requirements may be waived by the commissioner.

Section 3. Filing Applications. All applications shall be made on forms prescribed by the commissioner and must be filed with him on or prior to the closing date specified in the announcement or postmarked before midnight of that date. For those classes for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may recommend to the board the age limits, which limits, if approved by the board, shall be stated in the examination announcement. All applications shall be signed and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade in education and experience.

Section 4. Disqualification of Applicants. The commissioner may refuse to examine an applicant, or, after examination, may disqualify such applicant or remove his name from a register or refuse to certify any eligible on a register or may consult with the appointing authority in taking steps to remove such person already appointed if:

(1) It is found that he does not meet any one of the preliminary requirements established for the examination for the class of position;

(2) He is so disabled as to render him unfit for the performance of the duties of the class;

[(3) He is addicted to the use of narcotics or the habitual use of intoxicating liquors to excess;]

(3) [(4)] He has made a false statement of material fact in his application;

(4) [(5)] He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(5) [(6)] He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(6) [(7)] He has failed to submit his application correctly or within the prescribed time limits;

(7) [(8)] He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(8) [(9)] He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause were pending;

(9) [(10)] He has been convicted of a felony, a job related misdemeanor, or a misdemeanor for which a jail sentence may be imposed [involving infamous, criminal or notoriously disgraceful conduct];

(10) [(11)] He has otherwise wilfully violated the provisions of the Act or these rules.

Section 5. Advance Examinations. Any applicant who does not meet minimum requirements as to training and experience but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months immediately following the closing date for receipt of applications, may be allowed to take the examination. A successful applicant taking the examination under this provision shall have his or her name entered on the register in the same manner as other successful applicants, and his or her name may be certified for appointment if he furnishes the commissioner with administratively acceptable evidence of the successful completion of the required academic work at the time of appointment. Failure to complete the qualifying training within the six (6) months period allocated shall necessitate the removal of the applicant's name from the register.

Section 6. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular class of position for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants.

Section 7. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

(3) When practicable, the identity of persons taking competitive assembled tests shall be concealed from the examiners by use of identification numbers.

(4) An applicant shall be allowed to take examinations for not more than fifteen (15) classifications in a calendar year. This limit may be exceeded on approval of the commissioner when he or she deems it justified in the public interest.

Section 8. Rating Examinations. In any examination the minimum rating or standing through which eligibility on a register may be earned shall be determined by the commissioner. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applications for the same class of position shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 9. Rating Education and Experience. (1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity, of experience and the pertinency of the education.

(2) [Prior to certification from the register,] The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation br-



ing out information affecting the rating of education and experience, the commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

Section 10. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination boards as needed. An oral examination board shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which the applicants will be examined. Whenever practicable, all candidates for the same class of position who qualify for the oral examination, shall be rated by the same oral examination board. A member of an oral examination board shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 11. Notice of Examination Results. Each competitor shall be notified by mail of his final rating as soon as the rating of the examination has been completed and the register established. Eligibles shall be entitled to information concerning their relative position on the register upon request and presentation of proper identification.

Section 12. Adjustment of Errors. A manifest error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 13. Special Examinations. Except in the case of a manifest error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 14. Examination Records. The commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort Kentucky 40601.

SECRETARY OF THE CABINET  
Department of Personnel  
(Proposed Amendment)

101 KAR 1:090. Types of appointments.

RELATES TO: KRS 18.110, 18.140, 18.210, 18.250

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of the completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for various types of appointments, such as probationary, emergency, provisional, reinstatement, and for such other rules, not inconsistent with KRS Chapter 18, as may be proper and necessary. This rule is necessary to comply with these statutory requirements.

Section 1. Filling of Vacancies. All vacancies in the classified service which are not filled by transfer, promotion, or demotion, shall be filled by probationary appointment, re-employment, reinstatement, temporary appointment, emergency appointment or provisional appointment.

Section 2. Probationary Appointment. The appointment to a permanent position in the classified service through certification in accordance with 101 KAR 1:080 from an open competitive register shall constitute probationary appointment.

Section 3. Provisional Appointment. When a vacancy is to be filled in a position of a class for which there are less than three (3) eligibles available for certification, the appointing authority, with the prior approval of the commissioner, may make a provisional appointment to fill the position. A provisional appointee must be certified by the commissioner as meeting at least the minimum qualifications established for the class of position. No such provisional appointment shall be continued longer than six (6) months nor shall successive provisional appointments of the same person be made to the same position.

Section 4. Emergency Appointment. The appointment of an employee without regard to the examination requirements of these rules to any position by reason of a governmental emergency shall constitute an emergency appointment. An emergency appointment may not exceed thirty (30) working days in duration and is non-renewable. Emergency appointments shall have the prior consent of the commissioner.

Section 5. Temporary Appointments. The appointment of a person to a temporary position shall constitute a temporary appointment. Such appointments shall be subject to the prior approval of the commissioner. Each appointee must be approved by the commissioner as meeting at least the minimum qualifications established for the class. Such appointment shall be for a specified period of time not to exceed six (6) months and shall not be renewable.

Section 6. Re-employment. An employee with status who has been laid off by reasons of lack of funds or work,



curtailment of program, abolishment of position or organization unit, or material change in duties or organization, and through no fault of his own, may request that his name be placed on a re-employment list for the class in accordance with 101 KAR 1:070, Section 7. The name of an employee with status, who has been dismissed for reasons found to be insufficient by the board after hearing the appeal, may be placed on the re-employment list at the discretion of the board. In either case, eligibility to remain on the re-employment list shall expire one (1) year from the effective date of the layoff or separation. The appointment of a person from such list shall constitute re-employment. A person so re-employed shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100.

Section 7. Reinstatement. (1) An employee with permanent status who has resigned or been laid off through no fault of his own may be reinstated to any class of position for which he is qualified with the same or lower entrance rate of pay within five (5) years from the effective date of his separation. Such reinstatement shall be made only with the prior approval of the commissioner and shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100. The commissioner's approval of a reinstatement shall include a finding that the candidate meets the current qualifications for the class. If the reinstatement is to a different class series the applicant must pass the appropriate examination prior to reinstatement. Age and education requirements may be waived by the commissioner upon recommendation of the appointing authority for reinstatement.

(2) An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be political, religious, or ethnic reasons, or *reasons due to race, sex, age (between forty (40) and sixty-five (65)), or handicap*, shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.

(3) *An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be without just cause shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.*

Section 8. Seasonal Appointment. The appointment of a person to a position which recurs on a seasonal basis may be made of any applicant meeting the established minimum qualifications. Such appointments shall be subject to the prior approval of the commissioner and shall be made only after the seasonal recurring needs have been established by the appointing authority and shall not exceed eleven (11) months.

Section 9. Unclassified Service. Appointing officers may fill positions in the unclassified service in the manner in which positions in the classified service are filled.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKELY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

## SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

### 101 KAR 1:100. Probationary period

RELATES TO: KRS 18.110, 18.210, 18.250  
PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which the probationer may be dismissed or demoted. This rule is necessary to comply with these statutory requirements.

Section 1. Nature, Duration, and Purpose. The first six (6) months of service in a position to which an employee has been probationally appointed, promoted, re-employed, or reinstated under the provisions of these rules shall, constitute a probationary period. An exception being that when the board finds, after an appeal, that the separation of an employee was taken by the appointing authority for political, religious, or ethnic reason, or *reasons due to race, sex, age (between forty (40) and sixty-five (65)) or handicap* and orders the employee reinstated, a new probationary period will not be required. The commissioner, with the approval of the board, may fix a longer length for the probationary period providing it applies to all positions of a class or classes, but in no case shall the probationary period exceed a twelve (12) month period. Provisional service in a class immediately prior to probationary appointment to the class shall be credited toward the probationary period. The probationary period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee and for the elimination of any employee whose performance does not meet the required standard of performance. *In computing probationary period service for full-time employees, only those months in which the employee works more than half of the work days and earns service credit shall be counted. In computing probationary period service for part-time employees, only those months in which the employee works more than half of his normally scheduled working hours shall be counted.*

Section 2. Conditions Preliminary to Attaining Merit Status. An employee shall attain status in the classified service unless the appointing authority separates the employee during the probationary period.

Section 3. Separation During the Probationary Period. (1) If at any time during the probationary period the appointing authority determines that the services of the employee have been unsatisfactory, an employee may be separated from his position without the right of appeal or hearing. The appointing authority shall notify the employee in writing at least ten (10) working days prior to the effective date of separation, and *such notification shall be dated and shall include the effective date of the separation, and [of] the reasons for separation and [such notification] shall be delivered to the employee personally*



on a date within the probationary period or shall be postmarked on a date within the probationary period. The reasons for the separation shall be submitted in writing to the commissioner after which they shall be filed for permanent record. After the probationer has been separated, his name may be replaced on the eligible list by the commissioner if he determines such action to be in the best interest of the service, but he shall not again be certified from that list to the agency from which separated unless the agency requests such certification.

(2) When an employee has been promoted but fails to successfully complete the probationary period, he will revert to a position of his former class. *Notice that the employee has not successfully completed the probationary period and the reasons therefor shall be delivered to the employee personally on a date within the probationary period or shall be postmarked on a date within the probationary period; in such cases, the employee shall not have the right to appeal.* If there is no vacancy in a position of the former class, the rules pertaining to lay-offs shall apply. *When an employee is serving a probationary period due to a promotion, and the employee had status in his former position, and the appointing authority dismisses the employee for cause, other than failure to satisfactorily complete the probationary period, reversion to a position of the employee's former class is not necessary; however, in such cases, the employee shall have the right to appeal his dismissal in accordance with 101 KAR 1:130. Such dismissals shall be done in accordance with 101 KAR 1:120, Section 3.*

(3) A promoted employee may request and, if approved by the appointing authority, be reverted to a position of his former class during the probationary period.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKELY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET**  
Department of Personnel  
(Proposed Amendment)

101 KAR 1:110. Promotion, transfer, demotion and detail to special duty.

RELATES TO: KRS 18.110, 18.190, 18.210, 18.220, 18.270

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.190 requires the personnel board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the commissioner of personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for promotions and transfers; and for

discharge and reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. Promotion. (1) Vacancies in the classified service shall be filled by promotion whenever practicable and in the best interest of the service. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these rules.

(2) A promotion is the filling of a vacancy by the advancement of an employee with status from a position having a lower minimum salary. Promotions may be made on either a competitive or non-competitive basis at the discretion of the commissioner after consultation with the appointing authority. An employee who is promoted shall be required to serve a probationary period as provided in 101 KAR 1:100. Serving a probationary period upon promotion shall not affect the employee's status in the lower class of position. Appropriate consideration will be given to the qualifications, performance appraisals, conduct, and seniority of applicants for promotion.

(3) To fill a vacancy by competitive promotion, the commissioner of personnel shall examine all qualified, applying, status employees. The commissioner shall prepare a register in the same manner as for open competitive appointments. 101 KAR 1:080 shall govern the selection and appointment.

(4) When an appointing authority nominates a status employee for a non-competitive promotion, the commissioner of personnel may test the nominee. If he finds the nominee qualified, the commissioner may authorize the promotion.

(5) Any employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to the class in which he holds status. If there is no vacancy to which he can revert, 101 KAR 1:120, Section 2, applies.

Section 2. Transfer. (1) The movement of an employee from one position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service shall be deemed a transfer. A transfer may be an inter-agency or intra-agency action. If the employee requests a transfer in writing, such transfer will be deemed to have been made on a voluntary basis and from which there shall be no appeal. *If the employee has not requested the transfer in writing, such transfer will be deemed to have been made on an involuntary basis, and the employee shall have the right to appeal such transfer in accordance with 101 KAR 1:130.* The employee must meet the minimum requirements of the job class to which transferred.

(2) No employee, certified to a vacancy in a local area on a strictly local area basis in accordance with the provisions of 101 KAR 1:080, Section 4(3), shall be transferred from that position until the probationary period has been completed.

(3) No probationary employee may be transferred between agencies nor between geographical locations to a position having the same salary range and level of responsibility, unless approved by the commissioner of personnel.

(4) No employee may transfer to a different department without prior approval both of the commissioner of personnel and of the personnel officer or head of his present department.

(5) An employee's promotion to a different department must be approved in writing by the personnel officer or head of his present department, or by the commissioner of



personnel. If the promotion is approved by his present department, the department must file it with the department of personnel.

(6) Following notification of a transfer, an employee must report for work, or make himself known to be available for work, at either his old work station or the new one to which assigned.

(7) *If the transfer is on an involuntary basis, the employee shall be notified of his transfer in writing prior to the effective date of such transfer. The notice shall include the reason for the transfer, the employee's obligation to report to one of his work stations in accordance with subsection (6) of this section, and the employee's right of appeal under 101 KAR 1:130.*

Section 3. Demotion. (1) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility.

(2) An employee with status may be demoted only for cause, after the employee has been presented with the reasons for such demotion in writing, and has been allowed at least five (5) working days to reply thereto in writing, or, upon request, to appear personally with counsel and reply to the appointing authority or his deputy. A copy of the statement of reasons and the reply shall be filed with the commissioner. An employee with status may appeal his demotion in accordance with 101 KAR 1:130.

(3) If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Voluntary demotions may be intra-agency, or inter-agency; involuntary demotions shall be intra-agency only. If the action is intra-agency, approval of the appointing authority and the commissioner is required; if inter-agency the prior approval of both appointing authorities and the commissioner is required. There shall be no appeal from demotions made on a voluntary basis.

(4) Detail to Special Duty. When the services of a permanent employee are needed in a position within the department other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner of personnel. For detail to special duty the commissioner of personnel may waive the minimum requirements when requested by the appointing authority in writing.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE E. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

SECRETARY OF THE CABINET  
Department of Personnel  
(Proposed Amendment)

101 KAR 1:120. Separations and disciplinary actions.

RELATES TO: KRS 18.110, 18.170, 18.210, 18.240, 18.270

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for layoffs and for separation of employees deemed unsatisfactory or excessive by agency or department heads. KRS 18.210 requires the commissioner to prepare and submit to the board rules which provide for layoffs, imposition of fines of not more than ten (10) days' pay, suspension without pay for not longer than thirty (30) days, and for discharge or reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. General Provisions. Except as otherwise provided in these rules, the tenure of an employee with status shall be during good behavior and the satisfactory performance of his duties.

Section 2. Layoffs. (1) An appointing authority may layoff an employee in the classified service whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. *An employee with status may appeal his lay-off in accordance with 101 KAR 1:130.* The employee shall be notified of the effective date and shall be given written notice of the reasons for the layoff *and of his right to appeal.*

(2) Seniority, performance appraisals, conduct, qualifications and type of appointment shall be considered in determining the order of layoffs in a manner prescribed or approved by the commissioner. No status employee is to be separated by layoff while there are provisional, temporary, emergency, or probationary employees serving in the agency in the same class in the same locality.

(3) The appointing authority and the department shall attempt to place the employee in another position for which the employee is qualified.

Section 3. Dismissals. (1) The appointing authority may remove any employee with status only for cause after furnishing the employee and the commissioner with a written statement of the specific reasons for dismissal. Such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. Notifications of dismissal that do not properly specify the reasons shall be considered invalid and the employee shall remain on the payroll until such time as proper charges are affected.

(2) Notifications of dismissal shall inform the employee that he has ten (10) working days, not including the date the notice is received, to reply thereto in writing, or upon request, to appear personally with counsel and reply to the appointing authority or his deputy.

(3) An employee with status may appeal his dismissal as set forth in 101 KAR 1:130.

(4) A dismissed employee may be required to forfeit all accrued leave.

(5) *Any employee who has been dismissed for cause or*

*who has resigned while charges for dismissal for cause were pending and who seeks further employment with the state shall not be certified to the agency from which separated unless the agency requests such certification.*

Section 4. Separation During Probationary Period. An employee may be separated without the right of appeal at any time during the probationary period as set forth in 101 KAR 1:100, Section 3.

Section 5. Resignations. An employee who desires to terminate his service with the state shall submit a written resignation to the appointing authority. Resignations shall be submitted at least fourteen (14) calendar days before the final working day. A copy of an employee's resignation shall be attached to the advice effecting the separation and be filed in the employee's service record in the department. Failure of an employee to give fourteen (14) calendar days notice with his resignation may result in forfeiture of accrued annual leave.

Section 6. Retirement. If an employee with status is retired, he is considered as separated without prejudice and does not have the right of appeal.

Section 7. Suspensions. An appointing authority, upon written notice stating the reasons therefor, a copy of which shall be sent to the commissioner, may suspend an employee without pay or other compensation as punishment for disciplinary cause. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. Such a suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period begins with the first day of the suspension. An employee with status may appeal his suspension as set forth in 101 KAR 1:130.

Section 8. Disciplinary Fines. An appointing authority may impose as a disciplinary measure, a fine of not more than ten (10) days pay to be computed on the basis of the employee's current salary. *Disciplinary fines may not exceed ten (10) days pay for each occurrence, and may not exceed a total of thirty (30) days pay in any twelve (12) month period. The twelve (12) month period begins with the first day of the disciplinary fine.* The employee shall [will] be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. An employee with status may appeal the action in accordance with the provisions of 101 KAR 1:130.

Section 9. Written Reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time

*the written reprimand is given. A written reprimand, in and of itself, is not an appealable penalization and is not a basis for appeal.*

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

### SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

#### 101 KAR 1:130. Appeals.

RELATES TO: KRS 18.170, 18.270, 18.272

PURSUANT TO: KRS 13.082, 18.170, 18.210, 18.270

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.270 provides that any classified employee who is dismissed, demoted, suspended or otherwise penalized after completing his probationary period may appeal to the Personnel Board within thirty (30) days of the action taken against him. This rule is necessary to assure a uniform and effective procedure for scheduling, hearing, and acting upon such appeals.

Section 1. General Provisions. Any employee, applicant for employment, or eligible on a register, who believes that he has been unjustly discriminated against, may appeal to the board for a hearing subject to the procedural rules of the board.

Section 2. Appeal From Examination Rejection. (1) Any applicant whose application for admission to an open-competitive examination has been rejected and who has been notified of such rejection and the reasons therefor may appeal to the board for reconsideration of his qualifications and for admission to the examination.

(2) Applicants may be conditionally admitted to an examination by the commissioner pending a consideration of an appeal. Admission to a written examination under such circumstances, however, shall not constitute the assurance of a passing grade in training and experience.

Section 3. Appeal From Examination Rating. (1) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly.

(2) Except for correction of clerical errors, a rating in any part of an examination shall not be changed unless it has been found by the board that a mistake has been made, except as provided in 101 KAR 1:070, Section 3. A correction in the rating shall not affect a certification or appointment that may already have been made from the register.

Section 4. Appeal From Removal From Register. An

eligible whose name has been removed from a register for any of the reasons specified in 101 KAR 1:070, Section 6(1) and (2), may appeal to the board for reconsideration.

**Section 5. Appeal Procedure for Applicants or Eligibles.** The appeal to the board by applicants or eligibles under 101 KAR 1:130, Sections 1, 2, 3, 4, must be filed in writing with the commissioner not later than fifteen (15) calendar days after the notification of the action in question was mailed. The applicant or eligible shall have the right to appear before the board and to be heard. [The decision of the board on such appeals shall be final.]

**Section 6. Appeal From Dismissals, Demotion, Suspension, or Penalization.** (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may appeal to the board.

(2) An employee may appeal a transfer which he considers to be a penalization. Following notification of a transfer, an employee must report for work, or make himself known to be available for work, at either his old work station or the new one to which assigned.

**Section 7. Appeal Procedure for Employees.** (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may, within thirty (30) days after the effective date of such dismissal, demotion, suspension, or penalization, appeal to the board through the commissioner. Such appeal shall be in writing and shall set forth the basis for the appeal. The appeal must be filed in the office of the Commissioner of Personnel within the aforementioned thirty-day (30) period. When the thirtieth (30th) day of the filing period falls on a day when the commissioner's office is closed during normal working hours, the appeal may be filed on the next regular working day. The commissioner shall promptly transmit copies of the appeal to the board and to the appointing authority.

(2) The board shall designate an appropriate time and place to conduct the hearing. Such hearing shall be held within thirty (30) calendar days after receipt of the appeal unless circumstances intervene which, in the opinion of the board, would cause undue hardship on either party to the hearing. The appellant and the appointing authority shall be notified in writing at least five (5) working days in advance of the time and place designated for the hearing.

(3) At the hearing, both the appellant and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply.

(4) If the board finds that the action complained of was taken by the appointing authority for any political, religious, or ethnic reason, or due to sex, race, age (between forty (40) and sixty-five (65)), or handicap, the employee shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, [dismissal, demotion, or suspension] and without penalization, or shall otherwise be made whole.

(5) If the Board finds that the action complained of was taken by the appointing authority without just cause, the board shall order the employee reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole. In all other cases, if the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding cir-

cumstances, the board shall alter, modify or rescind the disciplinary action. [In all other cases, the findings and recommendations of the board shall be submitted to the appointing authority for his consideration, who may, not later than thirty (30) days after receipt of such findings and recommendations, reinstate the employee with or without pay for the period of the dismissal, demotion or suspension, modify his original decisions of discharge, demotion, or suspension, or continue his original decision or penalization.]

(6) When any employee is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate re-employment list for employment in any similar position other than the one from which he had been removed.

**Section 8. Hearing of Appeals.** (1) Evidentiary hearings in appeals filed pursuant to KRS 18.270 and 101 KAR 1:130 shall be conducted by the full board or quorum thereof, except as otherwise provided in this rule. The board may adopt a rotating schedule for the attendance of members at evidentiary hearings to be conducted by the board in order to assure the presence of a quorum, but notwithstanding any such schedule any member of the board may attend and participate in any such hearing.

(2) The chairman of the board or a majority of the board, by written order, may designate a single member of the board to conduct any evidentiary hearing on behalf of the board or may request the commissioner to establish a calendar designating single members of the board to conduct evidentiary hearings on behalf of the board. In all such cases, upon the conclusion of the hearing, the presiding member-hearing examiner shall submit to the board a synopsis of the evidence presented, his findings of fact, and dispositive recommendations in the case before him, and the commissioner shall transmit by certified mail to both parties a copy of the findings of fact and dispositive recommendations. The board upon review of the findings of fact, the synopsis of the evidence presented, and dispositive recommendations of the presiding member-hearing examiner, who shall be present during such review, and after consideration of such written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall make a final determination of the appeal by either:

(a) Adopting as submitted the findings and recommendations of the presiding member-hearing examiner;

(b) Altering before adoption, in any manner deemed proper, either or both the findings and recommendations of the presiding member-hearing examiner;

(c) If felt necessary by any member of the board requesting the commissioner to prepare a copy of the stenographic record taken at the hearing and reserve ruling on the case until each member has been allowed a reasonable opportunity to consider the entire record;

(d) If felt necessary by a majority of the board, remanding the case or any part thereof for rehearing by the same presiding member-hearing examiner, with such hearing examiner to prepare and submit to the parties and the board such additional findings of fact and dispositive recommendations as he feels are necessary upon the conclusion of the rehearing. A stenographic record shall be taken of this additional testimony and the presiding member-hearing examiner shall submit to the board a synopsis of the evidence presented. The board shall then consider the findings of fact, synopsis of the evidence presented, and dispositive



recommendations from the original hearing and any additional rehearings ordered, and shall, upon request of any member of the board, instruct the commissioner to prepare a complete or partial record. The board, upon consideration of these items and such additional written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall render its final decision in the case.

(3) The board may designate one or more hearing examiners to assist the board in appeal proceedings. All such hearing examiners shall be attorneys authorized to practice law in Kentucky and shall be selected solely on their knowledge, ability and experience in the trial of administrative and/or judicial proceedings.

(4) Hearing examiners selected by the board, but who are not themselves members of the board, shall conduct evidentiary hearings in the same manner as board member hearing examiners. In all cases, upon the conclusion of the hearing, the hearing examiner shall submit to the board a synopsis of the evidence presented, his findings of fact, and dispositive recommendations in the case before him, and the commissioner shall transmit by certified mail to both parties a copy of the findings of fact and dispositive recommendations. In the presence of the hearing examiner and with his advice, the board shall review these documents, and after consideration of such written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall make a final determination of the appeal by either:

(a) Adopting as submitted the findings and recommendations of the hearing examiner;

(b) Altering before adoption, in any manner deemed proper, either or both the findings and recommendations of the hearing examiner;

(c) If felt necessary by any member of the board, requesting the commissioner to prepare a copy of the stenographic record taken at the hearing and reserve ruling on the case until each member has been allowed a reasonable opportunity to consider the entire record;

(d) If felt necessary by a majority of the board, remanding the case or any part thereof for rehearing by the same hearing examiner, with such hearing examiner to prepare and submit to the parties and the board such additional findings of fact and dispositive recommendations as he feels are necessary upon the conclusion of the rehearing. A stenographic record shall be taken of this additional testimony and the hearing examiner shall submit to the board a synopsis of the evidence presented. The board shall then consider the finding of facts, synopses of the evidence presented, and dispositive recommendations from the original hearing and any additional rehearings ordered, and shall, upon request of any member of the board instruct the commissioner to prepare a complete or partial record. The board, upon consideration of these items and such additional written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall render its final decision in the case.

(5) Transcripts: At any time after a hearing but prior to a final order of the Personnel Board, either party may request that an official transcript be prepared concerning said hearing. The party so requesting such official transcript shall bear the entire expense thereto unless otherwise ordered by the Personnel Board. Said request shall be in written motion or request to the board and said motion or request shall be served on the opposing party. A certified check or money order for not less than \$100 made

payable to the official court reporter shall accompany said motion or request. The balance due said official court reporter shall be paid in full before said reporter shall file said transcript with the board. Said transcript shall be filed within sixty (60) days after said motion or request is made unless the court reporter, for good reason, requests a thirty (30) day extension in writing. If the court reporter is not paid in full or to her satisfaction as to credit extended, she shall not file said transcript and the deposit described above shall be retained by her for expenses incurred in preparing the transcript.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT FOR REQUEST OR HEARING  
TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

# SECRETARY OF THE CABINET Department of Personnel (Proposed Amendment)

## 101 KAR 1:140. Service regulations.

RELATES TO: KRS 18.170, 18.190, 18.210

PURSUANT TO: KRS 13.082, 18.170, 18.190, 18.210

NECESSITY AND FUNCTION: KRS 18.170 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18. KRS 18.190 and 18.210 require the Commissioner of Personnel to prepare and submit to the board rules which provide for annual leave, sick leave, special leaves of absence, and for other conditions of employment. This rule is necessary to comply with these statutory requirements.

Section 1. Attendance. Hours of Work: The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified otherwise by the appointing authority or the statutes. The normal work day shall be from 8:00 a.m. to 4:30 p.m., local time, Monday through Friday. Employees in other than Frankfort state office buildings shall be subject to such hours of work as set by the appointing authority.

Section 2. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary and emergency employees, shall be allowed annual leave with pay at the following rate:

Years of Service	Annual Leave Days
0—5 years	1 leave day per month; 12 per year
5—10 years	1¼ leave days per month; 15 per year
10—15 years	1½ leave days per month; 18 per year
15 years and over	1¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. In com-

puting years of total service for the purpose of allowing annual leave, only those months for which an employee earned annual leave shall be used. *Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18.310, 18.320, or 18.990.* Employees serving on a part-time basis who work more than 100 hours a month shall be allowed annual leave with pay at the following rate: [four (4) hours annual leave for each month of service.]

<i>Years of Service</i>	<i>Annual Leave Hours</i>
0—5 years	4 leave hours per month; 48 per year
5—10 years	5 leave hours per month; 60 per year
10—15 years	6 leave hours per month; 72 per year
15 years and over	7 leave hours per month; 84 per year

*In computing years of total service for the purpose of allowing annual leave for part-time employees, only those months in which the employee worked at least 100 hours shall be used.* Employees serving on a part-time basis who work less than 100 hours a month or on a per diem basis shall not be entitled to annual leave. [Part-time employees who work more than 100 hours a month shall not be allowed to carry forward annual leave from one (1) calendar year to the next.]

(2) Annual leave for full-time employees may be accumulated and carried forward from one calendar year to the next not to exceed the following maximum amounts:

<i>Years of Service</i>	<i>Maximum Amount</i>
0—5 years	Thirty (30) work days
5—10 years	Thirty-seven (37) work days
10—15 years	Forty-five (45) work days
15—20 years	Fifty-two (52) work days
Over 20 years	Sixty (60) work days

*Annual leave for part-time employees who work at least 100 hours a month may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:*

<i>Years of Service</i>	<i>Maximum Amount</i>
0—5 years	120 hours
5—10 years	148 hours
10—15 years	180 hours
15—20 years	208 hours
Over 20 years	240 hours

However, leave in excess of the above maximum amounts may be carried forward for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an employee to take accumulated annual leave in a timely manner. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating re-

quirements and, insofar as practicable, with the request of employees.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave.

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 2(2) above, when separated by proper resignation, layoff, retirement or when granted leave without pay in excess of thirty (30) working days. The effective date of the separation shall be the last work day and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation. A supplemental pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts as set forth in Section 2(2) above.

(11) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave not to exceed the maximum amounts as set forth in Section 2(2) above.

(12) *Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or one-half (½) hours.*

Section 3. Sick Leave. (1) Each employee in the state service, except an emergency, part-time, or per-diem employee, shall be allowed sick leave with pay at the rate of one (1) working day for each month of service. *An employee must have worked more than half of the work of the work days in a month to qualify for sick leave with pay.* Employees serving on a part-time basis who work more than 100 hours a month shall be allowed four (4) hours sick leave for each month of service. [An employee must have worked more than half of the work days in a month to qualify for sick leave with pay.] Employees serving on a part-time basis who work less than 100 hours a month or on a per-diem basis shall not be entitled to sick leave.

(2) *Full-time employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. Part-time employees who work at least 100 hours a month completing ten (10) years of total service with the state shall be credited with forty (40) additional hours of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for part-time employees who work at least 100 hours a month for the purpose of crediting forty (40) additional hours of sick leave, only those months in which*

*the employee worked at least 100 hours shall be used. The total service must be verified in writing before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18.310, 18.320, or 18.990.*

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is disabled by pregnancy and/or confinement [limited to a maximum of three (3) calendar months];

(d) Is required to care for a sick or injured member of his immediate family for a reasonable period of time;

(e) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(f) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority. [At the termination of sick leave with pay, the appointing authority shall reinstate the employee to his former position.]

(6) *At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six months, the appointing authority shall return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.*

(7) [(6)] An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy and confinement, and the total continuous leave does not exceed two (2) years. [At the termination of sick leave without pay,] *When the employee has given notice of his ability to resume his duties, the appointing authority shall return [reinstate] the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit; if there is no such position available, the rules pertaining to lay-off apply. An employee who is unable to return to work at the end of two (2) years of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be terminated by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.*

(8) [(7)] Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half ( $\frac{1}{2}$ ) hours.

(9) [(8)] An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(10) [(9)] Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. The employee's amount of accumulated sick leave shall be listed in the remarks section

of the advice effecting the separation. Former employees who are reinstated or re-employed may have up to *ten (10)* [five (5)] days of their accumulated and unused sick leave balances revived upon appointment and placed to their credit upon request of the appointing authority and approval of the commissioner. Any additional balance may be revived after sixty (60) days of work upon similar request.

(11) [(10)] In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(12) [(11)] Application for sick leave. An employee shall file a written application for sick leave with pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(13) [(12)] Supporting evidence:

(a) *An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence. [An appointing authority shall grant sick leave when the application is supported by acceptable evidence. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment.]*

(b) *An appointing authority may place on sick leave an employee [a pregnant woman] whose health might be jeopardized by job duties or whose health might jeopardize others, and who, on request, fails to produce a satisfactory medical certificate.*

Section 4. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, federal, state, or political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff in court action. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 5. Compensatory Leave. [(1)] Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work.

[(2)] An employee who is exempt from overtime provisions of wage and hour laws and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis.]



[(3) An employee subject to wage and hour laws whose prescribed hours of duty are normally fewer than forty (40) per week and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his normal hours of duty may be awarded compensatory time for that portion of extra time worked up to forty (40) hours, provided his rate of pay meets requirements of minimum wage laws.]

[(4) An employee subject to overtime provisions of wage and hour laws shall be paid in accordance with such provisions for actual hours worked in excess of the applicable statutory maximum hours. Compensatory leave earned and used during the same workweek does not constitute "hours worked" for computing overtime pay.]

**Section 6. Military Leave.** Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

**Section 7. Voting Leave.** Appointing authorities shall allow all employees ample time to vote. Such absence shall not be charged against leave.

**Section 8. Special Leave of Absence.** (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service; or for purposes other than above that are deemed to be in the best interests of the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee entering active military duty a leave of absence without pay for a period of such duty.

**Section 9. Absence Without Leave.** An employee who is absent from duty without approval shall report the reason therefore to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action and will serve to interrupt continuous service as defined in 101 KAR 1:050.

**Section 10. Performance Appraisal.** Quality and quantity of work shall be considered in determining salary advancements, in promotions, in determining the order of layoff, in re-employment, and as a means of identifying employees who should be promoted, demoted, or dismissed.

**Section 11. Records and Reports.** (1) Personnel action forms: The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him.

(2) Leave records: Each appointing authority shall install and maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused; and

(c) Special leave or any other leave with or without pay.

Such record shall be documentary evidence to support and justify authorized leave of absence with pay. Each appointing authority shall notify his employees of their annual and sick leave balances as of January 1; a summary of which shall be sent to the department by February 1.

(3) Official roster: The commissioner shall prepare and maintain a record of all employees showing for each employee his name, address, title of position, salary rate, changes in status, transfer, sick leave and annual leave.

**Section 12. Confidentiality of Records.** (1) Except as otherwise provided by law or in the rules, all records of the department shall be considered public records and may be inspected, when in the public interest, upon proper application made to the commissioner during normal working hours.

(2) Unless the board shall determine otherwise, records of the department involving investigation correspondence and data related to the moral character and reputation of applicants for employment or employees in state service; and examination materials, questions, data and examination papers and records relating in any way to competitive examinations and tests conducted and held by the department shall be held confidential.

**Section 13. Dual Employment.** No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the Commissioner of Personnel. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

**Section 14. Minimum Hiring Age.** The minimum age for hiring of state employees shall conform to federal and state labor laws, rules and regulations.

**Section 15. Maximum Hiring Age.** (1) The maximum hiring age for permanent employment subject to these rules is sixty-five (65).

(2) Agencies may request that individuals over sixty-five (65) be tested and/or employed. The request must be justified in writing by the appointing authority, stating the reasons why it serves the public interest, and must have the prior approval of the Commissioner of Personnel. Applicants so approved shall be certified only to those agencies requesting such waivers.

**Section 16. Retirement.** (1) The normal retirement age for employees subject to these rules shall be sixty-five (65).

(2) Employees over sixty-five (65) may be allowed to



continue employment from year to year with prior approval of the Commissioner of Personnel when it serves the public interest. Such requests must be justified in writing by the appointing authority.

Section 17. Restoration From Military Leave. (1) State appointing authorities shall comply with the provisions of KRS 61.371, 61.373, 61.375, 61.377, 61.379.

(2) The Department of Personnel shall require proper compliance with these statutes as they pertain to state employees.

(3) The appointing authorities for employees in county, city, or political subdivisions thereof, are responsible for compliance with these statutes, in keeping with normal personnel practices and procedures of each.

(4) Appeals may be filed by an employee or previous employee pursuant to 101 KAR 1:130. The governmental agency from which the appeal is filed shall bear the expense of the hearing of the appeal.

(5) A former employee seeking restoration, who has been rejected or otherwise penalized, must file an appeal within thirty (30) days, after notification of such rejection or penalization by an appointing authority.

PHILIP TALIAFERRO, Chairman  
State Personnel Board

ADDIE D. STOKLEY, Commissioner

ADOPTED: July 14, 1978

RECEIVED BY LRC: August 3, 1978 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Commissioner, Department of Personnel, Room 373,  
Capitol Annex, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET**  
Department of Personnel  
(Proposed Amendment)

101 KAR 1:200. Rules for unclassified service.

RELATES TO: KRS 18.220

PURSUANT TO: KRS 13.082, 18.220

NECESSITY AND FUNCTION: KRS 18.220 requires the Commissioner of Personnel to submit to the Governor proposed rules for the unclassified service persons in positions enumerated in KRS 18.140(1)(f), (g), (h), (i), (j), (o), (t), and (u). KRS 18.220 further provides that these rules shall be approved by the Governor and promulgated according to KRS Chapters 12 and 13. In practice, the rules which apply to Merit System employees in the following specific areas have also been applied to the aforementioned categories of employees in the unclassified service. *The purpose of this amendment is to make the rules for the unclassified service more generally consistent with the rules which apply to Merit System employees.*

Section 1. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary, and emergency employees, shall be allowed annual leave with pay at the following rate:

**Years of Service**

**Annual Leave Days**

0—5 years	1 leave day per month; 12 per year
5—10 years	1 ¼ leave days per month; 15 per year
10—15 years	1 ½ leave days per month; 18 per year
15 years and over	1 ¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. In computing years of total service for the purpose of allowing annual leave, only those months for which an employee earned annual leave shall be used. *Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18.310, 18.320, or 18.990.* Employees serving on a part-time basis who work more than 100 hours a month shall be allowed annual leave with pay at the following rate: [four (4) hours annual leave for each month of service.]

**Years of Service**

**Annual Leave Hours**

0-5 years	4 leave hours per month; 48 per year
5-10 years	5 leave hours per month; 60 per year
10-15 years	6 leave hours per month; 72 per year
15 years and over	7 leave hours per month; 84 per year

*In computing years of total service for the purpose of allowing annual leave for part-time employees, only those months in which the employee worked at least 100 hours shall be used.* Employees serving on a part-time basis who work less than 100 hours a month or on a per diem basis shall not be entitled to annual leave. [Part-time employees who work more than 100 hours a month shall not be allowed to carry forward annual leave from one (1) calendar year to the next.]

(2) Annual leave for full-time employees may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

**Years of Service**

**Maximum Amount**

0—5 years	Thirty (30) work days
5—10 years	Thirty-seven (37) work days
10—15 years	Forty-five (45) work days
15—20 years	Fifty-two (52) work days
Over 20 years	Sixty (60) work days

*Annual leave for part-time employees who work at least 100 hours a month may be accumulated and carried forward from one (1) calendar year to the next not exceed the following maximum amounts:*

**Years of Service**

**Maximum Amount**

0-5 years	120 hours
5-10 years	148 hours
10-15 years	180 hours
15-20 years	208 hours
Over 20 years	240 hours

However, leave in excess of the above maximum amounts may be carried forward for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an employee to take accumulated annual leave in a timely manner. Annual leave



shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence on account of sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees.

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave.

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 1(2) above, when separated by proper resignation, layoff, retirement or when granted leave without pay in excess of thirty (30) working days. The effective date of the separation shall be the last work day and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation. A supplemental pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts as set forth in Section 1(2) above.

(11) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave not to exceed the maximum amounts as set forth in Section 1(2) above.

(12) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or one-half (½) hours.

Section 2. Sick Leave. (1) Each employee in the state service, except an emergency, part-time, or per-diem employee, shall be allowed sick leave with pay at the rate of one (1) working day for each month of service. *An employee must have worked more than half of the work days in a month to qualify for sick leave with pay.* Employees serving on a part-time basis who work more than 100 hours a month shall be allowed four (4) hours sick leave for each month of service. [An employee must have worked more than half of the work days in a month to qualify for sick leave with pay.] Employees serving on a part-time basis who work less than 100 hours a month or on a per-diem basis shall not be entitled to sick leave.

(2) Full-time employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for the purpose of crediting ten (10) additional days of sick leave, only those

months for which an employee earned sick leave shall be used. *Part-time employees who work at least 100 hours a month completing ten (10) years of total service with the state shall be credited with forty (40) additional hours of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for part-time employees who work at least 100 hours a month for the purpose of crediting forty (40) additional hours of sick leave, only those months in which the employee worked at least 100 hours shall be used. The total service must be verified in writing before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18.310, 18.320, or 18.990.*

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when the employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness or injury;

(c) Is disabled by pregnancy and/or confinement [limited to a maximum of three (3) calendar months];

(d) Is required to care for a sick or injured member of his immediate family for a reasonable period of time;

(e) Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(f) Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority. [At the termination of sick leave with pay, the appointing authority shall reinstate the employee to his former position.]

(6) *At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.*

(7) [(6)] An appointing authority shall [may] grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy and confinement, and the total continuous leave does not exceed two (2) years. [At the termination of sick leave without pay,] *When the employee has given notice of his ability to resume his duties, the appointing authority may return [reinstate] the employee to a position for which he is qualified, and which resembles his former position as closely as circumstance permit. An employee who is unable to return to work at the end of two (2) years of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be terminated by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.*

(8) [(7)] Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half (½) hours.

(9) [(8)] An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(10) [(9)] Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. The employee's amount of accumulated sick leave shall be listed in the remarks section of the advice effecting the separation. Former employees who are reinstated or re-employed may have up to *ten* (10) [five (5)] days of their accumulated and unused sick leave balances revived upon appointment and placed to their credit upon request of the appointing authority and approval of the commissioner. Any additional balance may be revived after sixty (60) days of work upon similar request.

(11) [(10)] In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(12) [(11)] Application for sick leave. An employee shall file a written application for sick leave with pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(13) [(12)] Supporting evidence[.].

(a) *An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence. [An appointing authority shall grant sick leave when the application is supported by acceptable evidence. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment.]*

(b) *An appointing authority may place on sick leave an employee [a pregnant woman] whose health might be jeopardized by job duties or whose health might jeopardize others and who, on request, fails to produce a satisfactory medical certificate.*

Section 3. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of time or pay for that amount of time necessary to comply with subpoenas by any court, federal, state, or political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff in court action. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 4. Compensatory Leave. [(1)] Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of

accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work.

[(2) An employee who is exempt from overtime provisions of wage and hour laws and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis.]

[(3) An employee subject to wage and hour laws whose prescribed hours of duty are normally fewer than forty (40) per week and who is authorized in advance by the appointing authority to work one (1) or more hours in excess of his normal hours of duty may be awarded compensatory time for that portion of extra time worked up to forty (40) hours, provided his rate of pay meets requirements of minimum wage laws.]

[(4) An employee subject to overtime provisions of wage and hour laws shall be paid in accordance with such provisions for actual hours worked in excess of the applicable statutory maximum hours. Compensatory leave earned and used during the same workweek does not constitute "hours worked" for computing overtime pay.]

Section 5. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from civil duties upon request therefor, to serve under orders on training duty without loss of regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

Section 6. Voting Leave. Appointing authorities shall allow all employees ample time to vote. Such absence shall not be charged against leave.

Section 7. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service; or for purposes other than above that are deemed to be in the best interests of the state.

(3) An appointing authority, with approval of the commissioner, may grant an employee entering active military duty a leave of absence without pay for a period of such duty.

Section 8. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefore to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each



period of such absence. Such absence may constitute grounds for disciplinary action.

ADDIE D. STOKLEY, Commissioner  
JULIAN M. CARROLL, Governor

RECEIVED BY LRC: August 15, 1978 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Kentucky Department of Personnel,  
Capitol Annex, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET**  
**Department of Revenue**  
**(Proposed Amendment)**

**103 KAR 17:080. Retirement income.**

RELATES TO: KRS 141.021

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation describes certain retirement income which is exempt or partially exempt from Kentucky income tax and provides rules for calculating the exempt portion of such income.

Section 1. General. Retirement income, with exceptions explained below, is included in gross income under the provisions of the Internal Revenue Code.

Section 2. Exempt Retirement Income. Retirement income received from the Social Security Administration and the Railroad Retirement Board (including supplemental benefits) is exempt from income tax. The following retirement income is specifically exempt by Kentucky law which established the retirement systems:

- (1) Kentucky teachers retirement income,
- (2) Kentucky state employees and county employees retirement income, and
- (3) Kentucky judicial retirement income.

Section 3. Military and Civil Service Retirement. Federal [Civil Service] retirement income and military service retirement income received by persons fifty (50) years of age or older may be excluded; limited to \$4,000 of such retirement income. The \$4,000 maximum exclusion is reduced by earned income, as defined in Section 911(b) of the Internal Revenue Code. The reduction applies as follows:

If Earned Income from Other Sources is:	The Maximum Retirement Exclusion is:
\$3,000 or less	\$4,000
\$3,001 to \$4,000	3,000
\$4,001 to \$5,000	2,000
\$5,001 to \$6,000	1,000
Over \$6,000	-0-

MAURICE P. CARPENTER, Commissioner

ADOPTED: August 10, 1978

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: August 10, 1978 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

**SECRETARY OF THE CABINET**  
**Department of Revenue**  
**(Proposed Amendment)**

**103 KAR 18:100. Exemption certificates.**

RELATES TO: KRS 141.325

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 141.325(7) authorizes the department to prescribe by regulation the form and content of employee withholding exemption certificates. This regulation cites various situations and circumstances and provides instructions for employees in each particular case.

Section 1. Exemption Certificate. Upon employment, an employee must file a withholding exemption certificate (Revenue Form K-4), showing the number of exemptions, with his employer, which shall remain in effect until changed (See Section 6 [5]). The tax must be withheld as if no exemptions were claimed if the employee does not file an exemption certificate.

Section 2. Change in Exemption. An amended certificate should be filed by employees to show changes in exemptions. The employer may make the amended certificate effective with the next payment of wages or the effective date may be postponed until the following January 1 or July 1 whichever occurs first but at least thirty (30) days after the date the certificate is filed.

Section 3. Amended Certificate Must be Filed. An employee must file an amended certificate, reducing the number of exemptions, within ten (10) days:

- (1) When spouse claimed is divorced or legally separated or claims own exemption(s), or
- (2) When an employee determines that a dependent claimed will not qualify.

Section 4. Amended Certificate May be Filed. An employee may file an amended certificate increasing the number of exemptions any time:

- (1) The employee's spouse does not claim own exemption(s),
- (2) A child is born or adopted,
- (3) The employee begins to support a relative or other person qualifying as an exemption and expects to claim that person as an exemption for the current year,
- (4) The employee becomes blind, or the spouse becomes blind and does not claim own exemption, or
- (5) The employee or spouse reaches the age of sixty-five (65) and does not claim own exemption.

Section 5. Additional Withholding Exemptions. (1) An employee may file an amended certificate increasing the number of exemptions if the employee anticipates substantial itemized deductions which would result in a tax liability much less than tax withheld. The number of additional exemptions is determined by: subtracting \$650 from estimated itemized deductions; and, dividing the remainder by \$600.

(2) An employee may file an amended certificate and claim an additional withholding exemption if the employee will be a member of the Kentucky National Guard on December 31 of the taxable year.

Section 6. [5.] Special Exemption Certificate. Upon employment, an employee may file (Revenue Form K-4E)

with his employer and exempt the income from withholding provided:

- (1) The employee incurred no tax liability for the preceding year,
- (2) No liability is anticipated for the current year, and
- (3) The anticipated annual income will not exceed an adjusted gross income of \$1,650 for a single person or \$2,650 combined adjusted gross income for married persons.

Section 7. [6.] Multiple Employers. An employee with multiple employers may claim the special exemption with each employer provided no liability occurred for the preceding year and none is anticipated for the current year.

Section 8. [7.] Expiration. The special exemption certificate will expire on the last day of the fourth month following the close of the taxable year; or within ten (10) days if the employee reasonably anticipates that a tax liability will occur. If this exemption certificate is discontinued or expires, a new employee withholding exemption certificate (Form K-4) must be filed with the employer (See Section 1).

MAURICE P. CARPENTER, Commissioner

ADOPTED: August 10, 1978

APPROVED: JAMES E. GRAY, Secretary

RECEIVED BY LRC: August 10, 1978 at 10:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Commissioner, Department of Revenue, Capitol Annex, Frankfort, Kentucky 40601.

**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION  
Division of Occupations and Professions  
Board of Accountancy  
(Proposed Amendment)**

**201 KAR 1:045. Subjects of examination; grading; re-examination.**

RELATES TO: KRS 325.265, 325.270

PURSUANT TO: KRS 325.240

NECESSITY AND FUNCTION: To promulgate administrative regulations of the State Board of Accountancy of Kentucky. This regulation pertains to subjects of examination, grading and re-examination.

Section 1. Examinations will include questions or problems on the following subjects:

- (1) Accounting Practice;
- (2) Theory of Accounts;
- (3) Auditing;
- (4) Business Law.

Section 2. The candidate will be required to make a grade of not less than seventy-five (75) percent in each subject before he will be declared to have passed the examination.

Section 3. A candidate who fails to receive a conditional credit or credits in any examination shall have the right to re-examination.

Section 4. A candidate who fails to pass all subjects, but who receives a passing grade in two (2) or more subjects, or accounting practice alone, shall receive a conditional credit for such subject or subjects provided such candidate averages fifty (50) percent or more on the parts failed. This minimum average grade requirement is waived if three (3) parts are passed at a single sitting.

Section 5. To add to conditioned status, the candidate must obtain a grade of seventy-five (75) or more and an average grade of fifty (50) in all parts not passed. While an average grade of less than fifty (50) prevents the candidate from adding to his conditional status, it alone does not remove or cancel conditioned status previously attained.

Section 6. A candidate who receives such conditional credit or credits must pass the remaining subjects at *the three (3) examinations next succeeding the examination at which the first conditional credit was earned unless excused in accordance with Section 7 of this regulation.* [any three (3) of the four (4) examinations next succeeding the examination at which the first conditional credit was earned.] In the event of his failure thus to pass the examination within the above prescribed period, he will be considered to have failed the examination. Such a candidate may, however, thereafter make a new application, which shall be reviewed by the board as in the case of any new applicant.

Section 7. Every candidate must sit for every examination for which he is eligible unless excused for a cause *submitted in writing* acceptable to the board. At any sitting, the candidate must sit for all parts for which he has not yet received a passing grade. Failure to sit, if not excused, will void the application and failure of the candidate to so submit any such paper may, in the discretion of the board, result in the disqualification of all papers submitted by such candidate in said examination.

Section 8. Any person licensed to practice law in this state need not be examined in the subject of business law. An applicant claiming waiver of the examination in business law by virtue of this section must include with his application a certification from the Kentucky State Bar Association to the effect that such candidate is duly licensed to practice law in this state and is in good standing as provided in KRS 30.170.

Section 9. A candidate for the certificate of Certified Public Accountant who has written the uniform examination under the jurisdiction of another state and has failed to receive a passing grade in all subjects, but has passed two (2) or more subjects, or accounting practice alone, may in the discretion of the board be given conditional credit for parts passed, provided that the applicant met all requirements of the Kentucky law and regulations, except for residence, at the time of writing the examination.

BERNARD W. GRATZER, Executive Secretary

ADOPTED: July 28, 1978

APPROVED:

CHARLES H. LAMBERT,  
Acting Secretary

RECEIVED BY LRC: August 7, 1978 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Bernard W. Gratzner, Executive Secretary, Kentucky State Board of Accountancy, 310 W. Liberty Street, Suite 703, Louisville, Kentucky 40202.



**EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION  
Division of Occupations and Professions  
Board of Accountancy  
(Proposed Amendment)**

**201 KAR 1:060. Granting certificates.**

RELATES TO: KRS 325.261, 325.265, 325.270, 325.280

PURSUANT TO: KRS 325.240

**NECESSITY AND FUNCTION:** To promulgate administrative regulations of the State Board of Accountancy of Kentucky. This regulation pertains to granting certificates.

Section 1. The board shall issue a certificate as Certified Public Accountant to any person who meets the qualifications set forth in KRS 325.261.

Section 2. The educational requirement of KRS 325.261(3)(a), (b), and (c), referring to a baccalaureate degree and/or masters degree "conferred by a college or university recognized by the board," is defined as a degree at an institution whose credits would be accorded full recognition on transfer to the University of Kentucky or University of Louisville. Evidence that the applicant possesses the educational qualifications prescribed herein shall consist of an official transcript or transcripts issued by the institution(s) granting the degrees claimed. Such transcripts shall be submitted with an application for examination or certificate by waiver of examination and remain a part thereof.

Section 3. A major or concentration program in accounting is defined as a minimum of twenty (20) semester hours in accounting subjects. A total of thirty (30) semester hours in accounting, business law, economics and finance are required.

Section 4. In order to fulfill the experience requirements of KRS 325.261(3)(a), (b), (c), and (d), the applicant shall show to the satisfaction of the board that his experience has included participation in the examination of financial statements for third party reliance embracing the following:

- (1) Experience in applying a variety of auditing procedures and techniques to the usual and customary financial transactions recorded in accounting records.
- (2) Experience in the preparation of audit working papers covering the examination of the accounts usually found in accounting records.
- (3) Experience in the planning of the program of audit work including the selection of the procedures to be followed.
- (4) Experience in the preparation of written explanations and comments on the findings of the examination and on the content of the accounting records.
- (5) Experience in the preparation and analysis of financial statements together with explanations and notes thereon.

Section 5. An applicant who relies in whole or in part on the experience of KRS 325.261(3)(f) or (g) must submit verification of said experience in affidavit form signed by the chief of the audit section in the case of employment in the Internal Revenue Service. Such affidavit must set forth full and specific details of qualifications.

Section 6. The experience requirements of KRS 325.261(3)(a), (c) and (d) may be partially fulfilled by employment on a part-time basis. Any experience attained after high school graduation and before awarding of a baccalaureate degree shall be considered part-time. In the case of part-time work experience, one-half (½) hour credit will be given for each hour worked, such credit being limited to twenty (20) hours per week.

Section 7. Experience attained after receiving a baccalaureate degree shall be considered full-time provided such employment is on a full-time basis and is for a period of at least ninety (90) consecutive calendar days. A maximum of one (1) year of the experience requirement may be obtained through part-time work. Experience so gained must be submitted over the signature of the employer, showing the hours worked each week.

Section 8. An applicant who relies in whole or in part on "such other experience or employment at the board in its discretion may regard as substantially equivalent thereto," as contained in KRS 325.261, shall submit to the board, in affidavit form, evidence, as required by the board, that such experience is of a nature as defined in Sections 1 to 5 above. Experience relied upon under this section will require at least an equal amount of experience as required by KRS 325.261(3)(f) and (g).

Section 9. For purposes of KRS 325.261(3)(h) and (i) and of this regulation:

(1) "Supervision" shall mean supervision according to standards promulgated by the American Institute of Certified Public Accountants and shall further include direct and continuing instruction, supervision and review by a certified public accountant who is employed in the employment level next above the applicant's employment level; and

(2) "Application of the attest function using standards adopted by the American Institute of Certified Public Accountants" shall mean the application of auditing standards, promulgated by the American Institute of Certified Public Accountants, in the audit of financial data and statements on which it is intended that third parties shall rely.

Section 10. Each applicant who relies in whole or in part on experience described in KRS 325.261(3)(h) or (i) shall submit, in affidavit form:

(1) A certificate signed and sworn to by the chief officer of the agency of state government in which the applicant was employed stating full and specific details of the term and nature of the applicant's employment by the agency, including without limitation the nature and extent of the supervision of the applicant's work and the nature and extent of the applicant's application of the attest function using standards adopted by the American Institute of Certified Public Accountants, and stating the name of the certified public accountant under whose supervision the applicant worked;

(2) A certificate signed and sworn to by the certified public accountant under whose supervision the applicant worked stating full and specific details of the term and nature of the applicant's employment by the agency, including without limitation the nature and extent of the supervision of the applicant's work and the nature and extent of the applicant's application of the attest function using standards adopted by the American Institute of Certified Public Accountants; and

(3) A statement by the applicant setting forth the details of his experience, including without limitation the nature and extent of the supervision of the applicant's work and the nature and extent of the applicant's application of the attest function using standards adopted by the American Institute of Certified Public Accountants.

Section 11. After receiving the certificates and the statement required by Section 10 the board will make such further investigation of the applicant's experience as it may deem necessary or desirable to enable the board to determine whether the applicant has satisfied the experience requirements of KRS 325.261(3)(h) or (i).

BERNARD W. GRATZER, Executive Secretary  
ADOPTED: July 28, 1978

APPROVED: CHARLES H. LAMBERT,  
Acting Secretary

RECEIVED BY LRC: August 7, 1978 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Bernard W. Gratzner, Executive Secretary, Kentucky State Board of Accountancy, 310 W. Liberty Street, Suite 703, Louisville, Kentucky 40202.

#### DEPARTMENT OF TRANSPORTATION Bureau of Highways (Proposed Amendment)

603 KAR 5:096. Highway classifications.

RELATES TO: KRS 189.222

PURSUANT TO: KRS 13.082, 174.050, 189.222

NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight and dimension limits on all highways included in the State Primary Road System. This regulation is adopted to identify those portions of the highway system affected and indicate their classification.

Section 1. The weight and dimension limits set forth in 603 KAR 5:066 and 603 KAR 5:070 for truckway classifications shall apply on all highways in the State Primary Road System as indicated herewithin, unless bridge postings prohibit such weights on any particular segment.

Section 2. The maximum weight limits for the three (3) classifications of highways are as follows: "AAA" System, 80,000 pounds gross weight; "AA" System, 62,000 pounds gross weight; "A" System, 44,000 pounds gross weight. There shall be no tolerances allowed on gross weight, axle weight, or combinations of axle weights on the Interstate and National Defense Highway System only.

Section 3. The classifications for each highway\* in the State Primary Road system are as follows:

US 460

[AAA—From jct. US 23 near Paintsville to jct. KY 191 at Index in Morgan Co.]

AAA—From jct. I-64, north of Mt. Sterling to jct. US 23 near Paintsville [Menifee Co. Line].

AAA—From jct. US 27 n.w. of Paris to jct. US 60 in Frankfort.

AA—From jct. US 68 at the N.E.C.L. of Paris to I-64 north of Mt. Sterling.

AA—[From Montgomery-Menifee Co. Line, via Frenchburg to jct. KY 191 at Index; and] from jct. US 23 s. of Pikeville, via Belcher to the Virginia State Line.

KY 2519

AAA [A]—From jct. KY 10 in Maysville via Lexington St. to KY 11 (Mason Co.).

\*COMPILERS NOTE: Only those particular highways affected by the proposed amendment are shown here. 603 KAR 5:096 is printed in full in Volume 2, "Kentucky Administrative Regulations Service."

CALVIN G. GRAYSON, Secretary

ADOPTED: July 24, 1978

RECEIVED BY LRC: August 8, 1978 at 11 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Ed. W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40601.

#### EDUCATION AND ARTS CABINET Department of Education Bureau of Administration and Finance (Proposed Amendment)

702 KAR 3:060. Teachers' salaries payment plan.

RELATES TO: KRS 156.135, 157.420(1)(2)

PURSUANT TO: KRS 13.082, 156.070, [156.130,] 156.160

NECESSITY AND FUNCTION: To establish regulations relative to payment of teachers.

Section 1. [Teachers salaries shall be payable at the close of each school month as defined in KRS 158.060. Boards of education may pay salaries for partial school months through established board policies. In no case shall salaries be paid until after services have been rendered.] A board of education may require a teacher to present reports of attendance and other necessary reports before the salary check is delivered. A board of education may adopt a policy whereby salaries may be made payable for a period in excess of the number of months for which the school is operated, not exceeding twelve (12) months. [If this plan is adopted, the first salary payment for the current year is not due until the close of the first school month following the opening of school unless the board has a policy for making payment for a partial school month.]

Section 2. A board of education shall adopt one of the following plans if a policy is approved for payment of teachers' salaries other than on the basis of months of service:

(1) The board of education shall write all deferred salary checks on or before June 30 of the current fiscal year. These deferred checks shall then be delivered at the regular pay periods in July and August of the following fiscal year.

(2) The board of education shall set up a payroll account into which will be transferred on the order of the board of education on or before June 30, the gross amount for salaries earned by teachers but not paid. The amounts transferred into this payroll account shall be held for the payment of deferred teachers' salaries and shall not be used for any other purpose. Payment of salaries from this fund are to be at the regular pay periods in July and August of the following fiscal year.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: July 12, 1978

RECEIVED BY LRC: August 4, 1978 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mr. Fred Schultz, Secretary, Kentucky State Board  
for Elementary and Secondary Education, 17th Floor,  
Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Administration and Finance**  
**(Proposed Amendment)**

**703 KAR 2:010. Terms and months.**

RELATES TO: KRS 158.060, 158.070

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary for efficient management, control and operation of schools and to insure uniformity in the school term, and month in all schools of the state.

Section 1. The minimum school term of 185 days shall consist of nine (9) twenty (20) day school months and one (1) partial school month of five (5) days. Schools shall be in session on each of these days excepting days on which schools are dismissed to observe holidays or for teachers to attend professional meetings within limits of State Board for Elementary and Secondary [of] Education regulations.

Section 2. Days dismissed to observe holidays or for teachers to attend professional meetings within limits of the State Board for Elementary and Secondary [of] Education regulations shall be counted as school days and included in the school month.

Section 3. *If a school district has been properly approved and accumulated days prior to an emergency as provided by KRS 158.060, these days may be recorded in the pupil attendance records as "make-up" days on the date or dates the emergency occurs. If the school day is extended after the emergency occurs, the words "make-up" shall be written in the attendance records as the days are accumulated. "Make-up" days shall be used for the purpose of meeting requirements for a minimum school term as required by KRS 158.070 and no attendance shall be recorded for these days.*

Section 4. [3.] Days on which school is not in session for reasons other than those specified by State Board for Elementary and Secondary [of] Education regulations or in

excess of the limitations therein provided, shall not be counted as school days nor included in the school month.

Section 5. [4.] No report shall be made until the completion of a twenty (20) day school month except that a report for the tenth school month shall be made at the conclusion of the school term.

Section 6. [5.] The use of part of the six (6) hour day may be used for supervising the lunch period and for supervising physical education if approved by the Bureau of Instruction on application of the superintendent of the district.

Section 7. [6.] Schools shall not be closed except in cases of emergency declared by the local board of education.

Section 8. [7.] No school or schools shall be closed or the day shortened for any outside activities such as teachers' conferences, recording of grades, athletic events, or for any other reason except when prior approval has been secured from the Bureau of Instruction for in-service work conferences.

Section 9. [8.] The provisions of this regulation shall apply to all pupils and no school day shall be shortened because of bus schedules or other factors.

JAMES B. GRAHAM

Superintendent of Public Instruction

ADOPTED: July 12, 1978

RECEIVED BY LRC: August 4, 1978 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Fred Schultz, Secretary, Kentucky State Board for  
Elementary and Secondary Education, 17th Floor, Capital  
Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Administration and Finance**  
**(Proposed Amendment)**

**703 KAR 2:020. Calendar.**

RELATES TO: KRS 2.190, 158.060, 158.070

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: This regulation is necessary for efficient management, control and operation of schools and to assure uniformity in the days all schools are in session.

Section 1. On or before June 15 [August 1] of each year, local boards of education shall, upon recommendation of the superintendent, adopt a school calendar fixing the opening and closing dates of each school month, designating the dates of school days within each school month and describing the school days on which schools will be dismissed in accordance with the State Board for Elementary and Secondary [of] Education regulations. This section shall apply to all local boards of education operating experimental or year-round school programs.



Section 2. Each local board of education shall, on or before July 1 [August 15] of each year, file a copy of the adopted school calendar with the Department of Education for approval as to the compliance with these regulations. No district shall be paid any installment of its Foundation Program allotment until the school calendar for that district has been so approved.

Section 3. A local board of education may amend its school calendar upon recommendation of the superintendent within the limitations of pertinent State Board for *Elementary and Secondary* [of] Education regulations.

Section 4. All amendments to school calendars shall be submitted on the appropriate form to the Department of Education for approval as to compliance with these regulations prior to the date of change in the existing school calendar except:

(1) In cases of emergency beyond the control of a local board of education, post approval of an amendment may be requested; and

(2) All amendments for a change in the school calendar due to national, state, or local disaster or mourning as authorized by KRS 158.070(3)(a) and (b) shall be submitted to the State Department of Education no later than ten (10) days after the first regular meeting of the local board of education following the occurrence of the event necessitating the requested change in the school calendar.

Section 5. The school calendar shall provide for the same number of days of classroom instruction in all schools operated by a local board of education.

Section 6. The four (4) days on which schools may be dismissed for holidays as provided for in KRS 158.070 shall be selected from those listed in KRS 18.350 and 158.060 subject to the provisions of such sections, except in presidential election years the day of the regular election must be used as one of the allowable holidays.

Section 7. Local boards of education may use one (1) day of the minimum school term for the opening of schools and one (1) day for the closing of schools without the presence of pupils.

Section 8. Local boards of education shall use four (4) days of the minimum school term for in-service professional development and planning activities for the professional staff without the presence of pupils. Proper approval for these four (4) days shall be secured from the State Department of Education.

Section 9. If the schools are closed under the provisions of KRS 158.070(3)(b) the days lost shall be made up unless the school calendar includes more than 175 days of actual classroom instruction or the State Board for *Elementary and Secondary* [of] Education determines that the loss of days taught below the minimum of 175 days were due to major catastrophes which cause destruction of the school plant.

Section 10. The number of days schools are dismissed shall not exceed fifteen (15) days in the 185 day school term. If local boards of education do not dismiss schools as provided by KRS 158.070(3), the number of days of actual classroom instruction shall be increased accordingly.

Section 11. The two (2) consecutive days schools are re-

quired to be closed for the purpose of permitting professional school employees to attend state-wide professional meetings and the one (1) day for regional or district professional meetings shall not be counted as a part of the minimum school term. The Superintendent of Public Instruction will approve dates which have been selected by the local boards of education for regional or district meetings.

JAMES B. GRAHAM  
Superintendent of Public Instruction

ADOPTED: July 12, 1978

RECEIVED BY LRC: August 4, 1978 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Administration and Finance**  
**(Proposed Amendment)**

703 KAR 2:050. Attendance; resident, non-resident.

RELATES TO: KRS 156.135, 157.350, 158.030, 158.240, 159.035, 161.200

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: Regulations are necessary to assure uniformity in recording attendance of all pupils in the schools of Kentucky.

Section 1. The word "pupil" as the basis for average daily attendance as provided for in Kentucky Revised Statutes and for all other uses in the public school system shall mean all persons who are in attendance at school between the ages of six (6) and twenty-one (21) years. Any pupil who meets requirements of KRS 158.030 for entering school shall be considered six (6) years of age for attendance purposes.

Section 2. The daily attendance of pupils shall be determined by recording their attendance immediately following the opening of school in the morning and immediately following the lunch period in the afternoon. Pupils not present at these sessions shall not be counted in attendance in determining average daily attendance unless:

(1) The pupils are absent as participants in school activities which have been authorized by the local board of education and which are a definite part of the instructional program of the school, or

(2) The pupils are absent as participants in activities which are provided in KRS 158.240 and 159.035. Pupils shall not be counted in attendance when they are absent as spectators at school activities.

Section 3. Pupils shall not be counted in attendance unless they are physically present in the school. They shall be counted absent although such absence is due to factors beyond their control such as inclement weather or failure of the transportation system to operate.



Section 4. (1) Pupils enrolled in both a public common school and a non-public school under a dual enrollment plan shall be counted in attendance for ADA purposes for the time they are in attendance at the public school under straight shared-time.

(2) "Straight shared-time" is defined as an arrangement whereby a child regularly or concurrently attends a public common school part-time and a non-public school part-time pursuing part of his education under the direction and control of the public common school and the remaining under the direction of the non-public school.

Section 5. Pupils enrolled in a public common school and attend the public common school one-half ( $\frac{1}{2}$ ) day and attend the remainder of the school day in a state vocational technical school or an area vocational education center shall be counted in full-time attendance at the public common school.

*Section 6. If a local district under the provision of KRS 157.360, enrolls handicapped children in a private school or agency approved by the State Board for Elementary and Secondary Education upon the recommendation of the Bureau of Education for Exceptional Children, the private school or agency shall certify the attendance of these children to the Department of Education at the close of the second school month and at the close of the school year. This attendance shall be counted in a public school designated by the local district.*

Section 7. [6.] No pupil shall be allowed to make up absence for the purpose of counting such make-up activities in computing average daily attendance.

Section 8. [7.] A copy of the written agreement local boards of education execute for average daily attendance of non-resident pupils as provided by KRS 157.350(5), and the attendance report for the first two (2) months of the current school year as required by KRS 157.360(3) [(4)] shall be submitted to the State Department of Education prior to November 10 of each year, on forms furnished by the State Department of Education.

(1) Names of non-resident pupils, whose attendance is covered by the agreement, shall be listed on the back of the agreement on file in the office of the local board of education and also on the back of the copy of the agreement filed with the State Department of Education.

(2) Changes may be made in the original non-resident pupil agreement, up to the close of the school year, to include only the non-resident pupils enrolling after the close of the second school month. A copy of the amended agreement shall be on file in the office of the local board of education and a copy of the amendment(s) submitted to the State Department of Education along with the local superintendent's annual statistical report, no later than June 30 of the current school year.

(3) In the event local boards of education fail to enter into a written agreement for non-resident pupils as outlined in subsections (1) and (2), Section 8 [7] of this regulation, the local board of education educating the non-resident pupils shall not receive attendance credit for these non-resident pupils.

Section 9. [8.] The teacher's register of daily attendance or reasonable facsimile recommended by the Superintendent of Public Instruction and approved by the State Board for Elementary and Secondary Education shall be

the original source of attendance data for all pupils enrolled in the public elementary and secondary schools of the Commonwealth of Kentucky and shall be maintained in accordance with the instructions which are prepared and distributed by the State Department of Education.

*Section 10. If a local board of education elects to follow the provisions of KRS 161.200(2) for keeping and reporting pupil attendance, the board shall submit a written plan to the Superintendent of Public Instruction for approval.*

Section 11. [9.] The school days on which schools are dismissed in accordance with State Board for Elementary and Secondary Education regulations shall be counted as school days and the reason for dismissal shall be indicated by writing in the attendance column of the teacher's register of daily attendance or the approved facsimile under the date of the day so dismissed.

Section 12. [10.] Dates of days excluded from the school month by reason of State Board for Elementary and Secondary Education regulations shall not be entered in the teacher's register of daily attendance or facsimile.

JAMES B. GRAHAM,  
Superintendent of Public Instruction

ADOPTED: July 12, 1978

RECEIVED BY LRC: August 4, 1978 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Fred Schultz, Secretary, Kentucky State Board for Elementary and Secondary Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### **PUBLIC PROTECTION AND REGULATION CABINET Department of Labor (Proposed Amendment)**

**803 KAR 1:035. Hearing procedure.**

RELATES TO: KRS 337.020 to 337.405

PURSUANT TO: KRS 13.082, 337.295

NECESSITY AND FUNCTION: KRS 337.310 requires the Commissioner of Labor to decide all questions of fact arising under KRS 337.020 to 337.405 [KRS 337.275 to 337.325, 337.340, 337.345 and 337.385 to 337.405]. KRS 337.295 authorizes the commissioner to issue regulations pertaining to these statutes. The function of this regulation is to set up the procedure to be followed by the Commissioner of Labor in deciding the questions of fact as required by the statute and to insure that the parties to proceedings concerning alleged violations of the statutes are afforded a fair opportunity to present any and all relevant proof on the matter.

Section 1. Procedure. (1) The Commissioner of Labor, or his authorized agent, shall investigate any complaint or



routinely inspect records relating to an alleged violation of KRS 337.020 to 337.405. [KRS 337.275 to 337.325, 337.340, 337.345 and 337.385 to 337.405.]

(2) Where a settlement cannot be reached between the employer and employee and if an investigation reveals that the complaint or routine inspection gives the commissioner, or his authorized agent, good cause to order a fact-finding hearing, then the commissioner, or his authorized agent, shall set a hearing date in order to make findings of fact concerning the alleged statutory violation. The parties shall be notified of the hearing date by return receipt mail at least fifteen (15) days prior to the hearing.

(3) The commissioner, or his authorized agent, may conduct the hearing in either the Frankfort or Louisville offices of the Department of Labor. However, with unanimous consent of the parties and the commissioner, or his authorized agent, the hearing may be held at a site in the Commonwealth mutually agreeable to the parties and the commissioner, or his authorized agent.

(4) The hearings shall not be governed by the rules of evidence prevailing in the courts of the Commonwealth. However, due regard will be had for generally accepted rules of administrative agency hearings in the Commonwealth. A written transcript of the hearing shall be made.

(5) Subsequent to the hearing, but within fifteen (15) days of receipt of the hearing transcript, the commissioner, or his authorized agent, shall evaluate the proof and render his tentative findings of fact.

(6) The party suffering adversely from these tentative findings of fact shall have fifteen (15) days from the issuance of the findings to submit a petition to reopen the hearing to the commissioner, or his authorized agent, concerning newly discovered evidence which the party applying could not with reasonable diligence have discovered and produced at the hearing, or fraudulently concealed evidence. The other party shall have five (5) days to present rebuttal proof. If the allegations set forth in the petition are of such weight to cause the commissioner to reopen the hearing, he shall do so and the parties shall be notified by return receipt mail at least fifteen (15) days before the hearing is reopened.

(7) If the additional evidence, concerning newly discovered evidence or fraudulently concealed evidence, is of such weight to cause the commissioner, or his authorized agent, to alter his tentative findings of fact, he shall do so and enter a final order reflecting such changes within fifteen (15) days from the end of time to present rebuttal evidence.

(8) If a petition to reopen the hearing is not sought or is denied then the tentative findings of fact shall become a final order fifteen (15) days after the issuance of the tentative order.

(9) Either party may seek review of the commissioner's final order in the circuit court that would have jurisdiction to try an action for breach of contract, pursuant to KRS 337.310(1).

(10) Review by the circuit court is limited to a determination of whether:

(a) The commissioner, or his authorized agent, acted without or in excess of his powers;

(b) The order or decision was procured by fraud;

(c) The order or decision is not in conformity with the provisions of KRS 337.020 to 337.405; [KRS 337.275 to 337.325, 337.340, 337.345, and 337.385 to 337.405]; and

(d) If findings of fact are in issue, whether they support the order or decision.

(11) The circuit court may affirm, modify or set aside the commissioner's order.

JAMES R. YOCOM, Commissioner

ADOPTED: August 3, 1978

APPROVED: MIKE HELTON, Secretary

RECEIVED BY LRC: August 14, 1978 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Jerry W. Hammond, Director, Division of Labor Standards, Department of Labor, 127 Building, US 127 South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Labor**  
**Occupational Safety and Health Program**  
**(Proposed Amendment)**

**803 KAR 2:180. Recordkeeping; statistics.**

RELATES: KRS 338.161

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** Pursuant to the authority granted the Kentucky Department of Labor by KRS 338.161, this regulation provides for recordkeeping and reporting by employers covered under KRS Chapter 338 as necessary and appropriate for the enforcement of KRS Chapter 338, for developing information regarding the causes and prevention of occupational accidents and illnesses, and for maintaining a program of collection, compilation, and analysis of occupational safety and health statistics.

**Section 1. Log and summary of occupational injuries and illnesses.** (1) Each employer shall, *except as provided in subsection (2) of this section:* maintain in each establishment a log and summary of all recordable occupational injuries and illnesses for that establishment; *and enter each recordable injury and illness on the log and summary as early as practicable but not later than six (6) working days after receiving information that a recordable injury or illness has occurred.* [, except that under the circumstances described in subsection (2) of this section an employer may maintain the log of occupational injuries and illnesses at a place other than the establishment. Each employer shall enter each recordable occupational injury and illness on the log as early as practicable but no later than six (6) working days after receiving information that a recordable case has occurred.] For this purpose, Occupational Safety and Health Administration OSHA Form No. 200 [100] or an [any private] equivalent *which is as readable and comprehensible to a person not familiar with it shall be used.* [may be used.] *The log and summary shall be completed in the detail provided in the form and instructions on Form OSHA No. 200.* [OSHA Form No. 100 or its equivalent shall be completed in the detail provided in the form and the instruction contained in OSHA Form No. 100. If an equivalent to OSHA Form No. 100 is used, such as a printout from data-processing equipment, the information shall be as readable and comprehensible to a person not familiar with the data-processing equipment as the OSHA Form 100 itself.]



(2) Any employer may maintain in the log and summary of occupational injuries and illnesses at a place other than the establishment or by means of data-processing equipment, or both, under the following circumstances:

(a) There is available at the place where the log and summary are maintained sufficient information to complete the log and summary to a date within six (6) working days after receiving information that a recordable case has occurred, as required by subsection (1) of this section.

(b) At each of the employer's establishments, there is available a copy of the log and summary which reflects separately the injury and illness experience of that establishment complete and current to a date within forty-five (45) calendar days.

**Section 2. Period Covered.** Records [logs] shall be established on a calendar year basis. [The initial log shall include recordable occupational injuries and illnesses occurring on or after January 1, 1973.]

**Section 3. Supplementary Record.** In addition to the log and summary of occupational injuries and illnesses provided for under Section 1, each employer shall have available [for inspection] at each establishment within six (6) working days after receiving information that a recordable case has occurred, a supplementary record for each occupational injury or illness for that establishment. The record shall be completed in the detail prescribed in the instructions accompanying Occupational Safety and Health Administration Form OSHA No. 101. *Workmen's Compensation, insurance, or other reports are acceptable alternative records if they contain the information required by Form OSHA No. 101. If no acceptable alternative record is maintained for other purposes, Form OSHA No. 101 shall be used or the necessary information shall be otherwise maintained. The Kentucky workmen's compensation form SF-1 is an acceptable alternative record for those employers covered by the Workmen's Compensation Act.*

**Section 4. Annual Summary.** (1) Each employer shall post [compile] an annual summary of occupational injuries and illnesses for each establishment. *This summary shall consist of a copy of the year's totals from the form OSHA No. 200 and the following information from that form: calendar year covered, company name, establishment name, establishment address, certification signature, title, and date. A Form OSHA No. 200 shall be used in presenting the summary. If no injuries or illnesses occurred in the year, zeroes must be entered on the totals line, and the form must be posted. [Each annual summary shall be based on the information contained in the log and summary of occupational injuries and illnesses for the particular establishment, Form OSHA No. 102 shall be used for this purpose, and shall be completed in the form and detail as provided in the instructions contained therein.]*

(2) The summary shall be completed by February 1 beginning with calendar year 1979. [no later than one (1) month after the close of each calendar year beginning with calendar year of 1972.] *The summary of 1977 calendar year's occupational injuries and illnesses shall be posted on Form OSHA No. 102.*

(3) Each employer, or the officer or employee of the employer who supervises the preparation of the log and [annual] summary of occupational injuries and illnesses, shall certify that the annual summary of occupational injuries and illnesses is true and complete. The certification shall be accomplished by affixing the signature of the employer or the officer or employee of the employer who

supervises the preparation of the annual summary of occupational injuries and illnesses, *at the bottom of the last page [to the lower right hand corner] of the log and [annual] summary or by appending a separate statement to the summary certifying that the [annual] summary is true and complete.*

(4) (a) Each employer shall post a copy of the establishment's summary in each establishment in the same manner that notices are required to be posted under 803 KAR 2:060. [OSH 103.] The summary covering the previous calendar year shall be posted no later than February 1, and shall remain in place until March 1. For employees who do not primarily report for work at a single establishment, or who do not report to any fixed establishment on a regular basis, employer shall satisfy this posting requirement by presenting or mailing a copy of the summary *portion of the log and summary* during the month of February of the following year to each such employee who receives pay during that month. For multi-establishment employers where operations have closed down in some establishments during the calendar year, it will not be necessary to post summaries for those establishments.

(b) A failure to post a copy of the establishment's annual summary may result in the issuance of citations and assessment of penalties pursuant to KRS 338.991.

**Section 5. Retention of Records.** Records provided for in Sections 1, 3, and 4 (*including Form OSHA No. 200 and its predecessor Form OSHA No. 100 and OSHA No. 102*) shall be retained in each establishment for five (5) years following the end of the year to which they relate.

**Section 6. Access to Records.** Records provided for in Sections 1, 3, and 4 [5] shall be available for inspection and copying by:

(1) Compliance Safety and Health Officers of the Occupational Safety and Health Program, Kentucky Department of Labor, during an inspection or by other representatives of the Kentucky Commissioner of the Department of Labor authorized to make statistical compilations, pursuant to the authority of KRS Chapter 338;

[(2) Compliance Safety and Health Officers of the Occupational Safety and Health Administration, United States Department of Labor, during any occupational safety and health inspection provided under 29 CFR Part 1903 and section 8 of the Williams-Steiger Occupational Safety and Health Act of 1970.]

(2) [(3)] Representatives of the Bureau of Labor Statistics, United States Department of Labor; and

(3) [(4)] Representatives of the Secretary of Health, Education, and Welfare during any investigation under section 20(b) of the Williams-Steiger Occupational Safety and Health Act of 1970.

**Section 7. Reporting of Fatality or Multiple Hospitalization Accidents.** Within forty-eight (48) hours after the occurrence of an employment accident which is fatal to one (1) or more employees or which results in hospitalization of five (5) or more employees, the employer of any employees so injured or killed shall report the accident either orally or in writing to the Commissioner of the Department of Labor. The reporting may be by telephone or telegraph. The report shall relate the circumstances of the accident, the number of fatalities, and the extent of any injuries. The commissioner may require such additional reports, in writing or otherwise, as he deems necessary, concerning the accident.

Section 8. Falsification, or Failure to Keep Records or Reports. (1) KRS 338.991(8) provides that "whoever knowingly makes any false statement, representation, or certification in any application, record, report, plan or other document files or required to be maintained pursuant to this Act shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment, for not more than six (6) months or both."

(2) Failure to maintain records or file reports required by this part, or in the details required by forms and instructions issued under this part, may result in the issuance of citations and assessment of penalties as provided for in KRS 338.991.

Section 9. Change of Ownership. Where an establishment has changed ownership, the employer shall be responsible for maintaining records and filing reports only for that period of the year during which he owned such establishment. However, in the case of any change in ownership, the employer shall preserve those records, if any, of the prior ownership which are required to be kept under this part. These records shall be retained at each establishment to which they relate, for the period, or remainder thereof, required under Section 5 [6].

Section 10. Definitions. (1) "Act" means the Kentucky Occupational Safety and Health Act of 1972 (KRS Chapter 338).

(2) The definitions and interpretations contained in KRS 338.015 shall be applicable to such terms when used in this regulation.

(3) "Recordable occupational injuries and [or] illnesses" of employees are:

(a) *Occupational fatalities, regardless of the time between injury and death, or the length of the illness (no recording is required for fatalities occurring after termination of employment except when recording may otherwise be required under a standard issued KRS 338.051(3) and published in this chapter); or*

(b) *Occupational illnesses; or*

(c) *Occupational injuries which involve one or more of the following: loss of consciousness, restriction of work or motion, transfer to another job, or medical treatment (other than first aid).*

[(a) Fatalities, regardless of the time between the injury and death, or the length of the illness; or]

[(b) Lost workday cases, other than fatalities, that result in lost workdays; or]

[(c) Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid) or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.]

(4) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does include first aid treatment even though provided by a physician or registered professional personnel.

(5) "First aid" is any one-time treatment, and any follow-up visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and [any] follow-up visit[s] for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

[(6) "Lost workdays:" The number of days (consecutive or not) after, but not including, the day of injury or illness which the employee would have worked but could not do so; that is, could not perform all or any part of his normal assignment during all or any part of the workday or shift, because of the occupational injury or illness.]

(6) [(7)](a) "Establishment:" A single physical location where business is conducted or where services or industrial operations are performed. (For example: A factory, mill, store, hotel, restaurant, movie theatre, farm, ranch, bank, sales office, warehouse, or central administrative office.) Where distinctly separate activities are performed at a single physical location (such as contract construction activities operated from the same physical location as a lumber yard), each activity shall be treated as a separate establishment.

(b) For firms engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records may be maintained at a place to which employees report each day.

(c) Records for personnel who do not primarily report to work at a single establishment, and who are generally not supervised in their daily work, such as traveling salesmen, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

Section 11. Petitions for recordkeeping exceptions. (1) Petitions for recordkeeping exceptions shall be filed in accordance with the provisions of 29 CFR Part 1904.13.

(2) Any employer filing a petition for recordkeeping exceptions in accordance with CFR Part 1904.13 shall notify the Commissioner of the Department of Labor that he is making such application and the results thereof:

(3) Exceptions granted pursuant to 29 CFR Part 1904.13 shall be recognized by the commissioner.

Section 12. Employees not in fixed establishments. Employers of employees engaged in physically dispersed operations such as occur in construction, installation, repair or service activities who do not report to any fixed establishment on a regular basis but are subject to common supervision may satisfy the provisions of Section 1, 3, and 4 [5] of this regulation with respect to such employees by:

(1) Maintaining the required records for each operation or group of operations, which is subject to common supervision (field superintendent, field supervisor, etc.) in an established central place;

(2) Having the address and telephone number of the central place available at each worksite; and

(3) Having personnel available at the central place during normal business hours to provide information from the records maintained there by telephone and by mail.

Section 13. Duties of Employer. Upon receipt of an Occupational Injuries and Illnesses Survey Form, [OSHA No. 103,] the employer shall promptly complete the form in accordance with the instructions contained therein, and return it in accordance with the aforesaid instructions.

Section 14. *Small Employers.* An employer who had no more than ten (10) employees at any time during the calendar year immediately preceding the current calendar year need not comply with any of the requirements of this part except the following:

(1) *Obligation to report under Section 7 concerning fatalities or multiple hospitalization accidents; and*

(2) *Obligation to maintain a log and summary of occupational injuries and illnesses under Section 1 and to make reports under Section 13 upon being notified in writing by the Bureau of Labor Statistics or the Kentucky Department of Labor that the employer has been selected to participate in a statistical survey of occupational injuries and illnesses.*

JAMES R. YOCOM, Commissioner

ADOPTED: June 21, 1978

APPROVED: MIKE HELTON, Secretary

RECEIVED BY LRC: July 21, 1978 at 1:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Kenneth E. Hollis, General Counsel, Department of Labor, US 127 South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Labor**  
**(Proposed Amendment)**

**803 KAR 4:010. Elevators, dumbwaiters, escalators and moving walks standards.**

RELATES TO: KRS 336.510 to 336.680

PURSUANT TO: KRS 13.082, 336.620

NECESSITY AND FUNCTION: KRS 336.620 authorizes the commissioner to make rules and regulations for the safety and inspection of elevators. The function of this regulation is to adopt safety standards which will insure that all elevators are reasonably safe for use by the citizens of this Commonwealth.

Section 1. The commissioner hereby adopts and incorporates by reference the American Standard Safety Code for Elevators, Dumbwaiters, Escalators and Moving Walks, published by and available from the American Society of Mechanical Engineers, 1978 [1971] edition, United Engineering Center, 345 East 47th Street, New York, New York 0017, which specifically details the equipment, materials, weights, gauges, lengths, widths, and quality of construction that will make elevators, escalators, and any other lifting or lowering device named in the Elevator Safety Act of 1974, reasonably safe, with the following exceptions:

(1) 500.1 to 502.15;

(1) [(2)] 700.4b, 700.5, 700.7b, 700.10b, 707.4; and

(2) [(3)] 900.1 to 903.1.

JAMES R. YOCOM, Commissioner

ADOPTED: August 1, 1978

APPROVED: MIKE HELTON, Secretary

RECEIVED BY LRC: August 14, 1978 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Jerry W. Hammond, Director, Division of Labor Standards, Department of Labor, The 127 Building, US 127 South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Public Service Commission**  
**(Proposed Amendment)**

**807 KAR 2:035. Telephone.**

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishings of any commodity by any utility. This regulation establishes general rules which apply to telephone utilities.

Section 1. General Provisions. This regulation governs the furnishing of intrastate telephone service and facilities to the public by telephone utilities subject to the jurisdiction of the commission. The purpose of these rules is to set forth reasonable service standards and procedures to the end that adequate and satisfactory service will be rendered to the public.

Section 2. Definitions. In the interpretation of this regulation, the following definitions shall be used:

(1) "Commission" means the Public Service Commission of Kentucky.

(2) "Telephone utility" means any person, firm, partnership, cooperative organization or corporation engaged in furnishing of telephone service to the public under the jurisdiction of the commission.

(3) "Customer or subscriber" means any person, firm, partnership, corporation, municipality, cooperative, organization or governmental agency provided with telephone service by any telephone utility.

(4) "Exchange" means a geographical area established by a telephone utility for the administration of telephone service. It usually embraces a city, town, or village and its environs. It consists of one or more central offices together with associated plant used in furnishing communication service in that area.

(5) "Central office" means a unit of a telephone utility, including the switching equipment and appurtenant facilities used to establish connections between customer lines or between customer's lines and trunk or toll lines to other central offices within the same or at other exchanges.

(6) "Outside plant" means the telephone equipment and facilities installed on, along, over or under streets, alleys, highways, or on private rights-of-way between the central office and customer's location or between central offices.

(7) "Subscriber line" means the wires or channels used to connect the telephone equipment at the subscriber's premises with the central office.

(8) "Class of service" means the various categories of telephone service generally available to customers, such as business or residence.

(9) "Grade of service" means the number of parties served on a telephone line such as one-party, two-party, four-party, etc.

(10) "Service line" means those facilities owned and maintained by a customer or group of customers which lines are connected with the facilities of a telephone utility at an agreed point for communication service.

(11) "Farmer line" (see service line).

(12) "Message" means a completed customer telephone call.

(13) "Calls" means customer's telephone messages attempted.

(14) "Customer trouble report" means any oral or writ-



ten report from a subscriber or user of telephone service relating to a physical defect or difficulty with the operation of telephone facilities. One (1) report shall be counted for each oral or written report received even though it may duplicate a previous report or merely involve an inquiry concerning progress on a previous report. Also, a separate report shall be counted for each telephone or PBX switchboard position reported in trouble when several items are reported by one (1) customer at the same time, unless the group of troubles so reported is clearly related to a common cause.

(15) "Tariff" means the entire body of rates, tolls, rentals, charges, classifications, regulations and rules, adopted and filed by a public utility in accordance with the laws governing the provision of public utility service.

(16) "Base rate area" means the developed portion or portions within each exchange service area as set forth in the telephone utility's tariffs, maps or descriptions. Main station service within this area is furnished at uniform rates without mileage charges.

(17) "Average busy season; busy hour traffic" means the average traffic volume for the busy season, busy hours.

(18) "Busy hour" means the two (2) consecutive half-hours during which the greatest volume of traffic is handled in the office.

(19) "Busy season" means that period of the year during which the greatest volume of traffic is handled in the office.

(20) "Switching service" means switching performed for service lines.

(21) "Toll connecting trunks" means a general classification of trunks carrying toll traffic and ordinarily extending between a local office and a toll office.

(22) "Toll station" means a telephone and associated equipment connected to a toll line or directly to a toll board.

(23) "Direct distance dialing (DDD)" means customer dialing over the nationwide intertoll telephone network of calls to which toll charges are applicable. No operator assistance is required for DDD calls.

(24) "Regular or 'basic' service" includes all one (1), two (2), four (4) and multiparty primary and extension service.

(25) "Special service" means unusual and complex services such as data terminals, teletypewriter, full period circuits, wide area telephone service (WATS), or other items that require special engineering, installation or manufacturing to provide the service.

(26) "Extended area service (EAS)" means extension of a major exchange area to include other surrounding exchange areas. Toll-free dialing is permitted within the extended area in return for metropolitan area rates.

(27) "Intercept service" means a service arrangement provided by the utility whereby calls placed to a disconnected, discontinued, or improper listed telephone number are intercepted and the calling party is informed that the called telephone number has been disconnected, discontinued, changed, etc., or that calls are being received by another telephone. This may be accomplished by recording or by operator.

(28) "Regrade" means an application for a different class and/or grade of service.

(29) "Traffic" means telephone call volume, based on number and duration of messages.

(30) "Service objectives," as construed in these regulations, [service objective] shall mean a designated number or percentage, applicable to the various service measures, the maintenance of which shall indicate a minimum

satisfactory level of service. *Each utility shall maintain records of the various service measurements by exchange or district, and shall submit a summary of said records to the commission monthly. If performance by the utility falls below the service objective for two (2) consecutive months, the utility shall also submit to the commission a report by exchange or district setting forth the action taken or planned to correct same.*

[(31) "Surveillance level" means a designated number or percentage, applicable to the various service measures. Performance by the utility below this level indicates the necessity for investigation or corrective action, and if such measures exist for two (2) consecutive months, this shall require the submission to the Commission by the utility of a report by exchange setting forth the unsatisfactory service levels and the action taken or contemplated for their correction.]

**Section 3. Switching Service.** Telephone companies shall not provide switching service to service lines except to dangerous, inaccessible, restricted or remote areas. In such cases the service lines shall meet appropriate technical criteria so as not to impair or interfere with the service of others, or adversely affect the facilities of the telephone company.

**Section 4. Basic Utility Obligations.** (1) Each telephone utility shall provide telephone service to the public in its service area in accordance with its rules and tariffs on file with the commission. Such service shall meet or exceed the standards set forth in this regulation.

(2) Each telephone utility has the obligation of continually reviewing its operations to assure the furnishing of adequate service.

(3) Each telephone utility shall maintain records of its operations in sufficient detail as is necessary to permit such review, and such records shall be made available for inspection by the commission upon request.

(4) Where a telephone utility is generally operated in conjunction with any other enterprise, suitable records shall be maintained so that the results of the telephone operation may be determined upon reasonable notice and request by the commission.

**Section 5. Directories.** (1) Telephone directories shall be published at least yearly for each exchange listing the name, address and telephone numbers of all customers, except public telephones and numbers unlisted at a customer's request, who can be called within the service area without a long distance charge.

(2) Upon issuance, a copy of each directory shall be distributed by each utility to all its customers served by that directory, and a copy of each directory shall be furnished the commission.

(3) The name of the telephone utility, the area included in the directory and the year of issue shall appear on the front cover. Information pertaining to emergency calls such as for the police and fire departments shall appear conspicuously in the front part of the directory pages.

(4) The directory shall contain such instructions concerning placing local and long distance calls, calls to repair and information services, and location of telephone company business offices as may be appropriate to the area served by the directory. Rates between frequently called points may also be included.

(5) (a) Information operators shall have access to records which include all listed telephone numbers (except public telephones and numbers that are nonpublished at

the customer's request) in the area for which they are responsible for furnishing information service.

(b) Intercept operators shall have access to records which indicate the status of all telephone numbers in the area for which they are responsible for furnishing intercept service.

(6) In the event of an error in the listed number of any customer, the telephone utility shall intercept all calls to the listed number for a ninety (90) day period of time provided the number is not in service. In the event of an error or omission in the name listing of a customer, such customer's correct name and telephone number shall be in the files of the information or intercept operators and the correct number furnished the calling party either upon request or interception.

(7) Whenever any customer's telephone number is changed after a directory is published, the utility shall intercept all calls to the former number for a ninety (90) day period of time, and give the calling party the new number if the customer so desires.

(8) When additions or changes in plant, records or operations which will necessitate a large group of number changes are scheduled, reasonable notice shall be given to all customers so affected even though the additions or changes may be coincident with a directory issue.

**Section 6. Exchange Maps.** (1) Each telephone utility shall file exchange maps with the commission showing the exchange service area for each telephone exchange operated, and the maps shall be in sufficient detail to reasonably permit locating the exchange service area boundaries in the field. A copy of such map shall be included in the utility's tariff, in accordance with the requirements of 807 KAR 2:020.

(2) With every revised map, the telephone utility so filing shall submit proof of notice of the proposed revision to each telephone utility whose exchange area adjoins the exchange area boundary lines or is located reasonably near the territory which would be changed by such revisions. This shall include provision for the signature of an official of each telephone utility concerned on the copy of the exchange maps filed with the commission.

**Section 7. Tariffs.** Each telephone utility shall file with its tariff the various exchange areas, base rate areas, the conditions and circumstances under which service will be furnished and a definition of the classes and grades of service available to customers, in accordance with 807 KAR 2:020.

**Section 8. Extensions of Service.** (1) The utility shall extend service to applicants within the base rate area without a construction charge except in cases of special requirements.

(2) Each telephone utility shall make an extension of 750 feet or less, free of charge, from existing plant facilities to provide multiparty service to applicants who shall apply for and contract to use the service for one (1) year or more and provide a guarantee for such service. Not more than 250 feet of the extension shall be over private property. However, when the extension over private property will be used to serve customers in general or the private property routing is selected by the utility, such construction shall be treated as being on public property and the full extension if required shall be made.

(3) (a) 1. When an extension to serve an applicant or a group of applicants amounts to more than 750 feet per applicant, the utility may, if not inconsistent with their filed

tariff, require the total cost of the excessive footage over 750 feet per customer to be deposited with the utility by the applicant or the applicants, based on the average estimated cost per foot of the total extension.

2. Each customer receiving service under such extension will be reimbursed under the following plan: Each year for a period of not less than ten (10) years, which for the purpose of this rule shall be the refund period, the utility shall refund to the customer or customers who paid for the excessive footage the cost of 750 feet of the extension in place for each additional customer connected to the extension installed and not to extensions or laterals therefrom, but in no case shall the total amount refunded exceed the amount paid the utility. After the end of the refund period, no refund will be required to be made.

(b) An applicant desiring an extension to a proposed real estate subdivision may be required to pay the entire cost of the extension. Each year for a period of not less than ten (10) years the utility shall refund to the applicant who paid for the extension a sum equivalent to the cost of 750 feet of the extension installed for each additional customer connected during the year, but in no case shall the total amount refunded exceed the amount paid to the utility. After the end of the refund period from the completion of the extension, no refund will be required to be made.

(4) Nothing contained herein shall be construed as to prohibit a utility from making at its expense greater extensions than herein prescribed should its judgment so dictate, provided like free extensions are made to other customers under similar conditions.

(5) Upon complaint to and investigation by the commission, a utility may be required to construct extensions greater than 750 feet upon a finding by the commission that such extension is reasonable.

(6) Nothing contained herein shall be construed to prohibit the utility from making extensions under different arrangements provided such arrangements have been approved by order of the commission.

**Section 9. Grade of Service.** (1) Within the base rate area, no telephone utility shall place more than four (4) customers on any local exchange line. Within the service area no telephone utility shall connect more customers on any line than are contemplated under the grade of service charged the customer on such line.

(2) On rural lines where multiparty service is provided no more than eight (8) customers shall be connected to any one (1) circuit. The telephone utility may regroup customers in such a manner as may be necessary to carry out the provisions of this rule.

**Section 10. Provision of Service.** (1) It shall be the service objective of all utilities to fulfill ninety (90) percent of requests for regular service within five (5) working days of the receipt of the request unless the applicant specifically requests a later date. [The surveillance level shall be eighty (80) percent.]

(2) The service objective for regular regrades shall be to fulfill ninety (90) percent of requests within thirty (30) days unless the applicant specifically requests a later date. [The surveillance level shall be eighty (80) percent.]

(3) Applications for special service shall be filed in as expeditious manner as equipment and facilities will permit.

(4) All applications which are not filled within five (5) working days for initial regular service and within thirty (30) days for regular regrades shall be considered as held applications.

(5) When because of circumstances beyond the control

of the utility it is not possible to provide service within the time limits specified above, the utility shall promptly notify the applicant of the reason for the delay and give him a commitment date based upon the best available information. Utility personnel shall refrain from making unwarranted commitments without first having ascertained that they can reasonably be met.

(6) It shall be the service objective of all utilities to meet ninety-four (94) percent of all commitments made, except for customer caused delays and Acts of God. [The surveillance level shall be eight-eight (88) percent.]

(7) In those instances where commitments cannot be met, the applicant shall be notified at the earliest possible time.

(8) Additionally, the utility shall keep a record by exchanges showing the name and address of each applicant for service, the date of application, date service desired, the class and grade of service applied for, together with the reason for the inability to provide the new or regrade service to the applicant.

(9) When, because of shortage of facilities, a utility is unable to supply telephone service on dates requested by applicant, first priority shall be given to furnishing those services which are essential to public health and safety. In cases of prolonged shortage or other emergency, the commission may require establishment of a priority plan subject to its approval for clearing held orders, and may request periodic reports concerning the progress being made.

**Section 11. Public Telephone Service.** In each exchange, the telephone utility shall supply at least one (1) coin telephone that will be available to the public on a twenty-four (24) hour basis. This coin telephone shall be located in a prominent location in the exchange and shall be lighted at night. The utility shall also establish other public telephone service at locations where the public convenience will be served.

**Section 12. Discontinuance of Service.** (1) When a telephone utility, subject to the jurisdiction of this commission, is notified in writing by this commission or by a federal or state law enforcement agency, or by the Attorney General of Kentucky or by a commonwealth attorney or by a county attorney acting within its or his apparent jurisdiction, that any facility furnished by it is being used or will be used for the purpose of transmitting or receiving gambling information, it shall discontinue or refuse, the leasing, furnishing, or maintaining of such facility, after reasonable notice to the subscriber. But no damages, penalty or forfeiture, civil or criminal, shall be recovered from any telephone utility for any act done in compliance with any notice received from the commission or law enforcement agency.

(2) Nothing in this section shall be deemed to prejudice the right of any person affected thereby to secure an appropriate judicial determination that such facility should not be discontinued or removed, or should be restored.

(3) As provided by KRS 278.230, any telephone utility subject to the jurisdiction of this commission shall furnish to the commission on its demand any records or information in the possession of such telephone utility that may assist the commission in the enforcement of this rule.

(4) Nothing herein shall be construed to prevent the transmission of information for use in legitimate news reporting of sporting events or contests by recognized news media.

**Section 13. Customer Billing.** Bills to customers shall be

rendered regularly and shall contain clear listings of all charges. The utility shall comply with reasonable customer requests for an itemized statement of charges. All toll charges shall be itemized separately.

**Section 14. Adequacy of Service.** (1) Each utility shall employ recognized engineering and administrative procedures to determine the adequacy of service being provided to the customer.

(2) Traffic studies shall be made and records maintained to the extent and frequency necessary to determine that sufficient equipment and an adequate operating force are provided at all times including the busy hour, busy season.

(3) Each telephone utility shall provide operator assistance on a twenty-four (24) hour per day basis for both local and long distance service.

(4) Each utility shall employ adequate procedures for assignment of facilities. The assignment record shall be kept up to date and checked periodically to determine if adjustments are necessary to maintain proper balance in all groups.

**Section 15. Dial Service Requirements.** Sufficient central office capacity and equipment shall be provided to meet the following minimum requirements at all times including busy season-busy hour:

(1) Dial tone within three (3) seconds on at least ninety-five (95) percent of telephone calls.

(2) Complete dialing of called numbers on at least ninety-five (95) percent of telephone calls without encountering an equipment or all-trunk busy condition within the local dialing area.

(3) Each utility shall employ appropriate procedures to determine the adequacy of central office equipment and local inter-office and EAS trunks.

**Section 16. Grounded Circuits.** No telephone lines shall be *constructed* [construed] as single wire with ground return. Any existing ground return telephone lines shall be converted to metallic or equivalent circuits.

**Section 17. Metallic Circuits.** Telephone utilities shall provide full metallic telephone circuits or equivalent for all customers.

**Section 18. Toll Connecting Trunks.** Sufficient toll connecting or inter-exchange trunks shall be provided so that at least ninety-seven (97) percent of telephone calls offered to the group will not encounter an all trunks busy condition. [The surveillance level shall be ninety-two (92) percent.]

**Section 19. Transmission Requirements.** Telephone utilities shall furnish and maintain adequate plant equipment and facilities to provide satisfactory transmission of communications between customers in their service areas. Transmission shall be at adequate volume levels and free of excessive distortion. Levels of noise and cross-talk shall be such as not to impair communications.

**Section 20. Minimum Transmission Objectives.** (1) The transmission objectives set forth herein are based upon the use of standard telephone sets connected to a forty-eight (48) volt dial central office and measured at a frequency of 1,000 cycles.

(2) Subscriber lines shall, in general, have a loop resistance not exceeding the operating design of the associated central office equipment.



(3) Telephone utilities shall have as their objective the design of subscriber loops having a transmission loss of no more than eight and five-tenths (8.5) decibels.

(4) The overall transmission loss, including terminating equipment, on local interoffice trunks shall be no more than seven (7) decibels.

(5) Whenever feasible, the overall transmission loss, including terminating equipment, on intertoll trunks and terminating links shall be no more than five (5) decibels. Because these trunks may be only one of several connected links, on some toll routes it may be necessary to provide better facilities of high grade in order to keep overall net circuit losses within reasonable limits and to provide satisfactory message transmission.

Section 21. Provisions for Testing. Each telephone utility shall provide test facilities which will enable it to determine the operating and transmission capabilities of circuit and switching equipment, either for routine maintenance or for fault location.

Section 22. Selective Ringing. Each telephone utility shall provide full selective ringing to all subscribers.

Section 23. Traffic Rules. (1) Suitable practices shall be adopted by each telephone utility concerning the operating methods to be employed by operators with the objective of providing efficient and agreeable service to the customers.

(2) Telephone operators shall be instructed to be courteous, considerate and efficient in the handling of all calls, and to comply with the provisions of the Communications Act of 1934 in maintaining the secrecy of communications.

(3) All operator-handled calls shall be carefully supervised and disconnects made promptly.

(4) When an operator is notified by a customer that he has reached a wrong number on a direct dialed call, the customer shall be given credit on his bill when the claim has been substantiated.

Section 24. Answering Time. (1) Adequate forces shall be provided for toll and for operator assistance calls to meet the service objective so that ninety (90) percent of the calls will be answered within ten (10) seconds. [The surveillance level shall be eighty-five (85) percent.]

(2) The service objective for calls to the business office, and repair service shall be ninety (90) percent within twenty (20) seconds. [The surveillance level shall be eighty-five (85) percent.]

(3) The service objective for operator number identification (ONI) on toll calls where ANI is not available shall be ninety (90) percent within five (5) seconds. [The surveillance level shall be eighty-five (85) percent.]

(4) The utility shall use sufficient quantities of measuring devices to accurately monitor the above service indices.

Section 25. Maintenance of Plant and Equipment. (1) Each telephone utility shall adopt and pursue a preventative maintenance program aimed at achieving efficient operation of its system so as to permit the rendering of safe, adequate and continuous service at all times.

(2) Maintenance shall include keeping all plant and equipment in good state of repair consistent with safety and adequate service performance. Broken, damaged or deteriorated parts which are no longer serviceable shall be repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found by preventive

maintenance not to be in operating condition. Electrical faults, such as leakage or poor insulation, noise induction, cross-talk, or poor transmission characteristics, shall be corrected to the extent practicable within the design capability of the plant affected.

(3) The utility shall maintain records descriptive of its preventative maintenance program indicating work accomplished and planned, which is carried out on a routine periodic basis, for the various categories of equipment and plant.

(4) Work performed in response to trouble is not considered preventative maintenance.

Section 26. Emergency Operations. (1) Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increase in traffic, illness of operators, or from fire, storm, or Acts of God, and each telephone utility shall inform employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telephone service.

(2) It is essential that all central offices and toll centers have adequate provision for emergency power. Each central and/or toll office shall have a minimum of four (4) hours of battery reserve. In exchanges exceeding 5,000 lines and in toll offices, a permanent auxiliary power unit shall be installed. In offices without installed emergency power facilities there shall be a mobile power unit available of suitable capacity which can be delivered and connected within two (2) hours, or one-half ( $\frac{1}{2}$ ) the battery reserve time, whichever is greater.

Section 27. Service Interruption. (1) Each telephone utility shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall re-establish service with the shortest possible delay, regardless of weekends or holidays.

(2) Arrangements shall be made to receive customer trouble reports twenty-four (24) hours daily and to clear trouble of an emergency nature at night, as well as during regular working hours, consistent with the bona fide needs of the customer and personal safety of utility personnel.

(3) Each telephone utility shall maintain an accurate record of trouble reports made by its customers. This record shall include appropriate identification of the customer, of service affected, the time, date and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. This record shall be available to the commission or its authorized representatives upon request, and shall be retained for a minimum time of one (1) year.

(4) The service objective shall be to clear ninety-five (95) percent of out-of-service troubles, not requiring unusual repair such as cable failures, within twenty-four (24) hours of the report received by the utility, unless the customer specifically requests a later time.

(5) Non-out-of-service maintenance items reported by customers such as frayed cords, etc., not effecting the utilization of the telephone equipment may be scheduled for correction within a reasonable time so as to achieve economies in the dispatching of service personnel.

[(6) The surveillance level for out-of-service troubles shall be ninety-two (92) percent.]

(6) [(7)] All commitments to customers shall be kept, unless customers are timely notified of unavoidable delays. If unusual repairs are required, or other factors preclude



clearing of reported trouble promptly, reasonable efforts shall be made to notify affected customers.

(7) [(8)] It shall be the service objective to so maintain the service that the average rate of customer trouble reports in an exchange is no greater than eight (8) per 100 telephones per month.

[(9) The surveillance level for customer trouble reports shall be ten (10) per 100 telephones per month.]

(8) [(10)] When a customer's telephone is reported or found to be out of order. It shall be restored to service as promptly as possible, but in the event it remains out of order in excess of twenty-four (24) consecutive hours, after the utility has notice thereof, the utility shall refund to the customer upon request the pro rata part of that month's charges for the period of days during which the telephone was out of order. This refund may be accomplished by a credit on a subsequent bill for telephone service.

Section 28. Construction Work near Utility Facilities. Even though all contractors working in the vicinity of utility lines or structures are responsible for exercising due diligence in preventing damage to utility property or interruption to utility services, telephone utilities shall, when requested, furnish to contractors appropriate information concerning location of underground conduit, cable, and other equipment in order to prevent any interruption of service to telephone customers. Nothing in this rule is intended to affect the responsibility, liability or legal rights of any party under applicable laws or statutes.

Section 29. Customer Service. A customer may be required to take service of a different type or in sufficient quantity if the use of service interferes unreasonably with the necessary service of other customers.

Section 30. Deviations from Rules. In special cases for good cause shown upon application to and approval by the commission may permit deviations from these rules.

RICHARD S. TAYLOR, Chairman

ADOPTED: July 18, 1978

APPROVED: MIKE HELTON, Secretary

RECEIVED BY LRC: July 25, 1978 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Richard D. Heman, Jr., Secretary, Kentucky Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Kentucky State Racing Commission**  
**(Proposed Amendment)**

810 KAR 1:003. Licensing.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the licensing procedures and requirements.

Section 1. License required. No person, legal entity, or association shall conduct any thoroughbred race for any

stakes, purse, or reward in the Commonwealth without first securing a license therefor from the commission. No person shall participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, without first securing a license therefor from the commission.

Section 2. Conditions precedent to issuance of license. Thoroughbred racing and participation therein in the Commonwealth are privileges, not rights, granted only by the commission by license subject to the hereinafter set out conditions precedent. Acceptance of a license shall be construed as consent and agreement to the following conditions precedent by the licensee and failure to comply therewith shall be grounds for immediate voidance or revocation of such license:

(1) Representations made or with license application are complete and correct.

(2) Licensee shall abide by all rulings, and decisions of the stewards and all such decisions by the stewards shall remain in force unless reversed or modified only by the commission upon proper appeal thereto. All rulings and decisions of the stewards may be appealed to the commission except those made by the stewards as to findings of fact as occurred during and incident to the running of a race and as to determination of the extent of disqualification of horses in a race for fouls committed during such race, and all such excepted rulings and decisions by the stewards shall be final with no right of review thereof by the commission or courts.

(3) Licensee shall consent to a reasonable search of his person and property in his possession by the commission or its representatives, such property being restricted to that on association grounds and including, without limiting thereby, tack rooms, living or sleeping quarters, motor vehicles, trunks, boxes, and containers of any sort, and licensee shall consent to seizure of any object which may be evidence indicating a rule violation. Licensee shall cooperate in every way with the commission or its representatives during the conduct of an investigation, to include responding correctly under oath to the best of his knowledge to all questions asked by the commission or its representatives pertaining to racing matters.

(4) A licensed trainer shall be responsible for the condition of horses in his charge and shall be held to a high standard of care in taking all precautions as are reasonable and necessary to safeguard such horses from tampering. Upon a finding of a positive for a prohibited medication, drug, or substance, in a saliva, urine, or blood specimen taken from a horse, the trainer of such horse shall have the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering.

Section 3. Standards for granting licenses and racing dates to associations. The commission may issue a license to any association which applies for same to conduct a thoroughbred race meeting on such days as the commission may deem appropriate, if the commission finds that the proposed conduct of racing by such association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Com-

monwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which such association proposed to conduct a race meeting, and capability to comply with the rules and rulings of the commission, the licensing of such association would serve to nurture, promote, develop, and improve the thoroughbred industry in the Commonwealth. As a condition precedent to the issuance of such license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth under KRS 137.170, 138.480, and 138.510, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

Section 4. Standards for granting licenses to participants in racing. The commission may issue a license to any person who applies for same to participate in thoroughbred racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, if the commission finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof.

Section 5. Grounds for refusal, suspension, or revocation of a license. The commission in its discretion may refuse to issue a license to an applicant, or may suspend or revoke a license issued, or order disciplinary measures, on the following grounds:

(1) Denial of a license to an applicant, or suspension or revocation of a license in another racing jurisdiction; the commission may require re-instatement in the original racing jurisdiction where applicant was denied a license or where his license was suspended or revoked;

(2) Conviction of a crime or violation of any narcotic regulation;

(3) Falsification, misrepresentation, or omission of required information in license application to the commission; failure to disclose to the commission complete ownership or beneficial interest in a horse entered to be raced; misrepresentation or attempted misrepresentation in connection with the sale of a horse or other matter pertaining to racing or registration of thoroughbreds;

(4) Failure to comply with any order or ruling of the commission, stewards, or racing official pertaining to a racing matter;

(5) Ownership of any interest in, or participation by any manner in, any bookmaking, pool-selling, touting, bet solicitation, or illegal enterprise, or association with any person so engaged in such activity;

(6) Person less than sixteen (16) years of age;

(7) Person unqualified by experience or competence to perform the activity permitted by license as determined by standard examination prescribed by the stewards;

(8) Intoxication, use of profanity, fighting or any conduct of a disorderly nature, on association grounds;

(9) Employment or harboring of unlicensed persons required by these rules to be licensed;

(10) Discontinuance of or ineligibility for activity for which license was issued;

(11) Possession on association grounds, without written permission therefor from the commission or stewards, of:

(a) Firearms;

(b) Battery, or buzzer, or electrical device, or other appliance other than an ordinary whip which could be used to alter the speed of a horse in a race or workout.

(12) Possession on association grounds by a person other than a licensed veterinarian of:

(a) Hypodermic needle, or hypodermic syringe, or other device which could be used to administer any substance to a horse;

(b) Narcotics, or medication, or drugs, or substance which could be used to alter the speed of a horse in a race.

(13) Use of profane, abusive, or insulting language to or interference with a commissioner, member of the commission staff, or racing official, while such persons are in the discharge of their duties;

(14) Cruelty to a horse or neglect of a horse entrusted to a licensee's care;

(15) Offering, promising, giving, accepting, or soliciting a bribe in any form, directly or indirectly, to or by a person having any connection with the outcome of a race, or failure to report knowledge of same immediately to the stewards;

(16) Causing, or attempting to cause, or participation in any way in any attempt to cause the pre-arrangement of a race result, or failure to report knowledge of same immediately to the stewards;

(17) Entering, or aiding and abetting the entering of, a horse ineligible or unqualified for the race entered;

(18) Drug addiction, bad moral character, intemperate habits, bad reputation for honesty, truth and veracity, or involvement in a subject of public notice as involved in any activity which, in the opinion of the commission, would be inconsistent with the best interests of racing by reflection on the honesty and integrity of the sport of racing, or association with persons so characterized;

(19) Violation of any rule of the commission, or aiding or abetting any person in violation of any such rule.

Section 6. License applications for associations. Any person or legal entity desiring to conduct thoroughbred racing in the Commonwealth may apply to the commission for association license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office on or before September 1 of the year preceding the calendar year in which the license is to be in force. Such application shall contain:

(1) Name and location of track. Initial applications shall be accompanied by such physical information as the commission may require.

(2) Names and addresses of all officers, directors, stockholders, and other persons owning or controlling a beneficial interest in the association with such degree of ownership or type of interest shown; names and addresses of all persons capable of exercising any control over affairs of the association as trustee or guardian or lessor, or mortgagee, or fiduciary. Any corporation, partnership, or other legal entity which owns or controls a beneficial interest in the association directly, or through other corporations or legal entities, shall similarly file with the application lists showing the names and addresses of all officers, directors, stockholders, and other persons owning or con-



trolling a beneficial interest in such legal entities with such degree of ownership or type of interest thereunto pertaining. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(3) Days and hours thereof on which racing is requested to be conducted.

(4) Names of racing officials and persons responsible for track security and fire protection.

(5) Proposed purse schedule, showing minimum purse, average daily distribution, added money for each stake, if any.

(6) An operating report on forms prescribed by the commission if applicant is currently licensed.

(7) *The association shall, on request of the commission, submit for its consideration all proposed contracts treating with the following: television, radio, and/or motion-picture rights; pari-mutuel labor and equipment; purse and stakes distribution and other benefits accruing to horsemen's organizations; video tape, film patrol, and photo-finish equipment; and any lease agreements which may be necessary to conduct a race meeting. These documents shall not become effective until approved by the commission and/or the senior steward-chief administrator.*

(8) [(7)] Such other information as the commission may from time to time require to ascertain the fitness of the applicant to conduct thoroughbred racing.

Section 7. License application for participants in racing. (1) Any person other than an association required to be licensed by Section 1 and desiring to participate in thoroughbred racing in the Commonwealth may apply to the commission for a license. Such application shall be made in writing on application forms prescribed by the commission and filed at the commission general office or with the commission license administrator at the association on or after January 2 of the calendar year in which the license is to be in force, but not later than twenty-four (24) hours after applicant has arrived on association grounds.

(2) Applications from persons not previously licensed in Kentucky shall include the names of two (2) reputable persons who will attest to the good reputation of the applicant and to the capability and general fitness of the applicant to perform the activity permitted by the license.

(3) Applications from persons whose age is not readily ascertainable by the licensing committee shall be accompanied by an attested copy of birth certificate or work permit showing applicant is sixteen (16) years or older.

(4) Fingerprint identification will be required of all licensees unless waived by the commission (i.e., absentee owners and casual delivery personnel who do not enter the stable area).

(5) Applications from persons, corporations, partnerships, lessors, or other legal entities involving more than one individual person desiring to race horses in the Commonwealth shall, in addition to designating the person or persons to represent the entire ownership of such horses, be accompanied by documents which fully disclose the identity and degree and type of ownership held by all individual persons who own or control a present or rever-sionary interest in such horses. No application shall be acted upon by the commission until the commission is satisfied a full disclosure has been made.

(6) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a practicing veterinarian, shall be accompanied by evidence that such person is currently licensed as a

veterinarian by the Commonwealth of Kentucky. An accredited practicing veterinarian not licensed by the commission or the Commonwealth, however, may with permission of the stewards in an emergency be called in as a consultant, or to serve as a veterinarian for one (1) horse on a temporary basis, and shall not thereby be considered as participating in racing in this state.

(7) Applications from persons desiring to treat, or prescribe for, or attend any horse on association grounds as a dental technician shall be accompanied by the name of a licensed veterinarian who will attest to the technical competence of such applicant and under whose sponsorship and direction such applicant will work on association grounds.

(8) Applications from persons not previously licensed in the capacity of farrier shall not be forwarded with recommendation to the commission by the licensing committee until such applicant has been administered a standard examination by an experienced farrier known to the stewards so as to provide the licensing committee a reasonable basis for recommendation as to the technical proficiency of such applicant for a farrier's license.

(9) The following annual fees shall accompany the application and shall not be refundable:

(a) \$20—Owner license and annual color registration;  
(b) \$15—Trainer, jockey, apprentice jockey, or jockey's agent license;

(c) \$10—Veterinarian, dental technician, assistant trainer, farrier, or apprentice farrier license;

(d) \$5—Stable employee license (foreman, authorized agent, exercise boy, groom, hotwalker, watchman, or pony boy);

(e) \$5—Stable-area supplier license (supplier of horse feed, tack, medication, or food vendors);

(f) \$5—Racing department employee license, steward, racing secretary, assistant racing secretary, director of racing, starter and assistant starter, paddock judge, patrol judge, placing judge, timer, commission veterinarian, commission chemist, commission supervisor of pari-mutuel betting, commission director of security, commission license administrator, commission inspector, association veterinarian, testing laboratory employee, horse identifier, valet, jockey room custodian, clerk of scales, entry clerk, photo-finish operator, film patrol or video tape operator and projectionist, flagman, or outrider;

(g) \$5—Mutuel department employee license, manager, calculator, sheet writer, supervisor, ticket checker, ticket seller, ticket cashier, messenger runner, outbook clerk, program clerk, porter, information and change clerk, boardman, ticket room and money room clerk, assistant, totalizer employee;

(h) \$5—Occupational license, admission department manager and employees; concessions manager and employees; parking manager and employees; association security department including police chief, detectives, policeman, watchmen, fire, ambulance drivers and attendants, track superintendent, groundsman, mechanics, carpenters; maintenance department manager and employees; all other persons employed by the association or employed by a person or concern contracting with the association to provide a service or commodity and which employment requires their presence on association grounds during a race meeting.

(i) \$3—Temporary occupational license for persons to be employed in occupations listed in paragraph (h) above for ten (10) days or less during a calendar year.

Section 8. Licensing committee. The commission may

appoint a licensing committee including the commission secretary and commission steward or their designated representative. Such licensing committee shall review all applications for all licenses, and forward all such applications to the commission with recommendations thereon, subject to security checks, for final action. Such licensing committee may issue to a license applicant a temporary permit to participate in the activity for which such license application was made pending administrative processing and final action on such license application by the commission.

**Section 9. Term of license.** Licenses issued by the commission for participation in thoroughbred racing shall be valid from the date of issuance through the calendar year shown on such license at all race meetings conducted by associations in the Commonwealth during such calendar year, unless sooner suspended, revoked, or voided. The commission may renew any license and any such renewal shall not be construed to be a waiver of or to condone any violation which occurred prior to such renewal and shall not prevent subsequent proceedings against the licensee therefor. The validity of a license does not preclude or infringe upon the common law right of associations to eject or exclude any persons, licensed or unlicensed, from association grounds.

**Section 10. Possession of license required.** No person required to be licensed by these rules may participate in any activity required to be licensed on association grounds during a race meeting without having been issued a valid license therefor and having same in his possession. All licenses specified under subsection (9)(b) to (i) shall include a color photograph of the licensee.

**Section 11. Applicability of rules and rulings to household.** Rules pertaining to, and rulings against, licensees shall apply in like force to the spouse and members of the immediate family or households of the licensee, unless there is a showing on the part of an affected spouse, or affected member of the immediate family or household of the licensee, and the stewards in their discretion so find, that the continuation of participation in racing by such affected person will in no way circumvent the intent of the rule, or effect of the ruling, by permitting a person under the control or direction of the licensee to serve in essence as a substitute for a suspended licensee, or person ineligible to participate in a particular activity.

**Section 12. Notice for discontinuance of employment.** Licensed associations, racing officials, owners, trainers, jockeys, agents, farriers, stable employees, and all other licensees who have accepted with advance notice the conditions under which a race meeting is planned to be conducted, shall before terminating employment, engagements, or activities under such conditions, so notify the commission and respective interested persons or associations of such intention at least fifteen (15) days before such termination. The commission shall upon notice to parties in interest conduct a hearing on the matter. If the commission finds that the cause of termination is unreasonable, unlawful, or contrary to these rules, the commission shall so advise all parties in interest and shall take appropriate action against offending parties. If the commission finds that the cause of termination is reasonable, lawful, and not contrary to these rules, the

commission shall so advise all parties in interest and shall use its best efforts to settle the dispute.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: July 18, 1978

APPROVED:

MIKE HELTON, Secretary

RECEIVED BY LRC: August 14, 1978 at 12:25 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky Racing Commission, P. O. Box 1080, Lexington, Kentucky 40588.

### **PUBLIC PROTECTION AND REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)**

#### **810 KAR 1:006. Racing associations.**

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation outlines the requirements for racing associations.

**Section 1. Maintenance of grounds, facilities and uniform track.** Each association shall at all times maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of horses there stabled, exercising, or entered to race; and shall have available adequate and proper implements to maintain a uniform track, weather conditions permitting.

**Section 2. Result boards, totalizators required.** Each association shall provide and maintain mechanically operated totalizators and electronic boards showing odds, results, and other race information located in plain view of patrons.

**Section 3. Starting gate.** Each association shall provide and maintain a working starting gate on every day horses are permitted to exercise on its racing strip. Each association shall have in attendance one or more men qualified to keep said starting gates in good working order whenever said gates are in use, and each association shall provide for periodic inspections of said gates.

**Section 4. Stabling.** Each association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, and in a clean, and sanitary condition; each barn and each stall shall be numbered in consecutive order for ready ascertainment of location and identification and adequate drainage therefor shall be maintained. The commission shall submit to the stewards prior to the opening of each race meeting a list of locations of approved off-track stabling facilities from which horses may be permitted to race; such locations shall be considered for purposes of these rules "association grounds."

Section 5. Stands for officials. Each association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials, such stands and location thereof to be approved by the commission. Patrol judge stands shall be constructed so the floor thereof shall be at least six (6) feet higher than the track rail.

Section 6. Distance pole markings. Each association shall cause quarter poles to be painted red and white, eighth poles to be painted green and white, and sixteenth poles to be painted black and white.

Section 7. Lighting. Each association shall provide and maintain flood lights so as to insure adequate illumination in the stable area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

Section 8. Facilities for stable employees. Each association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities such as showers, toilets, and wash basins for stable employees. No personnel shall be permitted to sleep in any stall.

Section 9. Facilities for jockeys. Each association shall provide and maintain adequate facilities for jockeys scheduled to ride each day, such facilities to include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales.

Section 10. Facilities for commission. Each association shall provide adequate office space for the commission on association grounds and shall make available to the commission, and mark accordingly, a season box of six (6) to eight (8) seats and appropriate parking places for use of the commission throughout each racing day. Each association shall honor for access to preferred parking facilities and all other areas on association grounds any ring, lapel button, or automobile emblem issued at any time by the commission, or by the National Association of State Racing Commissioners.

Section 11. Sanitary facilities for patrons. Each association shall, on every racing day, provide adequate and sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business at the association.

Section 12. Manure removal. Each association shall provide and maintain adequate manure pits of such size and construction to handle refuse from stalls. The contents of said manure pits shall be removed from the stable areas as promptly as is possible.

Section 13. Photo-finish cameras. Each association shall provide and maintain at the finish line two (2) photo-finish cameras for photographing the finish of races; one (1) camera to be held in reserve. The photo-finish photographer shall promptly furnish to the stewards and placing judges prints of all finishes as may be requested and in such number as may be required for public posting. The association shall maintain a one (1) year file of all such photo-finishes.

Section 14. Patrol films or video tapes. Each association shall at all times during a race meeting provide and maintain personnel and equipment necessary to produce adequate motion pictures or video tapes and record with same each race from start to finish.

(1) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.

(2) Such films and video tapes, shall be retained and secured by the association for not less than one (1) year and shall be available at all times to the commission and stewards. Each visual record of a race involving any questions, dispute, or controversy shall be filed with the commission upon order of the stewards.

(3) Such films, or video tapes, shall be made available for viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed, and to members of the press.

Section 15. Ambulances. Each association shall provide and maintain at least one (1) man-ambulance and at least one (1) horse-ambulance during times horses are permitted to exercise or race. Said ambulances shall be equipped, manned, ready for immediate duty, and shall be located at an entrance to the racing strip.

Section 16. First-aid room. Each association shall equip and maintain adequate first-aid facilities with not less than two (2) beds and attendance of a competent physician and registered nurse during race hours.

Section 17. Track kitchen. Each association shall provide adequate eating facilities within the stable area, maintained in a clean and sanitary manner at all times horses are stabled on association grounds.

Section 18. Communication system. Each association shall install and maintain in good working service communication systems between the stewards' stand and patrol judges, pari-mutuel department, starting gate, public address announcer, and clerk of scales.

Section 19. Fire prevention. Each association shall be responsible for maintaining an adequate program for fire prevention and fire suppression. Each association within fifteen (15) days before commencement of a race meeting shall be inspected by the state or local fire marshal whose certification that the association plant and stable area meet fire safety requirements is necessary for the commission to approve commencement of the race meeting. Each association shall maintain a fire-fighting unit of trained personnel equipped with high-expansion foam fire extinguishers and other equipment as may be recommended by local fire inspection authority. Each association shall prohibit:

(1) Smoking in stalls, under shed rows, and in feed rooms;

(2) Open fires, oil or gas lamps in stable area; and

(3) Locking of stalls occupied by horses.

Section 20. Telephone restricted. (1) No association shall permit communication by any electrical, mechanical, manual, or visual method from association grounds of any information pertaining to any race conducted by the association until at least thirty (30) minutes after the last race of the day is declared official; excepting from the effect of this rule such information as may be transmitted by duly accredited members of the news media for the benefit of the public at large.



(2) All telephones and telegraph wires on association grounds shall be closed from fifteen (15) minutes before post time of the first race and remain closed until thirty (30) minutes after the finish of the last race is declared official and no calls or wires shall be allowed to be made or received while such telephone and telegraph wires are closed.

(3) Excepted from the effect of this rule shall be the transmission of information pertaining to racing by duly accredited members of the news media, and the ordinary conduct of business as may be transmitted by members of the commission and its staff or association officials.

(4) No association employee shall furnish, other than to authorized persons, any information with respect to entries, scratches, jockey changes, or track conditions for any race.

**Section 21. Association police.** Each association shall provide and maintain competent police and watchman services, night and day, in and about association grounds, and shall furnish daily to the commission a report on any disturbances, drunkenness, or disorderly conduct committed by any person on association grounds.

**Section 22. Security.** Each association shall cause to be excluded from association grounds all persons designated by order of the commission or stewards to be excluded. Each association shall take such measures as to maintain security of horses on association grounds so as to protect from injury due to frightening of or tampering with said horses. Each association shall exclude from the paddock area, race strip, and winner's entrance all persons who have no immediate connection with the horses entered except members of the commission, racing officials, and duly accredited members of the news media.

**Section 23. Vendors and suppliers.** Each association shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who have entry to the stable area. No association by virtue of this rule shall attempt to control or monopolize proper selling to owners, trainers, or stable employees, nor shall an association grant a concession to any vendor of feed, racing supplies, or racing services. Any vendor of horse feeds or medications shall file with the commission veterinarian a list of products which he proposes to sell, including any new preparation or medication. No association shall permit the sale of any alcoholic beverage, beer excepted, within the stable area.

**Section 24. Ejection or exclusion from association grounds.** (1) Associations may eject or exclude any persons, licensed or unlicensed, from association grounds or a part thereof solely of its own volition and without any reason or excuse given therefor, provided, however, such ejection or exclusion is not founded on race, creed, color, or national origin.

(2) Associations shall eject or exclude from association grounds all persons believed to be engaged in a bookmaking activity or solicitation of bets or touting, and a report thereof shall be submitted promptly to the commission, to the stewards, and to the local police. Associations shall eject or exclude from association grounds all persons who as a business or for any compensation, shall, directly or indirectly, accept any thing of value to be wagered or to be transmitted or delivered for wager to any pari-mutuel wagering enterprise, or participate in any such transmission.

(3) Associations shall eject or exclude from the stable areas on association grounds all persons except those whose presence in the stable area is authorized as:

(a) Persons licensed to conduct an activity, the conduct of which requires the presence of such licensee in the stable area;

(b) Duly accredited members of the news media;

(c) Guests of licensed owner or licensed trainer physically in the company of such owner or trainer;

(d) Persons physically in the company of and under the control and supervision of a racing official, or association security guard, or association public relations department representative.

(4) Reports of all ejections or exclusions from association grounds for any reason shall be made immediately to the commission and the stewards, such reports stating the name of all persons and circumstances involved.

**Section 25. Ownership of associations.** Each association shall file with the commission a revised list of persons whose identity is required by 810 KAR 1:003, Section 6(2), immediately upon transfer of any beneficial interest or control in the association as from time to time may occur.

**Section 26. Plan of association grounds.** Each association shall file with the commission existing maps and plans of association grounds, showing all structures, piping, fire hydrants, fixed equipment, racing strip, noting elevation as filled, drained, and gapped, and composition of track base and cushion. Each association shall file revised maps or plans of association grounds upon any material change as may occur from time to time.

**Section 27. Attendance report.** (1) In addition to filing with the commission a copy of the report required by KRS 138.480 to be filed with the Department of Revenue on admission taxes, each association shall file with the commission daily attendance reports showing a turnstile count of all persons admitted to association grounds where pari-mutuel wagering is conducted; such attendance report shall indicate the daily number of paid admissions, taxed complimentary admissions, and tax exempt admissions.

(2) On request from the commission, each association shall file with the commission a current badge list showing the names of all persons issued tax exempt admission credentials.

(3) Tax exempt admission credentials shall not be transferable and associations shall exclude or eject from association grounds any person attempting to use such tax exempt admission credentials not issued to him by the association.

**Section 28. Financial report.** In addition to filing with the commission copies of reports required by KRS 137.180 and 138.530 to be filed with the Department of Revenue on pari-mutuel and license taxes, each association shall furnish to the commission within sixty (60) days after the close of its fiscal year three (3) copies of its balance sheet and of its operating statement for such fiscal year with comparison to prior year, the same to be duly sworn to by the treasurer of the association and certified by a licensed certified public accountant. Such financial report shall be in such form as may be prescribed from time to time by the commission.

**Section 29. Horseman's bookkeeper.** (1) Each association shall maintain a separate bank account, to be known as the "horsemen's account," with at all times sufficient

funds in such account to pay all money owing to horsemen in regard to purses, stakes, rewards, claims, and deposits. Withdrawals from this account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of such account shall be bonded.

(2) All portions of purse money shall be made available to earners thereof within forty-eight (48) hours (Sundays excluded) after the result of the race in which such money was earned has been declared official; except, however, when the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute.

(3) No portion of purse money other than jockey fees shall be deducted by the association for itself or for another, unless so requested in writing by the person to whom such purse monies are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal, or transfer of funds affecting such owner's racing account at the close of each race meeting.

Section 30. Outriders. Each association shall employ at least two (2) outriders to escort starters to the post and to assist in the returning of all horses to the unsaddling area. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or others. Each association shall wear traditional apparel. Outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times horses are permitted on the racing strip for exercising or racing.

Section 31. Association veterinarian. (1) Each association shall employ a graduate veterinarian, licensed in Kentucky, experienced in equine medicine and practice, who shall be responsible for inspecting and reporting all horses entered for racing soundness; maintaining and posting in the racing secretary's office a veterinary list of horses ineligible to race because of sickness or unsoundness; control of communicable equine diseases; insect control; sanitary conditions in the stable area; and observe and report all cruel or inhumane treatment of horses to the stewards.

(2) The association veterinarian shall be attendant on the stewards and the racing secretary at scratch time each day, and shall examine such horses as such racing officials may request, and shall make reports to such racing officials as promptly as possible.

(3) The association veterinarian shall be responsible for inspecting every horse entered on the day of the race for which such horse is entered. Such inspection shall be for physical fitness, general conditions, and for any noticeable unsoundness or peculiarities that may affect the racing condition of the horse or be considered for scratching a horse on a muddy or sloppy track. Such pre-race examinations shall be recorded on a health record for every starter at the race meeting.

(4) The association veterinarian shall be present in the paddock for saddling, shall accompany each field to the starting post, and observe all horses after the finish of each race. If, in the opinion of the association veterinarian, a horse suffers an injury while in the paddock, during the post parade, or at the starting gate, which injury shall render such horse unfit to race, he shall recommend to the stewards that the horse be excused and placed on the veterinary list. All horses requested to be scratched for

physical reasons after scratch time shall be inspected by the association veterinarian who shall report the condition of such horse to the stewards.

(5) No association veterinarian during his employment by an association shall be permitted to engage in private veterinary practice involving thoroughbreds; nor be employed by or receive any compensation directly or indirectly from any licensed owner or trainer; nor sell or buy, for himself or another, any thoroughbred; nor place any wager in any manner on any race run at the association; nor sell any drug supplies; nor sell horse insurance; nor be licensed to participate in racing in any other capacity.

Section 32. Horse identifier. Each association shall employ one (1) or more persons to be charged with the responsibility of proper identification of all horses entered to be raced. A horse identifier may accompany the association veterinarian on the pre-race examination of all starters. Every starter shall be examined in the paddock by a horse identifier for sex, age, color, markings, and lip tattoo, for comparison with its registration certificate; photographs may be used as an aid in identification. If a horse identifier has any doubt as to the identity of a horse entered to be raced, the horse identifier shall so notify the paddock judge and the stewards.

Section 33. Valets. Each association shall employ a sufficient number of persons licensed as valets to attend each individual rider on a day's racing program. Such valets shall be under the immediate supervision and control of the clerk of scales. No rider shall employ a valet or be attended by any person other than the valet assigned to him by the clerk of scales. No valet shall be assigned to the same rider for more than two (2) consecutive racing days. Valets shall be responsible for the care and cleaning of his assigned riders apparel and equipment; shall insure his rider has the proper equipment and colors for each race; shall present the proper equipment and attend the saddling of rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each association shall provide uniform attire for valets who shall wear same at all times while performing their duties within public view.

Section 34. Minimum purse and stakes values. No association shall program or run any race the purse for which is less than \$2,000 in cash without special permission of the commission. No association shall program or run any stakes race the added value of which is less than \$10,000 in cash added by the association to stakes fees paid by owners. Such minimum cash amounts paid by the association shall be exclusive of nomination, eligibility, entrance, and starting fees, and exclusive of other cash awards, premiums, prizes, or objects of value.

Section 35. Maximum number of races. No association shall program or run more than nine (9) races on any single racing day without special permission of the commission.

Section 36. Two-year-old races. Beginning on March 1, of each year, each association shall program in the conditions book at least four (4) two (2) year old races each week.

Section 37. Racing associations. The association shall, as soon as practicable but in no case later than thirty (30)

days before the first day of any race meeting, furnish a list of its proposed racing officials, subject to the approval of the commission as provided in 810 KAR 1:005, Section 1(1).

*Section 38. Racing associations. The association shall, prior to publication and circulation of its stakes nomination blanks and the initial condition book of any race meeting, submit its proposed program for the consideration of the commission. These documents shall not become effective until approved by the commission and/or the senior steward—chief administrator.*

DUNCAN S. STEWART, SR., Secretary

ADOPTED: July 18, 1978

APPROVED:

MIKE HELTON, Secretary

RECEIVED BY LRC: August 14, 1978 at 12:25 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky Racing Commission, P. O. Box 1080, Lexington, Kentucky 40588.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Kentucky State Racing Commission**  
**(Proposed Amendment)**

**810 KAR 1:015. Claiming races.**

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation relates to the claiming of horses.

Section 1. (1) In claiming races any horse is subject to claim for its entered price by any owner, in good standing, who has started a horse at the meeting at which the claim is made. An owner may claim out of his initial race.

(2) A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent, and the name of the authorized agent, as well as the name of the owner for whom the claim is being made, shall appear on the claim slip.

(3) No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.

(4) No person shall claim more than one (1) horse from any one (1) race. No authorized agent, although representing several owners, shall submit more than one (1) claim for any race. When a stable consists of horses owned by more than one (1) person, trained by the same trainer, not more than one (1) claim may be entered on behalf of such stable in any one (1) race. An owner who races in a partnership may not claim except in the interest or the partnership, unless he has also started a horse in his own individual interest.

(5) 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. The day claimed shall not count but the following calendar day shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the thirty-first (31st) calendar day following the claim. This provision shall not apply to starter handicaps, in which the weight to be carried is assigned by the handicapper.

(6) No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No horse shall race elsewhere until after the close of the meeting at which it was claimed. [.] *except that the stewards may grant permission for a claimed horse to enter and start at an overlapping or conflicting meeting within the boundaries of the Commonwealth of Kentucky.*

(7) Each claim shall be made in writing on a form and in an envelope supplied by the association. Both form and envelope must be filled out completely, and must be accurate in every detail.

(8) Claims must be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have at the time of filing the claim 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 open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association, and whether the claimant has established claiming privileges by starting a horse at the meeting.

(10) If more than one 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) Any horse that has been claimed shall, after the race has been run, be taken to the paddock for delivery to the claimant, who must present written authorization for the claim from the racing secretary. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore the horse in question shall be disqualified from further racing until delivery is made.

(12) Claims are irrevocable. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter, and said claimant shall then become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race, or after it. A claimed horse shall run in the interest of and for the account of the owner from whom claimed.

(13) No person shall offer, or enter into, an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.

(14) Claims which are not made in keeping with the rules shall be void. The stewards may at any time in their discretion require any person filing a claim to make affidavit in writing that he is claiming in accordance with the rules. The stewards shall be the judges of the validity of the claim, and if they feel that a "starter" was nominated for



the purpose of making its owner eligible to claim, they may invalidate the claim.

(15) Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the racing secretary and/or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be assumed that none exists.

(16) Should a stable at a meeting be eliminated by sale or removal from the grounds, save to other stabling approved by the stewards, the right to claim is void. An owner whose stable has been completely eliminated by claiming shall have the right to claim during the remainder of the meeting at which his stable was eliminated, or for thirty (30) Kentucky racing days, whichever period is longer. If the thirty (30) day period should extend into the next succeeding meeting, the owner must obtain a certificate from the stewards of the meeting at which he lost his last horse, and must present this certificate when filing a claim at the next meeting. After claiming a horse under the conditions of this rule the owner shall be required to reinstate his eligibility to claim by starting a horse, before being eligible to make another claim.

(17) The engagements of a claimed horse pass automatically with the horse to the claimant.

(18) 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.

DUNCAN S. STEWART, SR., Secretary

ADOPTED: July 18, 1978

APPROVED: MIKE HELTON, Secretary

RECEIVED BY LRC: August 14, 1978 at 12:25 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

**DEPARTMENT OF HOUSING,  
BUILDINGS AND CONSTRUCTION  
Division of Plumbing**

**815 KAR 20:060. Quality and weight of materials.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 13.082, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to quality and weights of materials that will be used in the installation of plumbing systems.

Section 1. Materials, Quality of. All materials used in any drainage or plumbing system or part thereof, shall be free of defects.

Section 2. Label, Cast or Stamped. Each length of pipe, fitting, trap, fixture and device used in a plumbing or drainage system shall be stamped or indelibly marked with the weight or quality thereof, and, with the maker's mark or name.

Section 3. Vitrified Clay Pipe, Cement Asbestos Pipe, Concrete Pipe, Bituminous Fiber Pipe, Truss Pipe, Extra Heavy SDR 35 Sewer Piping, Polyethylene Sewer Piping, Polyethylene and Corrugated Polyethylene Subsoil Drainage Tubing.

(1) Vitrified clay pipe shall conform to A.S.T.M. Standard Specifications C-200.

(2) Cement asbestos pipe shall conform to A.S.T.M. Standard Specifications C-428.

(3) Concrete pipe shall conform to A.S.T.M. Standard Specifications C-14.

(4) Bituminous fiber pipe shall conform to A.S.T.M. Standard Specifications D-1861.

(5) Truss pipe shall conform to A.S.T.M. Standard Specifications D-2680-74. (Solid wall shall conform to A.S.T.M. Standard Specifications D-2751-74.)

(6) Extra heavy SDR 35 sewer piping shall conform to A.S.T.M. Standard Specifications D-3033-74 and D-3034-74.

(7) Polyethylene sewer piping shall conform to A.S.T.M. D-3350 [F-405-74] and is limited for use between a septic tank and a distribution box or boxes [for house sewers between a building and a septic system].

(8) Polyethylene and corrugated polyethylene subsoil drainage tubing shall conform to A.S.T.M. Standard Specifications F-405-74 and shall bear the NSF seal of approval. No pipe or fittings shall be used unless the manufacturer of such material submits to the department a sample of the pipe and fittings that will be used along with an analysis of the material from a private testing laboratory approved by the department. Such a report must be submitted to the department on an annual basis as of July 1, of each year. Polyvinyl Chloride subsoil drainage tubing shall conform to A.S.T.M. D-2729. They shall have two (2) rows of three-fourths ( $\frac{3}{4}$ ) inch holes within an arch of 120 degrees of circumference of the piping and shall be on four (4) inch centers. Such tubing shall be visibly marked with the name of the manufacturer and the commercial standard number at ten (10) feet intervals.

Section 4. Cast-iron Pipe. (Hub and Spigot and No-Hub). (1) Extra Heavy. Extra heavy cast-iron pipe and fittings shall conform to CS 188-59 and A74-69.

(2) Service-Weight. Service-weight cast-iron pipe and fittings shall conform to A74-69, or 301-72.

(3) Coating. Cast-iron pipe and fittings for underground use shall be coated with asphaltum, coal tar pitch or using a coating conforming to A.S.T.M. A-174

Section 5. Wrought-Iron Pipe. All wrought-iron pipe shall conform to the latest A.S.T.M. "standard specifications for welded wrought iron pipe."

Section 6. Mild-Steel Pipe. All steel pipe shall conform to the latest A.S.T.M. "standard specifications for welded and seamless steel pipe."

Section 7. Brass pipe; Copper Pipe; and Brass Tubing. Brass pipe, copper pipe and brass tubing shall conform respectively to the latest standard specifications of A.S.T.M. for "brass pipe, copper pipe, and brass tubing, standard sizes."

Section 8. Borosilicate Pipe. (1) Borosilicate pipe shall conform to the latest A.S.T.M. standards.

(2) Plastic Pipe. All plastic piping used in a drainage, waste and vent system shall be schedule 40 or 80, Type 1,

Grade 1, polyvinyl chloride compounds as defined and described in tentative specifications for rigid polyvinyl chloride (PVC) (ASTM Designation: D 1784-75), or Schedule 40 or 80 acrylonitrile-butadiene-styrene compound as defined and described in standard specification for acrylonitrile-butadiene-styrene (ABS) (ASTM Designation: D 1788-73). Pipe and fittings shall be produced and labeled in accordance with the provisions of Commercial Standard ASTM-D-2665-76, as amended, for PVC and ASTM-D-2661-76 for ABS, and both shall bear the NSF seal of approval. All pipe and fittings shall bear the ASTM designation together with the NSF seal, the manufacturer's identification and the size. The use of plastic pipe and fittings (PVC or ABS) as outlined herein shall be restricted to buildings where the soil and/or waste and vent stack do not exceed thirty (30) feet in height, the vertical distance from the base of the stack to its terminus through the roof of the building.

(3) Stainless Steel Tubing. Stainless steel tubing for hot and cold water piping must be Grade H conforming to CS A268-68. Stainless steel tubing for the soil, waste and vent system must be either Grade G or H conforming to CS A-268-68.

(4) Polyethylene Pipe. Polyethylene pipe used in acid waste systems shall conform to D-1204-62T.

(5) Polypropylene Pipe. Polypropylene pipe used in acid waste systems shall conform to ASTM D-2146-65T.

Section 9. Lead Pipe, Diameter, Weights. (1) Lead soil, waste and vent pipes shall be in accordance with the standards of the Lead Industries Association and Federal Specifications WW-P-325, which are identical in substance, and shall not be lighter than the following weights:

Size Inside Diameter In.	Commercial Designation "D" "XL"	Wall Thickness Inches	Weight Pounds	Per Foot Ounce
1½	D XL	0.138	3	8
2	D XL	0.142	4	12
3	D XL	0.125	6	0
4	D XL	0.125	8	0

(2) All lead bends and lead traps shall be of the weight known as Extra Heavy (XH) and shall have at least one-eighth (1/8) inch wall thickness. Weights for lead water service or supply pipes shall be according to the maximum working pressure in pounds per square inch as given in federal specifications WW-P-325.

Section 10. Sheet Lead. Sheet lead for shower pans shall weigh not less than four (4) lbs. per sq. ft. and shall weigh not less than three (3) lbs. per sq. ft. for vent pipe flashings.

Section 11. Sheet Copper or Brass. Sheet copper or brass shall not be lighter than No. 18 B. & S. gauge, except that for local and interior ventilating pipe it shall not be lighter than No. 26 B. & S. gauge.

Section 12. Threaded Fittings. (1) Plain screwed fittings shall be either cast-iron, malleable iron, or brass of standard weight and dimensions.

(2) Drainage fittings shall be either cast-iron, malleable iron, or brass, with smooth interior waterway, with threads tapped out of solid metal.

(3) All cast-iron fittings used in a water supply distribu-

tion shall be galvanized.

(4) All malleable iron fittings shall be galvanized.

Section 13. Caulking Ferrules. Caulking ferrules shall be of red brass and shall be in accordance with the following table:

Pipe Sizes Inches	Inside Diameter Inches	Length Inches	Minimum Weight Each
2	2¼	2½	1 lb. 0 oz.
3	3¼	4½	1 lb. 12 oz.
4	4¼	4½	2 lb. 8 oz.

Section 14. Soldering Nipples. Soldering nipples shall be recessed red cast brass, iron pipe size. When cast, they shall be full bore and of minimum weight.

Section 15. Floor Flanges for Water Closets and Service Sinks or Similar Fixtures. Floor flanges shall either be hard lead, brass, cast iron, galvanized malleable iron, ABS or PVC. Hard lead and brass flanges shall be not less than one-eighth (1/8) inch thick. Cast iron and galvanized malleable iron shall be not less than one-fourth (¼) inch thick and shall have a two (2) inch caulking depth.

Section 16. New Materials. Any material other than that specified in this code is prohibited unless such material is specifically approved by the State Plumbing Code Committee and the Department of Housing, Buildings and Construction as being equal to or better than the material specified herein. It shall be the responsibility of any person or company seeking the approval of a material not included in this code to prove to the satisfaction of such agencies that the material is equal to or better than the material for which it is intended to replace.

MIKE HELTON, Secretary

ADOPTED: July 20, 1978

RECEIVED BY LRC: August 1, 1978 at 12:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Eugene F. Perkins, Division of Plumbing, The 127  
Building, US 127 South, Frankfort, Kentucky 40601.

### DEPARTMENT OF HOUSING BUILDINGS AND CONSTRUCTION Division of Plumbing

815 KAR 20:100. Joints and connections.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 13.082, 224.033, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the methods that must be used in joining certain types of piping materials together as well as denoting the methods that must be used in securing plumbing fixtures to waste piping outlets.

Section 1. Water and Air-Tight Joints. All joints and

connections shall be made permanently gas and water tight.

Section 2. Vitrified Pipe Joints; Concrete Pipe Joints; House Sewers-Combined Sewers. Joints in vitrified clay pipe shall conform to ASTM specification C-425. Joints in concrete pipe shall conform to commercial standard C-443. When it is necessary to use piping in other than standard lengths hot poured joints may be used. Joints between cast iron pipe and vitrified clay pipe or concrete pipe shall be made either of hot poured bitumastic compound or by a preformed elastomeric ring. The ring shall completely fill the annular space between the cast iron spigot and the vitrified clay or concrete pipe hub. Joints in pipe and fittings of not more than two (2) pipe sizes between vitrified clay, asbestos cement, acrylonitrile-butadiene-styrene or polyvinyl chloride to cast iron pipe and fittings or the joining of either material to the other may be made with proper fittings by the use of a dispersion grade polyvinyl chloride ring conforming to ASTM C-443, C-425, C-594, C-564 and D-1829 or elastomeric polyvinyl chloride coupling.

Section 3. Caulked Joints. All caulk joints shall be firmly packed with oakum or hemp and shall have at least one (1) inch of pure lead properly caulked. No paint varnish or putty will be permitted until tests have been performed.

Section 4. (1) Screw Joints. All screw joints shall be American Standard screw joints and all burrs or cuttings shall be removed.

(2) Mechanical Joint Couplings for Hot and Cold Water. Mechanical joint couplings for hot and cold water may be used above ground provided the couplings are galvanized and the gaskets conform to ASTM D-735-61, grade N-R-615 BZ.

(3) Mechanical Joint Couplings for Storm Water Piping. Mechanical joint couplings for storm water piping may be used above ground provided the couplings are either black iron or galvanized and the gaskets conform to ASTM D-735-61, grade N-R-615 BZ.

(4) Joints in PVC and ABS Schedule 40 or 80 Pipe and Fittings. Joints in polyvinyl chloride schedule 40 or 80 pipe and fittings shall be solvent welded joints and shall conform to ASTM D-2665-69. Joints in acrylonitrile-butadiene-styrene pipe and fittings shall be solvent welded joints and shall conform to ASTM D-2661-69. Acrylonitrile-butadiene-styrene and polyvinyl chloride sewer piping that conforms to ASTM 3033 and 3034 shall be joined by solvent cement conforming to ASTM C-2665-69 for acrylonitrile-butadiene-styrene and ASTM D-2661-69 for polyvinyl chloride or with an elastomeric joint conforming to D-3212-73.

(5) Copper Pipe, Brass and Stainless Steel Tubing Joints. Copper pipe, brass and stainless steel tubing joints shall be soldered joints.

(6) Expansion. Every expansion joint shall be of approved type and its material shall conform with the type of piping in which it is installed.

(7) Brazed Joints. Brazed joints shall be made by first cleaning the surfaces to be joined down to the base metal, applying flux approved for such joints and for the filler metal to be used, and making the joint by heating to a temperature sufficient to melt the approved brazing filler metal on contact.

(8) Tapered Couplings. Every joint in bituminized fiber pipe shall be made with tapered type couplings of the same

material as the pipe. Joints between bituminized fiber pipe and metal pipe shall be made by means of an approved adapter coupling properly caulked.

(9) Elastomeric Polyvinyl Chloride Coupling. Elastomeric polyvinyl chloride couplings may be used for connecting cast iron, vitrified clay, concrete, cement asbestos or plastic pipe or the combination of these pipe materials. This coupling shall be provided with # 305 stainless steel clamps.

(10) [(9)] Joints in Corrugated Polyethylene Subsoil Drainage Tubing. Joints in corrugated polyethylene subsoil drainage tubing shall be made by slip joints using appropriate fittings.

Section 5. Cast Iron Soil Pipe Joints. Joints in cast iron shall either be caulked, screwed, or joints made with the use of neoprene gaskets. Neoprene gaskets shall conform to either ASTM C-564-70 or CS 301-72. Joints that conform to commercial standard 301-69T shall have a stainless steel clamp.

Section 6. Borosilicate Joints. Joints and gaskets used for borosilicate pipe shall be made in a manner approved by the department.

Section 7. (1) Steel, Brass and Copper Connections to Cast Iron Pipe. Steel, brass and copper joints when connected to cast iron pipe shall be either screwed or caulked joints. All caulked joints shall be made by the use of a caulking spigot.

(2) PVC and ABS Pipe and Fitting Connections to Steel, Brass, Copper and Cast Iron Pipe. Polyvinyl chloride and acrylonitrile-butadiene-styrene pipe and fitting connections to steel, brass, copper or cast iron pipe shall either be a screwed or caulk joint. Joints between Schedule 40 PVC or ABS pipe and cast iron pipe may be made by the use of a neoprene [meoprane] gasket conforming to ASTM C-564-70. All caulk joints shall be made with the use of either a polyvinyl chloride or acrylonitrile-butadiene-styrene or cast iron caulking spigot.

(3) Stainless Steel Tubing to Cast Iron Pipe to Galvanized Steel Pipe and to Copper Tubing. Stainless steel tubing to cast iron pipe shall be made by caulking spigot. Stainless steel tubing to galvanized steel pipe or copper pipe shall be made by the use of an adaptor.

(4) Joints in Acid Waste Piping. Joints in vitreous glazed piping shall be made in a manner and of a material approved by the department. Joints in polyethylene and polypropylene piping must be made by the heat fusion process. Joints in borosilicate pipe may be a stainless steel mechanical joint. Joints between silicon iron pipe may be either caulk joint or stainless steel mechanical joint.

Section 8. Lead Pipe. Joints in lead pipe or between lead pipe and brass or copper pipes, ferrules, soldering nipples, or trap, shall be fullwiped joints, with an exposed surface of the solder at each side of the joint of not less than three-quarters (¾) of an inch. The minimum thickness of the thickest part of the joint shall be at least as thick as the material being used. In the event lead pipe is used for acid waste lines the pipe may be joined by burning.

Section 9. Lead Pipe to Cast Iron, Steel, or Wrought Iron Pipe. The joints between lead to cast iron, steel or wrought iron shall be made by means of a caulking ferrule or a soldering nipple.



Section 10. Wall or Floor Flange Joints. Wall or floor flange joints shall be made by using a lead ring or brass flange and shall be properly soldered.

Section 11. Soil Pipe, Iron Pipe, Copper Pipe; Tubular Trap Joints. Joints between soil pipe, iron pipe, copper pipe and tubular traps shall be made by the use of a heavy red cast brass adaptor. Tubular traps shall be soldered to the adaptor in a manner approved by the department.

Section 12. Slip Joints. Slip joints shall be permitted only on the inlet side of a trap.

Section 13. Unions. Unions shall be ground faced and shall not be concealed or enclosed.

Section 14. Roof Joints. The joint of the roof shall be made water-tight by use of copper, lead or other approved flashing or flashing material. It shall extend not less than six (6) inches from the pipe in all directions and shall extend upward twelve (12) or more inches and turn down into the pipe. A hub flashing may be used provided it is constructed so it can be caulked into a hub above the roof.

Section 15. Increasers and Reducers. When different size pipes or pipes and fittings are to be concealed, the proper size increaser or reducer pitched at an angle of forty-five (45) degrees between the two (2) sizes, shall be used.

Section 16. Prohibited Joints and Connections. Any fitting or connection which has an enlargement chamber, or recess with a ledge shoulder, or reduction of the pipe area in the direction of the flow is prohibited.

Section 17. Hangers and Supports. All piping and fixtures shall be adequately supported by hangers or anchors securely attached to the building construction.

Section 18. Welded Pipe for Soil, Waste and Vent Systems. Mild steel pipe may be welded for a soil waste and vent system provided the welds are mechanically sound and the bore of the piping is smooth throughout its length. The welded piping shall be covered with a metallic continuous coating. Written permission shall be secured from the department for such a system.

MIKE HELTON, Secretary

ADOPTED: July 20, 1978

RECEIVED BY LRC: August 1, 1978 at 12:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Eugene F. Perkins, Division of Plumbing, The 127  
Building, U. S. 127 South, Frankfort, Kentucky 40601.

**DEPARTMENT OF HOUSING  
BUILDINGS AND CONSTRUCTION  
Division of Plumbing**

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 13.082, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code

Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. The bacteriological and chemical quality of the water supply shall comply with the regulations of the department.

Section 2. Distribution. The water supply shall be distributed through a piping system entirely independent of any other piping system.

Section 3. Water Service. The water service piping to any building shall be not less than three fourths ( $\frac{3}{4}$ ) inch but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times. The water service may be laid in the same trench with the house sewer provided the water piping is benched eighteen (18) inches above the sewer.

Section 4. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a four (4) gallon flushing capacity for a water closet and at least a two (2) gallon capacity for a urinal. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 5. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 6. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths ( $\frac{3}{4}$ ) inch. The hot and cold water piping shall extend three-fourths ( $\frac{3}{4}$ ) inch in size to the first fixture branch regardless of the kind of material used. When galvanized iron pipe is used the distribution piping shall be arranged so that no two (2) one-half ( $\frac{1}{2}$ ) inch fixture branches are supplied from any one-half ( $\frac{1}{2}$ ) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures:

Fixture Branches	Size Minimum Inches
Sill Cocks	1/2
Hot water boilers	3/4
Laundry trays	1/2
Sinks	1/2
Lavatories	3/8
Bathtubs	1/2
Water closet tanks	3/8
Water closet flush valves	1

**Section 7. Water Supply Pipes and Fittings, Materials.** Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, *PVC SDR 21 and SDR 26 conforming to ASTM D-2241*, plastic pipe and fittings shall bear the NSF seal of approval. Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M Copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it [is] shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building.

**Section 8. Temperature and Pressure Control Devices for Shower Installations.** Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

**Section 9. Water Supply Control.** A main supply valve shall be placed inside a foundation wall. Each fixture or each group of fixtures shall be valved and each lawn sprinkler opening shall be valved.

**Section 10. Water Supply Protection.** All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

**Section 11. Temperature and Pressure Relief Devices for Water Heaters.** Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches

of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

**Section 12. Protection of a Private Water Supply or Source.** Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

**Section 13. Water Distribution and Connections to Mobile Homes.** (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths (¾) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

MIKE HELTON, Secretary

ADOPTED: July 20, 1978

RECEIVED BY LRC: August 1, 1978 at 12:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Eugene F. Perkins, Division of Plumbing, The 127  
Building, U.S. 127 South, Frankfort, Kentucky 40601.

#### DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION Division of Plumbing

**815 KAR 20:130. House sewers and storm water piping; methods of installation.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KAR 13.082, 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to outlining the materials that may be used in the construction of house sewers, storm water piping as well as the methods of installation.

**Section 1. Independent System.** The drainage and plumbing system of each new building and of new work installed in an existing building shall be separate from, and independent of, that of any other building except as provided below, and every building shall have an independent



connection with either a public or private sewer or sewer system.

**Section 2. Exception.** Where a building stands in the rear of another building or on an interior lot, and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it will be considered as one (1) sewer. This exception does not apply to corner lots where a sewer connection is available from the street or alley nor to a new or existing building which abuts a street or alley.

**Section 3. Connection with Private Sewage Disposal System.** When a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

**Section 4. Excavations.** All excavations made for the installations of a house sewer shall be open trench work. All such trenches shall be kept open until the piping has been inspected and/or tested and approved.

**Section 5. Depth of Sewer at the Property Line. (1)** Where possible the sewer at the property line shall be at a sufficient depth to properly serve any plumbing connection that may be installed in the basement of any building unless restricted by another's authority.

(2) House sewers shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot. All sewers must have at least an eighteen (18) inch cover. Sewer piping under a superimposed load condition shall have at least three (3) feet cover unless constructed of cast iron piping. Sewers shall be backfilled by hand and tamped six (6) inches above the piping, or in lieu thereof may be filled with six (6) inches grillage above the piping. All joints in cast iron, bituminous fiber, vitrified clay pipe and cement asbestos pipe shall be made in a manner to conform to other sections of this code.

**Section 6. New House Sewer Connections.** House sewers installed where a private sewerage system has been discarded may connect to the house drain, provided in the opinion of the department the existing plumbing system meets this code or a previous one.

**Section 7. Materials for House Sewers.** House sewers or combined sewers, beginning two (2) feet outside the foundation wall of a building shall be made of either extra heavy cast iron pipe, service weight cast iron, vitrified clay, concrete, bituminous fiber, cement asbestos, PVC or ABS plastic pipe schedules 40 and 80, truss pipe and extra heavy SDR 35 pipe.

**Section 8. Material for Storm Sewers Inside Buildings.** Material for storm sewers inside of buildings to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe or Schedule 40 ABS or PVC DWV pipe. Storm sewers in sizes of ten (10) inches and larger may be either cast iron, vitrified clay or concrete conforming to appropriate commercial standards with approved joints.

**Section 9. Change of Direction.** Change in direction of a sewer shall be made with long curves, one-eighth (1/8) bends or Y's.

**Section 10. Size of House Sewers and Horizontal Bran-**

ches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. House sewers receiving branches shall be sized in the same manner as house drains. (See 815 KAR 20:090.)

**Section 11. Size of Storm Systems.** The required sizes of storm sewers shall be determined on the basis of the total drained areas in horizontal projection in accordance with the following table. No storm sewer shall be laid parallel to or within two (2) feet of any bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

Diameter of pipe inches	Maximum drained roof area square feet *	Diameter of pipe inches	Maximum drained roof area square feet *		
	Slope, 1/8 in. fall to 1 ft.	Slope, 1/4 in. fall to 1 ft.	Slope, 1/8 in. fall to 1 ft.	Slope, 1/4 in. fall to 1ft.	
3	865	1,230	8	11,115	15,745
4	1,860	2,610	10	19,530	27,575
5	3,325	4,715	12	31,200	44,115
6	5,315	7,515	13	42,600	60,000

\* The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

**Section 12. Combined Storm and Sanitary Sewer System.** Whenever a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. No combined house drain or house sewer shall be less than five (5) inches in diameter, and no combined house drain or house sewer shall be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

#### CONVERSION FACTORS FOR COMBINED STORM AND SANITARY SYSTEM

Number of fixture units on sanitary system

Drained roof area in square feet	Up to 6	7 to 18	19 to 36	37 to 60	61 to 96	97 to 144	145 to 216	217 to 324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0



Number of fixture units on sanitary system

Drained roof area in square feet	325 to 486	487 to 732	733 to 1,098	1,099 to 1,644	1,645 to 2,466	2,467 to 3,702	3,703 to 5,556	Over 5,556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 to 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 to 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 to 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 to 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 to 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 to 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 to 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 to 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 to 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 to 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 to 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Section 13. House Sewer in Undisturbed or Made Ground. House sewers laid in undisturbed ground must be laid on at least four (4) inches of pea gravel, sand or other approved grillage. House sewers laid in made or filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock. House sewers constructed of flexible thermoplastic sewer piping or bituminous fiber must be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Made Ground. Storm sewers laid in undisturbed ground will not require grillage. Storm sewers laid in made or filled grounds shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level. In buildings, in which the whole or part of the house drain and plumbing system thereof lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). In homes where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump. The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray. The pump shall discharge into a two (2) inch cast iron pipe extended inside the building at least twelve (12) inches above the outside grade. The sump well shall be provided with a tight-fitting concrete cover. On the outside of the building this connection shall be provided with a four (4) inch by two (2) inch soil tee extended to the grade, with a vent cap and a four (4) inch trap properly connected to the house sewer.

Section 17. Sumps and Receiving Tanks. All subsoil drains shall discharge into an air tight sump or receiving

tank so located as to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or any equally efficient method. Such sumps shall automatically discharge.

Section 18. Ejectors, Vented. All ejectors shall be vented with a three (3) inch vent. Fixtures or appliances connected thereto shall be vented in accordance with other sections of this code.

Section 19. Ejector Power: Motors, Compressors, Etc. All motors, air compressors and air tanks shall be located where they are open for inspection and repair at all times. The air tanks shall be proportioned so as to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating. The end pressure in the tank shall be not less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Sub-Soil Drainage. When sub-soil catch basins are installed below the sewer level, automatic ejectors, or an approved type, may be used. Such ejectors or any device raising sub-soil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas and Roofs. All roofs, paved areas, courts, and court yards shall be drained into a storm water system or a combined sewerage system, but not into sewers intended for sewage only. When drains are connected to a combined sewerage system, they shall be trapped. If roof leaders, conductors, or gutter openings are located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required. Traps shall be set below the frost line or on the inside of the building. Where there is a storm or combined sewer available, it may discharge into a drainage area unless otherwise prohibited by the proper authorities. When such drains are not connected to a combined sewer a trap is not required.

Section 22. Size of Rain Water Leader. No inside leader shall be less size than the following:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. When conductors and roof leaders are placed within the walls of any building, or in an interior court or ventilating pipe shaft, they shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe conforming to ASTM D-2996 (red and silver thread). The vertical distance of PVC or ABS conductors shall not exceed thirty (30) feet from the base through the terminus through the roof.

Section 24. Outside Conductors. When outside sheet

metal conductors or downspouts are connected to a house drain, they shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line. Along public driveways, without side walks, they shall be placed in niches in the walls, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

**Section 25. Defective Conductor Pipes.** When an existing sheet metal conductor pipe within the walls of any building becomes defective, such a conductor shall be replaced by one which conforms to this code.

**Section 26. Vent Connections with Conductors Prohibited.** A conductor pipe shall not be used as a soil, waste or vent pipe, nor shall any soil, waste, or vent pipe be used as a conductor.

**Section 27. Overflow Pipes.** Overflow pipes from cisterns, supply tanks, expansion tanks, or drip pans shall connect only indirectly with any house sewer, house drain, soil or waste pipe.

**Section 28. Subsoil Drains, Below Sewer Level.** Subsoil drains shall discharge into a sump or receiving tank. It shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building that it serves.

MIKE HELTON, Secretary

ADOPTED: July 20, 1978

RECEIVED BY LRC: August 1, 1978

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Eugene F. Perkins, Division of Plumbing, The 127  
Building, U.S. 127 South, Frankfort, Kentucky 40601.

**DEPARTMENT FOR HUMAN RESOURCES**  
**Bureau for Health Services**  
**Certificate of Need and Licensure Board**  
**(Proposed Amendment)**

**902 KAR 20:020. Extended care and recuperation center facilities.**

RELATES TO: KRS 216.405 to 216.485, 216.990(2)

PURSUANT TO: KRS 13.082, 216.425

**NECESSITY AND FUNCTION:** This regulation, which relates to the construction and alteration of Extended Care and Recuperation Center Facilities, is being promulgated pursuant to the mandate of KRS 216.425(3) that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services.

**Section 1. Definition: Extended Care and Recuperation Center Facilities, General.** Establishments with organized medical staffs; with permanent facilities that include inpatient beds; and with medical services, to provide treatment for patients who require inpatient care but are not in an acute phase of illness, who currently require primarily convalescent or restorative services, and who have a variety of medical conditions.

**Section 2. Essential Characteristics for Classification.** (1) The primary function of the institution is to provide treatment for patients who require inpatient care but who are not in an acute phase of illness; who currently require primarily convalescent or restorative services; and who have a variety of medical conditions.

(2) There are arrangements for transfer of patients in need of hospital care for acute phases of illness.

(3) The institution maintains inpatient beds.

(4) There is a governing authority legally responsible for the conduct of the institution.

(5) There is an administrator to whom the governing authority delegates the full-time responsibility for the operation of the institution in accordance with established policy.

(6) There is an organized medical staff of the institution, or one that serves the institution through an affiliation, to which the governing authority delegates responsibility for maintaining proper standards of medical care.

(7) Each patient is admitted on the medical authority of, and is under the supervision of, a physician.

(8) A current and complete medical record is maintained for each patient.

(9) Registered professional nurse supervision and other nursing services are continuous.

(10) Diagnostic x-ray service and clinical laboratory service are regularly and conveniently available.

(11) There is control of the storage and dispensing of controlled substances and other medication.

(12) Food served to patients meets their nutritional requirements, and special diets are regularly available.

**Section 3. Preparation of Plans and Specifications.** (1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any change in facilities, for a nursing home, the licensee or applicant shall submit plans to the licensing agency for approval.

(2) Architectural drawings must bear the seal of an architect registered in the Commonwealth of Kentucky and mechanical and electrical drawings must bear the seal of a professional engineer registered in the Commonwealth of Kentucky.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

**Section 4. Submission of Plans and Specifications.** (1) First stage; schematic plans:

(a) Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Drawings shall include typical patient room layouts (scaled  $\frac{1}{4}'' = 1'0''$ ) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.

(b) If the project is an addition, or is otherwise related to existing buildings on the site, the plans shall show the facilities and general arrangements of those buildings.

(2) Second stage; preliminary plans. Preliminary sketch plans shall include the following:

(a) Architectural:

1. Plans of basement, floors, and roof showing space assignment sizes and outline of fixed and movable equipment;

2. All elevations and typical sections;

3. Plot plan showing roads, parking, and sidewalks;

4. Areas and bed capacities by floors.

## (b) Mechanical:

1. Single line layout of all duct and piping systems;
2. Riser diagrams for multistory construction;
3. Scale layout of boilers and major associated equipment and central heating, cooling, and ventilating units.

## (c) Electrical:

1. Plans showing space assignment, sizes and outlines of fixed equipment, such as transformers, main switch and switchboards, and generator sets;
2. Simple riser diagram for multistory building construction, showing arrangement of feeders, subfeeders, bus work, load centers, and branch circuit panels.

## (d) Outline specifications:

1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;
2. Description of the air-conditioning, heating, and ventilation systems and their controls, duct and piping systems; and dietary, laundry, sterilizing, and other special equipment;
3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.

## (3) Third stage; contract documents:

(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:

## 1. Architectural drawings:

- a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;
- b. Plan of each basement, floor and roof;
- c. Elevations of each facade;
- d. Sections through building;
- e. Required scale and full-size details;
- f. Schedule of doors, windows, and room finishes;
- g. Equipment. Location of all fixed equipment. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;
- h. Conveying systems. Details of construction machine and control spaces necessary, size and type of equipment, and utility requirements for the following: dumbwaiters; electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.

## 2. Structural drawings:

- a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members;
- b. Dimensions of special openings;
- c. Details of all special connections, assemblies, and expansion joints.

## 3. Mechanical drawings:

- a. Heating, steam piping, and air-conditioning systems. Radiators and steam heated equipment, such as sterilizers, warmers, and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping and boiler room accessories; air-conditioning systems with required equipment, water and refrigerant piping, and ducts; supply and exhaust ventilation systems with heating/cool-

ing connections and piping; air quantities for all room supply and exhaust ventilating duct openings.

b. Plumbing, drainage, and standpipe systems. Size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building; location and size of soil, waste, and water service with connections to house drains, clean-outs, fixtures, and equipment; size and location of hot, cold and circulating branches, and risers from the service entrance, and tanks; riser diagram of all plumbing stacks with vents, water risers, and fixture connections; gas, oxygen, and vacuum systems; standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.

## 4. Electrical drawings:

- a. Electrical service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;
- b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits with schedule of feeder breakers or switches;
- c. Light outlets, receptacles, switches, power outlets, and circuits;
- d. Telephone layout showing service entrance, telephone switchboard, strip boxes, telephone outlets, and branch conduits;
- e. Nurses' call systems with outlets for beds, duty stations, door signal light, annunciators, and wiring diagrams;
- [f. Fire alarm system with stations, signal devices, control board, and wiring diagrams;]
- f. [g.] Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits;
- g. [h.] All other electrically operated systems and equipment.

(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:

1. Cover or title sheet;
2. Index;
3. Sections describing materials and workmanship in detail for each class of work;
4. General conditions, which must contain the following requirements: Access to the work. Representatives of the appropriate state agencies will have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

(4) *Fourth stage. All plans and specifications must be approved by the State Fire Marshal's Office and the state licensure agency prior to commencement of construction.*

Section 5. Code and Standards. (1) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(2) The following codes and standards will apply where applicable and as adopted by the respective agency authority:

- (a) Current Kentucky standards of safety regulations applicable to extended care and recuperation center facilities.
- (b) Current Kentucky plumbing standards regulations applicable to extended care and recuperation center facilities.
- (c) Current Kentucky standards for air contaminants for



incinerators regulations applicable to extended care and recuperation center facilities.

(d) Current Kentucky standards for elevators regulations applicable to extended care and recuperation center facilities.

(3) *Prior to occupancy, facility must have final approval from appropriate agencies.*

Section 6. Facility Requirements and Special Conditions. (1) This regulation, except Section 5 which may be administered independent from this regulation, apply to the construction of new facilities and facilities that are being converted to extended care and recuperation center facilities. Existing facilities will be expected to make a concerted and demonstrated effort to fully comply with this regulation and must prove to the satisfaction of the board that there are valid, reasonable, and specific justification for not being in full compliance. The board, however, reserves the right to establish deadlines for compliance to standards of significant importance as determined by the board.

(2) Facilities shall be available to the public, staff, and patients who may be physically handicapped with special attention given to ramps, drinking fountain height, tilted mirrors, etc.

(3) The number of beds in a nursing unit shall not exceed sixty (60) unless additional services are provided, as deemed necessary by the state agency. At least two (2) rooms per nursing unit shall be designed for single person occupancy (one (1) bed) and shall have private toilet rooms with bath. At least sixty (60) percent of the beds shall be located in rooms designed for one (1) or two (2) beds.

Section 7. Nursing Unit. (1) Patient Rooms. Each patient room shall meet the following requirements:

(a) Maximum room capacity: four (4) residents;

(b) Minimum room area exclusive of closet, toilet rooms, lockers, wardrobes, and vestibules: 100 square feet in one (1) bed rooms and eight (80) square feet per bed in multibed rooms;

(c) Multibed rooms shall be designed to permit no more than two (2) beds side by side parallel to the window wall. Not less than a four (4) foot space shall be provided between beds, and at least three (3) foot space between the side of a bed and the nearest wall, fixed cabinet, or heating/cooling element. A minimum of four (4) feet is required between foot of bed and opposite wall, or foot of opposite bed in multibed rooms;

(d) Window. All patient rooms must have windows opening to the outside. Sill shall not be higher than three (3) feet above the floor and shall be above grade. Window area to be at least ten (10) percent of patient room floor area;

(e) Nurses' calling station(s), (See Section 17(6));

(f) Lavatory. In single and two (2) bed rooms with private toilet room, the lavatory may be located in the toilet room. Where two (2) patient rooms share a common toilet, a lavatory shall be provided in each patient room;

(g) Wardrobe or closet for each patient. Minimum clear dimensions: one (1) foot and ten (10) inches deep by one (1) foot and eight (8) inches wide with full length hanging space; provide clothes rod and shelf;

(h) Cubicle curtains, or equivalent built-in devices, for complete privacy for each patient at any one time in multibed rooms;

(i) No patient room shall be located more than 120 feet from the nurses' station, the clean workroom, and the soil-

ed workroom. No room shall be used as a patient room where the access is through another patient's room.

(2) Patient toilet rooms:

(a) A toilet room shall be directly accessible from each patient room and from each central bathing area without going through the general corridor. One (1) toilet room may serve two (2) patient rooms but not more than four (4) beds. The minimum dimensions of any room containing only a water closet shall be three (3) feet by five (5) feet; bedpan flushing devices must be provided in each toilet room.

(b) Water closets must be easily usable by wheelchair patients. Grab bars shall be provided at all water closets.

(c) At least one (1) toilet for each sex shall be provided for training purposes and access by wheelchairs. This shall be accessible from the nursing corridor and may be part of the bathing area. Minimum size, five (5) feet by six (6) feet.

(d) Doors to toilet rooms shall have a minimum width of two (2) feet and ten (10) inches to admit a wheelchair.

(3) Service areas in each nursing unit. The size of each service area will depend on the number and types of beds within the unit and shall include:

(a) Nurses' station. For nurses' charting, doctors' charting, communications, and storage for supplies and nurses' personal effects;

(b) Nurses' toilet room. Convenient to nurses' station;

(c) Clean workroom. For storage and assembly of supplies for nursing procedures; shall contain work counter and sinks, and small sterilizer;

(d) Soiled workroom. Shall contain clinical sink, work counter with two compartment sink, waste receptacles, and soiled linen receptacles; and a bedpan washing device;

(e) Medicine room. Adjacent to nurses' station; with sink, refrigerator, locked storage, and facilities for preparation and dispensing of medication. (May be designated area within clean workroom if a self-contained cabinet is provided.) Controlled substances locker must be under double lock and wired to warning light at nurses' station;

(f) Clean linen storage. Enclosed storage space. (May be a designated area within the clean workroom.);

(g) Nourishment station. Storage space, sink, hot plate and refrigerator for serving between-meal nourishments. (May serve more than one (1) nursing unit on the same floor.);

(h) Equipment storage room. For storage of "IV" stands, inhalators, air mattresses, walkers, and similar bulky equipment;

(i) Patient baths. Provide separate bathing facilities for each sex. One (1) shower stall or one (1) bathtub required for each fifteen (15) beds not individually served. There shall be at least one (1) free standing bathtub in each bathroom. Grab bars shall be provided at all bathing fixtures. Each bathtub or shower enclosure in central bathing facilities shall provide space for the private use of bathing fixture, for dressing, and for a wheelchair and attendant. Showers in central bathing facilities shall not be less than four (4) feet square, without curbs, and designed to permit use from a wheelchair. Soap dishes in showers and bathrooms shall be recessed. (See training toilet requirement below);

(j) Stretcher and wheelchair parking area or alcove;

(k) Janitor's closet. Storage of housekeeping supplies and equipment. Floor receptor or service sink.

(4) Special purpose room(s). For consultation, examination and treatment, and therapeutic and nursing procedures. May serve more than one (1) nursing unit on the



same floor. Provide lavatory, storage, and space for treatment table. Minimum floor area nine (9) feet by eleven (11) feet.

(5) Patient's dining, TV viewing and recreation areas:

(a) The total areas set aside for these purposes shall be not less than thirty (30) square feet per bed for the first fifty (50) beds and twenty (20) square feet per bed for all beds in excess of fifty (50). Additional space shall be provided for outpatients if they participate in a day care program;

(b) Storage shall be provided for recreational equipment and supplies. (Wall cabinets and closets.)

Section 8. Therapy Units. (1) Physical therapy unit. Recommended if staffing available. The following shall be provided (depending on the program):

(a) Office. (May also serve for occupational therapy office);

(b) Exercise and treatment areas. Provide sink or lavatory and cubicle curtains around treatment areas;

(c) Hydrotherapy areas. Provide cubicle curtains around treatment areas;

(d) Storage for supplies and equipment;

(e) Toilet rooms. Located for convenient access by physical therapy patients. (May also serve occupational therapy patients.);

(2) Occupational therapy unit. May be omitted in facilities of less than 100 beds.

(a) Office space. (May be shared with physical therapy office.);

(b) Therapy area. Provide sink or lavatory;

(c) Storage for supplies and equipment;

(d) Toilet room. (Not required if other toilet facilities are convenient.).

(3) Personal care room. Provide space with shampoo sink and space for barber chair.

Section 9. Dietary Department. If a commercial service will be used or meals will be provided by an adjacent hospital, dietary areas and equipment shall be designed to accommodate the requirements for sanitary storage, processing, and handling, otherwise the following will be provided:

(1) Food preparation center. Provide lavatory but do not provide mirror;

(2) Food serving facilities. For patients and staff;

(3) Dishwashing room. Provide commercial-type dishwashing equipment and a lavatory;

(4) Potwashing facilities;

(5) Refrigerated storage. Three (3) day supply;

(6) Dry storage. Three (3) day supply;

(7) Cart cleaning facilities;

(8) Cart storage area;

(9) Waste disposal facilities;

(10) Canwashing facilities;

(11) Staff dining facilities;

(12) Patient dining facilities; (See Section 7(5).)

(13) Dietician's office. (May be omitted in facilities with less than 100 beds if desk space is provided in kitchen.);

(14) Janitor's closet. Storage for housekeeping supplies and equipment; floor receptor or service sink;

(15) Toilet room. Conveniently accessible for dietary staff. Must have two (2) door separation from food preparation area or dining areas.

Section 10. Administration Department. (1) Business office;

(2) Lobby and information center;

(3) Administrator's office;

(4) Admitting and medical records areas;

(5) Public and staff toilet rooms;

(6) Director of nurses' office. (May be omitted in facilities of less than 100 beds.)

(7) Housekeeper's office or space. (Location optional and may be combined with clean linen room in nursing homes of less than 100 beds.)

Section 11. Laundry. (1) Soiled linen room;

(2) Clean linen and mending room;

(3) Linen cart storage;

(4) Lavatories. Accessible from soiled, clean, and processing rooms;

(5) Laundry processing room. Commercial type equipment shall be sufficient to take care of seven (7) days needs within the workweek;

(6) Janitor's closet. Storage for housekeeping supplies and equipment; floor receptor or service sink;

(7) Storage for laundry supplies. (Items of subsections (5), (6), and (7) need not be provided if laundry is processed outside the facility.)

Section 12. Storage and Service Areas. (1) Central storage room(s). Provide at least ten (10) square feet per bed for first fifty (50) beds; and five (5) square feet per bed for all beds over fifty (50), to be concentrated in one area.

(2) Locker rooms. Provide locker rooms with water closets, and lavatories for staff and volunteers and rest space for females.

(3) Engineering service and equipment areas. The following shall be provided:

(a) Boiler room;

(b) Engineer's office. (May be omitted in nursing homes of less than 100 beds.);

(c) Mechanical and electrical equipment room(s). (Can be combined with boiler room.);

(d) Maintenance shop(s). At least one (1) room shall be provided;

(e) Storage room for building maintenance supplies and paint storage;

(f) Storage room for housekeeping equipment. (Need not be provided if space is available in janitor's closets or elsewhere.);

(g) Toilet and shower rooms. (May be omitted in facilities of less than 100 beds.);

(h) Incinerator space. The incinerator if required shall be in a separate room, or in a designated area within the boiler room, or outdoors;

(i) Refuse room. For holding trash prior to disposal. Shall be located convenient to service entrance;

(j) Yard equipment storage room. For yard maintenance equipment and supplies.

Section 13. Details and Finishes. A high degree of safety for the occupants in minimizing the incidence of accidents shall be provided. Hazards such as sharp corners shall be avoided. All details and finishes shall meet the following requirements: (1) Details:

(a) [Exit facilities shall comply with current requirements for exit facilities as listed in "Standards of Safety" as adopted by the State Fire Marshal's Office.] Required egress corridors and corridors used in transporting patients shall have a minimum width of eight (8) feet. Minimum width of doors to all rooms needing access for beds or stretchers shall be three (3) feet and eight (8) inches. Doors to patient toilet rooms and other rooms

needing access for wheelchairs shall have a minimum width of two (2) feet and ten (10) inches.

(b) Such items as drinking fountains, telephone booths and vending machines shall be located so that they do not project into the required width of exit corridors.

(c) Handrails with ends returned to the walls shall be provided on both sides of corridors used by patients in nursing homes with a clear distance of one and one-half (1½) inches between handrail and wall.

(d) All doors to patient room toilet rooms and patient room bathrooms shall swing outward or shall be equipped with hardware which will permit access in any emergency.

(e) All doors opening onto corridors shall be swing-type except elevator doors. Alcoves and similar spaces which generally do not require doors are excluded from this requirement.

(f) No doors shall swing into the corridor except closet doors.

(g) Thresholds and expansion joint covers, if used, shall be flush with the floor.

(h) Grab bars and accessories in patient toilet, shower, and bath rooms shall have sufficient strength and anchorage to sustain a load of 250 pounds for five (5) minutes.

(i) Lavatories intended for use by patients shall be installed to permit wheelchairs to slide under.

(j) The location and arrangement of lavatories and sinks with blade handles intended for handwashing purposes shall provide sixteen (16) inches clearance each side of center line of fixture.

(k) Mirrors shall be arranged for convenient use by patients in wheelchairs as well as by patients in standing position.

(l) Towel dispensers shall be provided at all lavatories and sinks used for handwashing.

(m) If linen and refuse chutes are used, they shall be designed as follows:

[1. Service openings to chutes shall have approved Class "B" one and one-half (1½) hour fire doors;]

[2. Service openings to chutes shall be located in a room or closet of not less than one (1) hour fire-resistive construction, and the entrance door to such room or closet shall be a Class "C", three-fourths (¾) hour fire door;]

[3.] Minimum diameter of gravity-type chutes shall be two (2) feet;

[4. Chutes shall terminate in or discharge directly into a refuse room or linen chute room separated from the incinerator or laundry. Such rooms shall be a Class "B", one and one-half (1½) hour fire door;]

[5.] Chutes shall extend at least four (4) feet above the roof and shall be covered by a metal skylight glazed with thin plain glass or plastic.

(n) Dumbwaiters, conveyors, and material handling systems shall not open into any corridor or exitway but shall open into a room enclosed by not less than one (1) hour fire-resistive construction. The entrance door to such room shall be a Class "C", three-fourths (¾) hour fire door.]

(o) [(o)] Ceiling heights:

1. Boiler room. Not less than two (2) feet and six (6) inches above the main boiler header and connecting piping with adequate headroom under piping for maintenance and access; nine (9) feet minimum;

2. Corridors, storage rooms, patients' toilet room, and other minor rooms. Not less than seven (7) feet and six (6) inches.

3. All other rooms. Not less than eight (8) feet.

(o) [(p)] Boiler room, food preparation centers, and

laundries shall be insulated and ventilated to prevent any floor surface above from exceeding a temperature of eighty-five (85) degrees Fahrenheit.

[(q)] Approved fire extinguishers shall be provided in recessed locations throughout the building in accordance with the State Fire Marshal's Office.]

(p) [(r)] Noise reduction criteria. The ceilings of the following areas shall be acoustically treated:

1. Corridors in patient areas;
2. Nurses' stations;
3. Utility rooms;
4. Floor pantries;
5. Lobbies and recreation areas.

(g) [(s)] Special attention shall be given to sound transmission from boiler rooms, mechanical rooms, and kitchen, to patient bedroom areas.

(2) Finishes:

[(a)] For floor spread requirements see Section 15(5).]

[(a)] [(b)] Floors generally shall be easily cleanable and shall have the wear resistance appropriate for the location involved. Floors in kitchen and related spaces shall be waterproof and greaseproof. In all areas where floors are subject to wetting, they shall have a nonslip finish. Carpeting is not permitted in the following areas: kitchen, dishwashing room, soiled utility room, janitor's closet, soiled linen rooms, storage room, bathrooms, public toilet rooms, patient toilet rooms, hydrotherapy rooms, treatment room, and any other room where the floor is subject to repeated wetting or soiling by urine or feces.

(b) [(c)] Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.

(c) [(d)] Walls generally shall be washable and in the immediate area of plumbing fixtures, the finish shall be moistureproof. Wall bases in dietary areas shall be free of spaces that can harbor insects.

(d) [(e)] Ceilings generally shall be washable or easily cleanable. This requirement does not apply to boiler rooms, mechanical and building equipment rooms, shops and similar spaces.

(e) [(f)] For acoustic ceilings, see Section 13(1)(r).

Section 14. Elevators. (1) Elevators, where required. All facilities where either patient beds or inpatient facilities such as diagnostic, recreation, patient dining or therapy rooms are located on other than the first floor, shall have electric or electrohydraulic elevators as follows:

(a) Number of elevators:

1. At least one (1) hospital-type elevator shall be installed where one (1) to fifty-nine (59) patient beds are located on any floor other than the first. (For purposes of these requirements, the first floor is that floor first reached from the main front entrance.);

2. At least two (2) elevators, one (1) of which shall be hospital-type, shall be installed where sixty (60) to 200 patient beds are located on floors, other than the first, or where inpatient facilities are located on a floor other than those containing the patient beds;

3. At least three (3) elevators, one (1) of which shall be hospital-type, shall be installed where 201 to 350 patient beds are located on floors other than the first, or where inpatient facilities are located on a floor other than those containing patient beds;

4. For facilities with more than 350 beds, the number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(b) Cars and platforms. [Elevator cars and platforms shall be constructed of noncombustible material, except that fire-retardant-treated material may be used if all ex-



terior surfaces of the cars are covered with metal.] Cars of hospital-type elevators shall have inside dimensions that will accommodate a patient's bed and attendants and shall be at least five (5) feet wide by seven (7) feet and six (6) inches deep; car doors shall have a clear opening of not less than three (3) feet and eight (8) inches. Cars of all other required elevators shall have a clear opening of not less than three (3) feet.

(c) Leveling. Elevators shall have automatic leveling of the two (2) way automatic maintaining type with accuracy within plus or minus one-half ( $\frac{1}{2}$ ) inch.

(d) Operation. Elevators (except freight elevators) shall be equipped with a two (2) way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

(2) Field inspection and tests. The contractor shall be required to cause inspections and tests to be made and shall deliver to the owner written certification that the installation meets the requirements set forth in this section.

Section 15. Construction. [Including Fire-Prevention Requirements.] [(1)] Foundations shall rest on natural solid ground if a satisfactory soil is available at reasonable depths. Proper soil bearing values shall be established in accordance with recognized standards. If solid ground is not encountered at practical depths, the structure shall be supported on driven piles or drilled piers designed to support the intended load without detrimental settlement.

[(2)] One-story building. One-story buildings shall be of not less than one (1) hour fire-resistive construction throughout, with the following exceptions: Walls enclosing stairways, elevator shafts, chutes, and other vertical shafts, boiler rooms, and storage rooms of 100 square feet or greater area shall be of two (2) hour fire-resistive construction.]

[(3)] Multistory buildings:]

[(a)] For all buildings more than one (1) story in height, the structural framework and building elements shall be an appropriately fire-resistive combination of materials using steel, concrete, or masonry. Load-bearing masonry walls may be used for buildings up to and including three stories in height.]

[(b)] Bearing walls and walls enclosing stairways, elevator shafts, chutes and other vertical shafts, boiler rooms, and storage rooms of 100 square feet or greater area shall be of two (2) hour fire-resistive construction.]

[(c)] Non-load-bearing corridor partitions shall be of one (1) hour fire-resistive construction.]

[(d)] Columns, girders, trusses, floor construction including beams, and roof construction including beams shall be of not less than one and one-half ( $1\frac{1}{2}$ ) hour fire-resistive construction.]

[(e)] Beams supporting masonry shall be individually protected with not less than two (2) hour fire-resistive construction.]

[(f)] Non-load-bearing partitions other than corridor partitions shall be of one (1) hour fire-resistive construction and may utilize fire-retarded-treated wood studs.]

[(4)] Fire-resistive ratings shall be determined in accordance with ASTM Standard No. E119.]

[(5)] Interior finish of walls and ceilings of all exitways, storage rooms, and areas of unusual fire hazard shall have a flame spread rating of not more than twenty-five (25); all other areas shall have a flame spread rating of not more than seventy-five (75), except that up to ten (10) percent of the aggregate wall and ceiling area may have a flame spread rating up to 200. Floor finish materials shall have a flame spread rating of not more than seventy-five (75).

Flame spread ratings for each specific product shall be determined by an independent testing laboratory in accordance with ASTM Standards No. E84-70.]

[(6)] Fire safety approval. Prior to final approval of plans and specifications by the state licensure agency, the plans and specifications must be approved by the State Fire Marshal's Office, or their authorized representative.]

Section 16. Mechanical Requirements. (1) General. Prior to completion of the contract and final acceptance of the facility, the architect and/or engineer shall obtain from the contractor certification that all mechanical systems have been tested and that the installation and performance of these systems conform to the requirements of the plans and specifications.

(2) Incinerators and refuse chutes. Incinerators shall be gas, electric, or oil-fired and shall be capable of, but need not be limited to complete destruction of pathological wastes. The design and installation must comply with current regulations for incinerators and air contaminants applicable to extended care and recuperation center facilities. [Design and construction of refuse chutes shall be in accordance with Part III of the NFPA Standard No. 82.]

(3) Steam and hot water systems:

(a) Boilers. If boilers are used, a minimum of two (2) must be provided; the combined capacity of boilers, based upon the published Steel Boiler Institute or Institute of Boiler and Radiator Manufacture's net rating, must be able to supply 150 percent of the normal requirements of all systems and equipment.

(b) Boiler accessories. Boiler feed pumps, condensate return pumps, fuel oil pumps, and circulating pumps shall be connected and installed to provide standby service when any pump breaks down.

(c) Valves. Supply and return mains and risers of space heating and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply return end.

[(d)] Covering. Boilers, smoke breeching, steam supply piping, high pressure steam return piping, and hot water space heating supply and return piping shall be insulated with insulation having a flame spread rating of twenty-five (25) or less and a smoke-developed rating of fifty (50) or less.]

(4) Air-conditioning, heating, and ventilating systems.

(a) Temperatures. A minimum temperature of seventy-five (75) degrees Fahrenheit shall be provided for all occupied areas at winter design conditions.

(b) Ventilation system details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown on Table 1, Section 18, shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates if they are required to meet design conditions.

1. Outdoor ventilation air intakes, other than for individual room units, shall be located as far away as practicable but not less than twenty-five (25) feet from any ventilating system or combustion equipment. The bottom of outdoor intakes serving central air systems shall be located as high as possible but not less than eight (8) feet above the ground level or, if installed through the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced to provide the general pressure relationship to adjacent areas as shown in Table 1, Section 18.

3. Room supply air inlets, recirculation, and exhaust air

outlets installed in nonsensitive areas shall be located not less than three (3) inches above the floor.

4. Corridors shall not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate bathrooms, toilet rooms, or janitor's closets opening directly on corridors.

5. Filters. Central systems designed for recirculation of air shall be equipped with a minimum of two (2) filter beds. Filter bed # 1 shall be located upstream of the conditioning equipment and shall have a minimum efficiency of thirty (30) percent. Filter bed # 2 shall be located downstream of the conditioning equipment and shall have a minimum efficiency of ninety (90) percent. Central air systems using 100 percent outdoor air shall be provided with filters rated at eighty (80) percent efficiency. The above filter efficiencies shall be warranted by the manufacturer and shall be based on the National Bureau of Standards Dust Spot Test Method with Atmospheric Dust.

a. The exhausts from all laboratory hoods in which infectious or radioactive materials are processed shall be equipped with filters having a ninety-nine (99) percent efficiency based on the DOP (dioctylphthalate) test method.

b. Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed and sealed to provide a positive seal against air leakage.

6. A manometer shall be installed across each filter bed serving central air systems.

7. Ducts shall be constructed of iron, steel, aluminum, or other approved metal or materials such as clay or asbestos cement.

8. Duct linings, coverings, vapor barriers, and the adhesives used for applying them shall have a flame spread classification of not more than twenty-five (25) and a smoke-developed rating of not more than fifty (50).]

9. Ducts which pass through fire walls shall be provided with approved automatic fire doors on both sides of the wall except that three-eighths (3/8) inch steel plates may be used in lieu of fire doors for openings not exceeding one (1) foot and six (6) inches in diameter. An approved fire damper shall be provided on each opening through each fire partition and on each opening through the walls of a vertical shaft. Ducts which pass through a required smoke barrier shall be provided with dampers which are actuated by products of combustion other than heat. Access for maintenance shall be provided at all dampers.]

8. [10.] Cold-air ducts shall be insulated wherever necessary to maintain the efficiency of the system or to minimize condensation problems.

9. [11.] The air from dining areas may be used to ventilate the food preparation areas only after it has passed through a filter with eighty (80) percent efficiency.

10. [12.] Exhaust hoods in food preparation centers shall have a minimum exhaust rate of 100 cubic feet per minute per square foot of hood face area. All hoods over cooking ranges shall be equipped with fire extinguishing systems and heat-actuated fan controls. Clean-out openings shall be provided every twenty (20) feet in horizontal exhaust duct systems serving hoods.

11. [13.] Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and reasonable temperatures in the rooms and in adjoining areas.

12. [14.] See Section 13(1)(p) for additional boiler room, food preparation center, and laundry ventilation requirements.

(5) Plumbing and other piping systems. All plumbing

systems shall be installed in accordance with the requirements of current Kentucky plumbing standards regulations applicable to extended care and recuperation center facilities.

(a) Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that its discharge point is a minimum distance of five (5) inches above the rim of the fixture. All fixtures used by medical and nursing staff, and all lavatories used by patients and food handlers shall be trimmed with valves which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half (4½) inches in length, except that handles on clinical sinks shall be not less than six (6) inches long.

(b) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(6) Water supply system:

(a) Systems shall be designed to supply water to the fixtures and equipment on the upper floors at a minimum pressure of fifteen (15) pounds per square inch during maximum demand periods.

(b) Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

(c) Hot, cold and chilled water piping and waste piping on which condensation may occur shall be insulated. Insulation of cold and chilled water lines shall include an exterior vapor barrier.

(d) Backflow preventers (vacuum breakers) shall be installed on hose bibbs and on all fixtures to which hoses or tubing can be attached such as janitor's sinks and bedpan flushing attachments.

(e) Flush valves installed on plumbing fixtures shall be of a quiet operating type, equipped with silencers.

(f) Bedpan flushing devices. (See Section 7(2)(a).)

(g) Hot water distribution systems shall be arranged to provide hot water at each fixture at all times.

(h) Plumbing fixtures which require hot water and which are intended for patient use shall be supplied with water which is controlled to provide a maximum water temperature of 110 degrees Fahrenheit at the fixture.

(i) Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage of, or condensation from, necessary overhead piping systems.

(7) Hot water heaters and tanks:

(a) The hot water heating equipment shall have sufficient capacity to supply the water at the temperature and amounts indicated below:

	Use		
	Clinical	Dietary	Laundry
Gal/hr/bed	6½	4	4½
Temp. F.	110	180	180

(b) Storage tank(s) shall be provided and shall be fabricated of corrosion-resistant metal, or have non-corrosive lining.

(8) Fire extinguishing systems. Automatic fire extinguishing systems shall be installed in areas such as: central soiled linen holding rooms, maintenance shops, trash rooms, bulk storage rooms, attics accessible for storage. Storage room of less than 100 square foot area and spaces

used for storage of nonhazardous materials are excluded from this requirement. Sprinkler heads shall be installed at the top and at alternate floor levels of trash and laundry chutes.

[(9) Nonflammable medical gas systems. Nonflammable medical gas system installations shall be in accordance with the requirements of NFPA Standard No. 56F.]

(9) [(10)] Plumbing approval. Prior to final approval of the plans and specifications by the state licensure agency, the plumbing plans and specifications must be approved by the Division of Plumbing, Department of Housing, Buildings and Construction. [for Natural Resources and Environmental Protection.]

#### Section 17. Electrical requirements. (1) General:

(a) All materials including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards.

(b) The contractor shall be responsible for testing all electrical installations and systems and shall show that the equipment is correctly installed and operated as planned or specified.

(c) The electrical installations must conform to local codes where they exist or to the National Electrical Code (see Section 5(2)). Inspections and final approval must be obtained from the State Fire Marshal's Office.

(2) Switchboard and power panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboard and distribution panelboards shall be enclosed or guarded to provide a dead-front type assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Overload protective devices shall be suitable for operating properly in the ambient temperature conditions. All breakers and switches are to be indexed.

(3) Distribution panelboards. Lighting and appliance panelboards shall be provided for the circuits on each floor. All circuits are to be indexed at panelboard. This requirement does not apply to emergency system circuits.

#### (4) Lighting:

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have electric lighting.

(b) Patients' bedrooms shall have general lighting and night lighting. A reading light shall be provided for each patient. A fixed receptacle type night light mounted approximately sixteen (16) inches above the floor, with the switch located at patient room door, shall be provided in each patient room. Patients' reading lights and other fixed lights not switched at the door shall have switch controls convenient for use at the luminaire. All switches for control of light in patient areas shall be of the quiet operating type.

(c) Provisions shall be made for the night lighting of corridors. (See Section 18, Table 2 for levels of illumination for various areas.)

#### (5) Receptacles. (Convenience outlets):

(a) Bedroom. Each patient bedroom shall have duplex receptacles as follows: one (1) each side of the head of each

bed (for parallel adjacent beds, only one (1) receptacle is required between the beds); receptacles for luminaries, television and motorized beds, if used, and one (1) receptacle on another wall.

(b) Corridors. Single receptacles for equipment such as floor cleaning machines shall be installed approximately fifty (50) feet apart in all corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends of corridors.

(6) Nurses' calling system. A nurses' calling station shall be installed at each patient bed and in each patient toilet, bath, and shower room. The nurses' call in toilet, bath, or shower rooms shall be an emergency call. All calls shall register at the nurses' station and shall actuate a visible signal in the corridor at the patients' door, in the clean workroom, soiled workroom, and nourishment station of the nursing unit. Nurses' call systems which provide two (2) way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operative.

[(7) Fire alarms and fire detector system. The design and installation of these systems must be approved by the State Fire Marshal's Office.]

#### (7) [(8)] Emergency electric service:

(a) General. To provide electricity during an interruption of the normal electric supply that could affect the nursing care, treatment, or safety of the occupants, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(b) Sources. The source of this emergency electric service shall be as follows:

1. An emergency generating set, when the normal service is supplied by one or more central station transmission lines;

2. An emergency generating set or a central station transmission line, when the normal electric supply is generated on the premises.

(c) Emergency generating set. The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. The emergency generator set shall be sufficient kilowatt capacity to supply all lighting and power load demands of the emergency system. The power factor rating of the generator shall be not less than eighty (80) percent.

(d) Emergency electrical connections. Emergency electric service shall be provided to circuits as follows:

#### 1. Lighting:

a. Exitways and all necessary ways of approach thereto, including exit signs and exit direction signs, exterior of exits, exit doorways, stairways, and corridors;

b. Dining and recreation rooms;

c. Nursing station and medication preparation area;

d. Generator set location, switch-gear location, and boiler room;

e. Elevator (if required for emergency);

f. Night light in patient room;

2. Equipment. Essential to life safety and for protection of important or vital materials;

a. Nurses' calling system;

[b. Alarm system including fire alarm actuated at manual stations, water flow alarm devices of sprinkler system if electrically operated, fire detecting and smoke detecting systems, paging or speaker systems if intended for issuing instructions during emergency conditions, and alarms required for non-flammable medical gas systems, if installed;]



- [c. Fire pump, if installed;]  
 b. [d.] Sewerage or sump lift pump, if installed;  
 c. [e.] All required duplex receptacles in patient corridors; and at least one (1) receptacle in each patient room;  
 d. [f.] One (1) elevator, where elevators are used for vertical transportation of patients. Provide manual switch-over to operate other elevators;  
 e. [g.] Equipment such as burners and pumps necessary for operation of one or more boilers and their necessary auxiliaries and controls, required for heating and sterilization;  
 f. [h.] Equipment necessary for maintaining telephone service.

3. Heating. Where electricity is the only source of power normally used for space heating, the emergency service shall provide for heating of patient rooms. Emergency heating of patient rooms will not be required in areas where the facility is supplied by at least two (2) utility service feeders, each supplied by separate generating sources or a network distribution system fed by two (2) or more generators, with the facility feeders so routed, connected, and protected that a fault any place between the generators and the facility will not likely cause an interruption of more than one (1) of the nursing home service feeders.

(e) Details. The emergency system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and connected within ten (10) seconds through one (1) or more primary automatic transfer switches to all emergency lighting; all alarms; nurses' call; equipment necessary for maintaining telephone service; and receptacles in patient corridors. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system shall be distinctively marked for identification. Storage-battery-powered lights shall not be used as a substitute for the requirement of a generator. Where fuel is normally stored on the site, the storage capacity shall be sufficient for twenty-four (24) hour operation of required emergency electric services. Where fuel is normally piped underground to the site from a utility distribution system, storage facilities on the site will not be required.

Section 18. Tables. Table 1, Pressure Relationships and Ventilation of Certain ECF Areas; and Table 2, Lighting Levels for ECF.

Table 1. Pressure Relationships and Ventilation of Certain ECF Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Patient room	0	—	2
Patient area corridor	0	—	4
Treatment room	0	Yes	6
Physical therapy and hydrotherapy	-	—	6
Dining and recreation areas	0	—	4
Soiled workroom	-	—	4
Clean workroom	+	Yes	4
Toilet room	-	—	—
Bedpan room	-	—	—
Bathroom	-	—	—
Janitor's closet	-	—	—
Sterilizer equipment room	-	—	—
Linen and trash chute rooms	-	—	—
Food preparation center	0	Yes(1)	10
Dishwashing room	-	—	—
Dietary dry storage	0	—	—
Laundry, general	0	Yes	10
Soiled linen sorting and storage	-	—	—
Clean linen storage	+	—	2

+ = Positive    - = Negative    0 = Equal    — = Optional  
 (1) Section 16(4)(b)11 for exceptions

Table 1. Continued

Area Designation	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors	Recirculated Within Area
Patient room	2	—	—
Patient area corridor	4	—	—
Treatment room	6	Yes	No
Physical therapy and hydrotherapy	6	—	—
Dining and recreation areas	4	—	—
Soiled workroom	4	Yes	No
Clean workroom	4	—	—
Toilet room	10	Yes	No
Bedpan room	10	Yes	No
Bathroom	10	Yes	No
Janitor's closet	10	Yes	No
Sterilizer equipment room	10	Yes	No
Linen and trash chute rooms	10	Yes	No
Food preparation center	10	Yes	No
Dishwashing room	10	Yes	No
Dietary dry storage	2	—	No
Laundry, general	10	Yes	No
Soiled linen sorting and storage	10	Yes	No
Clean linen storage	2	—	—

Table 2. Lighting Levels for ECF

Area	Footcandles*
Administrative and lobby areas, day	50
Administrative and lobby areas, night	20
Barber and beautician areas	50
Chapel or quiet area	30
Corridors and interior ramps	20
Corridor night lighting	3
Dining area and kitchen	30
Doorways	10
Exit stairways and landings	5
Janitor's closet	15
Nurses' station, general, day	50
Nurses' station, general, night	20
Nurses' desk, for charts and records	70
Nurses' medicine cabinet	100
Patient care unit (or room), general	10
Patient care room, reading	30
Patient care room, night light (variable)	.5 to 1.5
Recreation area (floor level)	50
Stairways other than exits	30
Toilet and bathing facilities	30
Utility room, general	20
Utility room, work counter	50

\*Minimum on task at anytime.

W. L. SHADOAN, Vice-Chairman

ADOPTED: July 3, 1978

RECEIVED BY LRC: August 10, 1978 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mason C. Rudd, Chairman, Certificate of Need and  
Licensure Board, 275 East Main Street, Frankfort, Ken-  
tucky 40601.

## Proposed Regulations

### EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Division of Occupations and Professions Real Estate Commission

#### 201 KAR 11:151. Builder as broker.

RELATES TO: KRS 324.045

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To inform and set  
certain standards for the licensees.

Section 1. Persons who meet the requirements as a  
builder, as defined below, may apply to take the broker's  
examination without regard to having held a salesperson's  
license previously, or having complied with the education  
requirements, as set forth in KRS 324.047.

Section 2. (1) Builders can be defined as persons who  
have been actively engaged in the construction of buildings  
as principal builder for a period of three (3) years prior to  
submitting application for examination; and

(2) Having constructed and offered for sale, or sold, five  
(5) major structures per year, or their monetary equivalent,  
which the commission sets at \$200,000, in retail structure  
value, per year.

Section 3. 201 KAR 11:052 and 201 KAR 11:150 are  
repealed.

JOHN A. CELLETTI, Chairman

ADOPTED: July 27, 1978

APPROVED: CHARLES LAMBERT, Acting Secretary

RECEIVED BY LRC: August 14, 1978 at 1:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: General Counselor, Kentucky Real Estate Commis-  
sion, 100 East Liberty Street, Louisville, Kentucky 40202.

### EXECUTIVE DEPARTMENT FOR FINANCE AND ADMINISTRATION Board of Nursing Education and Nurse Registration

#### 201 KAR 20:055. Nurse practitioner.

RELATES TO: KRS 314.011

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: The 1978 revision of  
the Nurse Practice Act provides for the registration of ad-

vanced registered nurse practice. It is necessary to define the qualifications of those to be registered.

Section 1. "Nurse practitioner" means a registered professional nurse who is currently licensed to practice in the state, who meets the state's requirements governing the qualifications of nurse practitioners, and who meets one (1) of the following conditions:

(1) Is currently certified as a primary care nurse practitioner by the American Nurses' Association or by the National Board of Pediatric Nurse Practitioners and Associates; or

(2) Has satisfactorily completed a formal one (1) academic year educational program that:

(a) Prepares registered nurses to perform an expanded role in the delivery of primary care;

(b) Includes at least four (4) months (in the aggregate) of classroom instruction and a component of supervised clinical practice; and

(c) Awards a degree, diploma, or certificate to persons who successfully complete the program.

DORIS McDOWELL, Executive Director

ADOPTED: May 24, 1978

APPROVED: RUSSELL McCCLURE, Secretary

RECEIVED BY LRC: July 20, 1978 at 4:20 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Doris McDowell, RN, Executive Director, Kentucky Board of Nursing, 6100 Dutchmans Lane, Louisville, Kentucky 40205.

**DEPARTMENT FOR NATURAL RESOURCES  
AND ENVIRONMENTAL PROTECTION**  
Bureau of Environmental Protection  
Division of Sanitary Engineering

**401 KAR 6:050. Fees for analyses of water samples.**

RELATES TO: KRS 224.032, 224.033

PURSUANT TO: KRS 224.017, 224.032(3), (4), (5), 224.033(7)

NECESSITY AND FUNCTION: Under 401 KAR 6:015 the Commonwealth assumed the primary enforcement responsibility of the Safe Drinking Water Act (PL 93-523). This enforcement requires periodic analyses of water samples for specified biological and chemical contaminants. This regulation implements a fee structure in order to fund the required periodic analyses.

Section 1. Definitions. (1) "Contaminant" means any physical, chemical, biological, radiological substance or matter in water.

(2) "Complete analysis" means an acceptable laboratory analysis or procedure for determining the amount of all of the specified constituents commonly falling within a type of contaminant which can be found in water.

(3) "Specific analysis" means an acceptable laboratory analysis or procedure for determining the amount of a specific single constituent of a type of contaminant which is known to be or suspected to be existent in a certain supply of water.

(4) "Certified laboratory" means a laboratory where the physical, instrumental, procedural, and personnel capabilities have been approved by the Department for Natural Resources and Environmental Protection and the U. S. Environmental Protection Agency. A laboratory may be certified for any one or all types of the contaminants listed in the Kentucky public and semipublic water supplies regulation (401 KAR 6:015) or for any of the specific constituents or combinations of constituents therein.

(5) "Fee" shall mean a monetary charge to be assessed for analyses encompassing a type of contaminant, a specific constituent within a type of contaminant, or an on-site inspection for an initial laboratory certification or an annual renewal of certification status.

(6) "Department" means the Kentucky Department for Natural Resources and Environmental Protection, Bureau of Environmental Protection, Division of Sanitary Engineering, or its successor.

Section 2. General Provisions. (1) Water systems encompassed. This regulation shall apply to each public water system as defined in the Kentucky public and semipublic water supplies regulation (401 KAR 6:015), Section 1(12)(a), (b).

(2) Contaminant types encompassed. Fees shall be charged for analyzing the contaminant types specified in the Kentucky public and semipublic water supplies regulation (401 KAR 6:015), Sections 4, 6, 7, 8, and 13. Fees shall also be charged for the control of fluoridation as related to the Kentucky fluoridation regulation (401 KAR 6:020), Section 3(6).

(3) Fee conditions. A fee shall be charged for any analyses performed by a certified laboratory which is under a personal service contract or under a memorandum of agreement with the Department for Natural Resources and Environmental Protection.

Section 3. Unacceptable Laboratory Results. Results of analyses performed in certified laboratories by and for water supplies within the Commonwealth of Kentucky shall not be acceptable unless said laboratory reports are submitted at the close of business each month on computer compatible forms supplied by the department.

Section 4. Billing for Services. The department shall bill the ownership authority responsible for the operational and financial management of the water supply on a scheduled basis after the services have been performed. The ownership authority shall be responsible for payment.

Section 5. Proof of Services Performed. With each request for payment the department shall insert duplicated copies of all laboratory services performed and/or copies of the certification officer's investigation report when such investigation is for a new installation or for the renewal of an existing certification. Failure to achieve or maintain the laboratory certification level will not alleviate responsibility for remittance of any fees.

Section 6. Terms of Payment. The ownership authority shall make payment within thirty (30) days after the date of the invoice. Payment shall be by check or money order made payable to the "Kentucky State Treasurer" and forwarded to the department at the address indicated on the billing notice.



Section 7. Fee Schedule Basis for Laboratory Services. The following fee schedule will be in effect upon the implementation date of these regulations:

- (1) Bacteriological analysis: \$4.
- (2) Complete inorganic contaminant analysis: \$117.
- (3) Specific inorganic contaminant analysis:
  - (a) Arsenic: \$30.
  - (b) Barium: \$30.
  - (c) Cadmium: \$30.
  - (d) Chromium: \$30.
  - (e) Fluoride: \$6.
  - (f) Lead: \$30.
  - (g) Mercury: \$40.
  - (h) Nitrate (as N): \$15.
  - (i) Selenium: \$30.
  - (j) Silver: \$30.
- (4) Complete organic contaminant analysis: \$148.
- (5) Specific organic contaminant analysis:
  - (a) Endrin: \$50.
  - (b) Lindane: \$50.
  - (c) Methoxychlor: \$50.
  - (d) Toxaphene: \$50.
  - (e) 2, 4, D: \$55.
  - (f) 2, 4, 5-TP Silvex: \$55.
- (6) Radionuclides:
  - (a) Gross Alpha: \$55.
  - (b) Radium 226: \$102.
  - (c) Radium 228: \$77.
  - (d) Gross Beta: \$110.
- (7) Other secondary chemical contaminant analysis:
  - (a) Complete analysis: \$70.
  - (b) Petroleum products: \$40.
- (8) Certification of laboratories:
  - (a) Initial certification and/or inspection: \$250.
  - (b) Annual renewal certification and/or inspection: \$175.

Section 8. Unusual or Unlisted Contaminants. The department will analyze for contaminants not listed in Section 7, Fee schedule basis for laboratory services, only upon a prior agreement approved by the department.

Section 9. Penalty for Failure to Remit Payment. Refusal to comply with the requirements of Sections 4 and 6 herein shall cause the water supplier to be in violation of the Kentucky public and semipublic water supplies regulation (401 KAR 6:015) and be subject to penalties provided by KRS 224.994.

EUGENE F. MOONEY, Secretary

ADOPTED: July 27, 1978

RECEIVED BY LRC: August 14, 1978 at 11:25 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Nick G. Johnson, Director, Division of Sanitary Engineering, U. S. 127, Century Plaza, Frankfort, Kentucky 40601.

# PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction

815 KAR 50:010. New building construction energy code.

RELATES TO: KRS 152A.110

PURSUANT TO: KRS 152A.180, Executive Order 78-580

NECESSITY AND FUNCTION: KRS 152A.180 authorizes the Secretary of the Department of Energy to promulgate energy conservation regulations, and Executive Order 78-580 transfers this authority to the Division of Fire Prevention, Department of Housing, Buildings and Construction. The purpose of this regulation is to implement a major conservation program by establishing standards of efficient and effective energy conservation to be enforced by the Department of Housing, Buildings and Construction.

Section 1. The Department of Housing, Buildings and Construction hereby adopts by reference the "Code for Energy Conservation in New Building Construction" (December, 1977, edition), jointly prepared by: Building Officials and Code Administrators International, Inc. (BOCA); International Conference of Building Officials (ICBO); National Conference of States on Building Codes and Standards, Inc. (NCSBCS); and Southern Building Code Congress International, Inc. (SBCCI). Copies may be obtained from the department's offices, U.S. 127 South, Frankfort, Kentucky 40601.

Section 2. These standards shall be used and enforced by the department in its review of new construction.

MIKE HELTON, Secretary

ADOPTED: August 15, 1978

RECEIVED BY LRC: August 15, 1978 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mr. J. Carroll McGill, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

## Minutes of Meeting of August 2, 1978

(Subject to Subcommittee approval at its next meeting on September 6, 1978)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, August 2, 1978, at 10 a.m., in Room 327 of the Capitol.

The minutes of the July 5, 1978 meeting were approved. Present were:

**Members:** Representatives William T. Brinkley, Chairman; and Albert Robinson.

**Guests:** Senator Ed O'Daniel; Charles D. Wickliffe, Executive Department for Finance and Administration; Ray Kring, William S. Riley, E.D. Ballard, Danny Thomas and Daniel C. Wilson, Department of Revenue; Thomas C. Jacobs, Charles E. Yates, Jerry Hammond, Mark L. Miller, James C. Rogers, Kenneth C. Hollis, Robert Harrison, Cathy J. Cravens and Paul W. Grose, Department of Labor; Eugene F. Mooney and James Villines, Department for Natural Resources and Environmental Protection; Etta Ruth Kepp and Andrew Cammack, Environmental Quality Commission; William Schmidt, Board of Medical Licensure; Billy R. Howard, Frank Vittelow and Randy L. Kimbrough, Department of Education; Henry Morgan and Susan Fisler, Department of Mines and Minerals; William M. Sawyer, Public Service Commission; Carl Kays, Charles Bowers and Joe Bruna, Department of Fish and Wildlife Resources; Roy V. Thurman, Division of Occupations and Professions; Katie Nienaber, Kentucky Welfare Association; W.G. Mullins, Kentucky State Police; Greg Lawther, Certificate of Need and Licensure Board; Harold B. McGuffey, Department of Insurance; Keene Daingerfield and Clarkson Beard, State Racing Commission; Frank W. Burke and Edward H. Flint, Horsemen's Benevolent and Protective Association; John Heflin, Quarter Horse and Appaloosa Commission; W.O. Hubbard, Department for Human Resources; Pat Douglas Davis, Office of Attorney General; William R. Fox, Ohio Valley Renal Disease Network; Tom Duncan, Kentucky Coal Association; Ken Hart, Independent Coal Producers and *Kentucky Coal Journal*; James W. Allen, Hill Engineering Company; Bill T. Furnish, Department of Public Information.

**LRC Staff:** Mabel D. Robertson, Garnett Evins, Debbie Herd, Joe Hood, Dana Newsom, Gilmore Dutton, Kelly Clarke, Glenn Minch and Grant Winston.

**Press:** Herb Sparrow, U.P.I.

Chairman Brinkley stated that because the proposed regulations from the Department for Natural Resources and Environmental Protection, Bureau of Surface Mining Reclamation and Enforcement, did not reach the compiler's office until the day before the scheduled meeting it made it virtually impossible for the subcommittee members to review them. He added that at the close of today's meeting he would call a recess until August 23, 1978, at 10 a.m., in Room 327 of the Capitol, at which time the subcommittee would reconvene to consider the department's regulations.

The following regulations were deferred until the September 6 meeting:

## DEPARTMENT OF REVENUE

## General Administration

103 KAR 1:020. Wastewater revolving fund payments.  
**Selective Excise Tax; Miscellaneous**  
 103 KAR 45:010. Litter assessment.

## DEPARTMENT OF OCCUPATIONAL EDUCATION

## Bureau of Instruction

## Kindergartens and Nursery Schools

704 KAR 5:050. Public school programs.

## PUBLIC PROTECTION AND REGULATION CABINET

## State Racing Commission

## Thoroughbred Racing Rules

810 KAR 1:012. Horses.

The following regulations were approved and ordered filed:

## LEGISLATIVE RESEARCH COMMISSION

## Personal Service Contracts

1 KAR 2:010. Personal Service Contract Review Subcommittee; procedure; records.

## DEPARTMENT OF REVENUE

## Sales and Use Tax; Registration and Collection

103 KAR 25:110. Use tax on construction machinery.

## Sales and Use Tax; Miscellaneous Retailer Occupations

103 KAR 27:100. Motor vehicles, mobile homes and trailers. (As amended)

## Sales and Use Tax; Miscellaneous Retail Transactions

103 KAR 28:050. Rentals and leases. (As amended)

## Sales and Use Tax; General Exemptions

103 KAR 30:031. Repeals 103 KAR 30:030.

103 KAR 30:090. Farm machinery.

103 KAR 30:140. Energy and energy-producing fuels.

## Sales and Use Tax; Administration and Accounting

103 KAR 31:140. Interest, penalties and compensation.

EXECUTIVE DEPARTMENT FOR FINANCE  
AND ADMINISTRATION

## Coal Producing County Development Fund

200 KAR 4:015. Capital projects. (As amended)

## Area Development

200 KAR 9:010. Approval of projects; expenditure of funds; title. (As amended)

## Occupations and Professions

## Board of Medical Licensure

201 KAR 9:030. Examinations.

Board of Registration for Professional Engineers  
and Land Surveyors

201 KAR 18:040. Fees.

## Board of Examiners of Social Work

201 KAR 23:020. Examination; fee.

201 KAR 23:030. License renewal; fee.

## CABINET FOR DEVELOPMENT

## Department of Fish and Wildlife Resources

## Fish

301 KAR 1:115. Propagation of fish, frogs, crayfish or aquatic organisms.

301 KAR 1:140. Experimental commercial fishing permit.



**Game**

- 301 KAR 2:080. Propagation of game; pet permits.
- 301 KAR 2:120. Shoot to kill field trials.
- 301 KAR 2:130. Beaver bounty.

**Hunting and Fishing**

- 301 KAR 3:030. Year around season for some birds and animals.

**Wildlife**

- 301 KAR 4:030. Wildlife collecting permits.

**Department of Agriculture****Livestock Sanitation**

- 302 KAR 20:043. Control of equine disease.

**DEPARTMENT OF OCCUPATIONAL EDUCATION****Bureau of Vocational Education****Adult Education**

- 705 KAR 7:050. Adult plan. (As amended)

**PUBLIC PROTECTION AND REGULATION CABINET****Department of Labor****Labor Standards; Wages and Hours**

- 803 KAR 1:005. Employee, employer relationship. (As amended)

- 803 KAR 1:087. Benefits as wages. (As amended)

- 803 KAR 1:088. Illegal deductions. (As amended)

**Occupational Safety and Health**

- 803 KAR 2:017. Firefighters clothing and equipment standards. (As amended)

- 803 KAR 2:020. Adoption of 29 CFR Part 1910.

**Elevator Safety**

- 803 KAR 4:021. Elevator and escalator inspection fees. (As amended)

**Department of Mines and Minerals****Division of Oil and Gas**

- 805 KAR 1:020. Protection of fresh water zones. (As amended)

**Department of Insurance****Agents, Consultants, Solicitors**

- 806 KAR 9:001. Course of studies; instructors.

**Motor Vehicle Reparatons**

- 806 KAR 39:060. Stickers or emblems. (As amended)

**Public Service Commission****Electric, Water, Gas and Telephone Utilities**

- 807 KAR 2:025. Gas.

**State Racing Commission****Thoroughbred Racing Rules**

- 810 KAR 1:006. Racing associations.

**Kentucky Quarter Horse and Appaloosa Commission****Quarter Horse and Appaloosa Racing Rules**

- 812 KAR 1:010. Definitions.

- 812 KAR 1:020. Licensing procedures. (As amended)

- 812 KAR 1:035. Associations.

- 812 KAR 1:040. Owners.

- 812 KAR 1:050. Jockeys.

- 812 KAR 1:070. Entries, subscriptions and declarations.

**DEPARTMENT FOR HUMAN RESOURCES****Drug Formulary Council**

- 902 KAR 1:017. Amoxicillin trihydrate.

- 902 KAR 1:020. Ampicillin.

- 902 KAR 1:030. Erythromycin.

- 902 KAR 1:040. Penicillin-G.

- 902 KAR 1:050. Penicillin-V.

- 902 KAR 1:055. Meclizine hydrochloride.

- 902 KAR 1:100. Reserpine.

- 902 KAR 1:110. Diphenhydramine hydrochloride.

- 902 KAR 1:150. Hydrochlorothiazide.

- 902 KAR 1:180. Tetracycline hydrochloride.

- 902 KAR 1:190. Meprobamate tablet.

- 902 KAR 1:270. Pseudoephedrine hydrochloride.

- 902 KAR 1:280. Chloral hydrate capsules and syrup.

- 902 KAR 1:300. Dioctyl sodium sulfosuccinate capsule.

- 902 KAR 1:316. Amitriptyline hydrochloride.

- 902 KAR 1:320. Imipramine hydrochloride.

- 902 KAR 1:324. Hyoscyamine sulfate.

- 902 KAR 1:328. Chlordiazepoxide hydrochloride capsule.

**Certificate of Need and Licensure Board**

- 902 KAR 20:017. Renal dialysis facilities.

The meeting was recessed at 3:30 p.m. and will reconvene at 10 a.m. Wednesday, August 23, 1978, in Room 327, Capitol Building, to consider proposed regulations pertaining to Strip Mining of Coal and Surface Effects of Underground Coal Mining.

Chairman William T. Brinkley reconvened the August 2, 1978 meeting of the Administrative Regulation Review Subcommittee on Wednesday, August 23, 1978 at 10 a.m., in Room 327 of the Capitol to consider proposed regulations from the Department of Natural Resources and Environmental Protection relating to surface mining reclamation and enforcement, and reclaiming surface effects of underground coal mining. Present were:

**Members:** Chairman Brinkley, Senator Donald L. Johnson and Representative Albert Robinson.

**Guests:** Secretary Eugene F. Mooney, Roger Blair, James R. Villines, Nancy R. Duncan and Edmund G. Shelby, Department of Natural Resources and Environmental Protection; Andrew Cammack, Environmental Quality Commission; Tom Duncan, Kentucky Coal Association; Joe Zaluski, Kentucky Independent Coal Producers Association; David O. Smith, Kentucky-Tennessee Coal Operators Association; C. Bruce Hoskins, C W H Heirs Lands; Mark Morgan, Appalachian Research and Defense Fund; Ken Hart, *Kentucky Coal Journal*; John H. Gray, Island Creek Coal Company; and Fred Denny, D & S Coal Company, Inc.

**LRC Staff:** Mabel D. Robertson, Garnett Evins, Debbie Herd, Joe Hood, Steve Armbrust and Glenn Minch.

**Press:** Maria Braden, Associated Press; Monte Lovell, United Press International; Ferrell Wellman, WAVE-TV.

On motion of Senator Johnson, seconded by Representative Albert Robinson, the following regulations were deferred until the September 6 meeting for further study.

**Bureau of Surface Mining Reclamation and Enforcement  
Strip Mining of Coal**

- 405 KAR 1:250. Prime farmland.

**Surface Effects of Underground Coal Mining**

- 405 KAR 3:040. Operations affecting two acres or less.

The following regulations were amended in committee, approved and ordered filed:

**Strip Mining of Coal**

- 405 KAR 1:010. Definitions.

- 405 KAR 1:020. General provisions.

- 405 KAR 1:040. Operations affecting two acres or less.

- 405 KAR 1:080. Signs and markers.

- 405 KAR 1:090. Diversion of surface and underground flows.



**Surface Effects of Underground Coal Mining**

- 405 KAR 3:010. Definitions.
- 405 KAR 3:020. General provisions.
- 405 KAR 3:050. Permit requirements.
- 405 KAR 3:160. Diversion of surface and underground flows.

The following regulations were approved and ordered filed by the unanimous vote of the subcommittee:

**Strip Mining of Coal**

- 405 KAR 1:030. Small operator exemption.
- 405 KAR 1:050. Permit requirements.
- 405 KAR 1:060. Inspection and enforcement.
- 405 KAR 1:070. Postmining land use.
- 405 KAR 1:090. Use of explosives.
- 405 KAR 1:100. Topsoil handling.
- 405 KAR 1:110. Revegetation.
- 405 KAR 1:120. Access roads, haul roads, and other transport facilities.
- 405 KAR 1:130. Backfilling and grading.
- 405 KAR 1:140. Disposal of excess spoil materials.
- 405 KAR 1:150. Acid and toxic materials and waste materials.
- 405 KAR 1:160. Protection of the hydrologic system.
- 405 KAR 1:170. Water quality standards and surface water monitoring.
- 405 KAR 1:180. Ground water.

- 405 KAR 1:200. Sediment control measures.
- 405 KAR 1:210. Coal waste dams.
- 405 KAR 1:220. Permanent impoundments.
- 405 KAR 1:230. Steep slope mining.
- 405 KAR 1:240. Mountaintop removal.

**Surface Effects of Underground Coal Mining**

- 405 KAR 3:030. Small operator exemption.
- 405 KAR 3:060. Inspection and enforcement.
- 405 KAR 3:070. Signs and markers.
- 405 KAR 3:080. Topsoil handling and revegetation.
- 405 KAR 3:090. Access roads, haul roads, and other transport facilities.
- 405 KAR 3:100. Backfilling and grading.
- 405 KAR 3:110. Disposal of excess rock and earth.
- 405 KAR 3:120. Acid and toxic materials and waste materials.
- 405 KAR 3:130. Protection of the hydrologic system.
- 405 KAR 3:140. Water quality standards and surface water monitoring.
- 405 KAR 3:150. Ground water systems.
- 405 KAR 3:170. Sediment control measures.
- 405 KAR 3:180. Coal waste dams.
- 405 KAR 3:190. Permanent impoundments.

The meeting adjourned at 5:05 p.m. to meet again on Wednesday, September 6, 1978, at 10 a.m., in Room 327 of the Capitol.

