Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 5, NUMBER 11
FRIDAY, JUNE 1, 1979

CHANGE OF MEETING DATE: The July meeting of the Administrative Regulation Review Subcommittee will be held on Monday, July 2, 1979 at 1 p.m., Room 327, State Capitol.

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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

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Administrative Register of kentucky

(ISSN 0096-1493)

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, 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.

POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 300, State Capitol, Frankfort, Kentucky 40601.

Public Hearings Scheduled

DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 9 a.m. EDT June 4, 1979, in the 24th Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky on the following regulations:

401 KAR 5:026. Classification of waters. [5 Ky.R. 825]
401 KAR 5:029. General provisions. [5 Ky.R. 827]
401 KAR 5:031. Surface water standards. [5 Ky.R. 829]
401 KAR 5:035. Treatment requirements; compliance [5 Ky.R. 812]

PUBLIC SERVICE COMMISSIONS

A public hearing will be held at 10 a.m. EDT June 1, 1979, in the hearing room of the Public Service Commissions, 730 Schenkel Lane, Frankfort, Kentucky on the following regulations:

Utility Regulatory Commission:
807 KAR 25:025. Advertising. [5 Ky.R. 844]

Energy Regulatory Commission:
807 KAR 50:020. Advertising. [5 Ky.R. 872]

A public hearing will be held at 1:30 p.m. EDT June 1, 1979, in the hearing room of the Public Service Commissions, 730 Schenkel Lane, Frankfort, Kentucky on the following regulation:

Utility Regulatory Commission:
807 KAR 25:040. Telephone. [5 Ky.R. 849]

Emergency Regulations Now In Effect

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-356
April 20, 1979

EMERGENCY REGULATION
Department of Personnel
Personnel Board

WHEREAS, the Commonwealth of Kentucky has a substantial interest in the compensation of its employees; and

WHEREAS, the rise in the cost of living due to inflationary factors has had a significant impact upon the compensation of employees of the Commonwealth; and

WHEREAS, grade changes implemented as part of the Salary Improvement Project have resulted in an inequitable situation concerning employees in certain grades of the salary schedule; and

WHEREAS, the revised salary schedule for classified service employees which has just been adopted makes significant changes in the eligibility for and application of the longevity plan; and

WHEREAS, changes in the Department of Personnel Administrative Regulations are necessary on an emergency basis to correct the inequitable situation and to implement the provisions of the revised salary schedule; and

WHEREAS, the Commissioner of Personnel and the Personnel Board have prepared, approved and submitted a proposed regulation, pursuant to KRS 18.170 and KRS 18.210, to make these changes:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by Section 13.085(2) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Personnel that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

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

SECRETARY OF THE CABINET
Department of Personnel

101 KAR 1:050E. Compensation plan.

RELATES TO: KRS 18.170, 18.190, 18.210, 18.240
PURSUANT TO: KRS 13.082, 18.170, 18.210
EFFECTIVE: April 20, 1979
EXPIRES: August 18, 1979
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 positions 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 specified 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 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 cases where a change in the salary range applicable to a particular class of position provides a maximum salary increase of one (1) step, persons employed in that class of position may have their salary adjusted to the step of the new salary range which would provide a two (2) step salary increase. 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. 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, 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.

(b) A former employee reinstated, 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 (1) 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.

(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 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 may be advanced, with the approval of the appointing authority, to the first longevity step after completion of twelve (12) months service at the salary rate or step preceding the first longevity step.

(3) An employee shall be eligible and may be advanced, with the approval of the appointing authority, to the next longevity step after completion of twelve (12) months service at the salary rate or step preceding that longevity step.

(4) Requirements as to 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. 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.

(5) The longevity steps may be used for promotions, demotions, and changes in pay grade with the approval of the appointing authority and the Commissioner of Personnel.

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. STOKELY, Commissioner
ADOPTED: April 19, 1979
RECEIVED BY LRC: April 20, 1979 at 2:45 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-435
May 15, 1979

EMERGENCY REGULATION
Kentucky School Building Authority
Education and the Arts Cabinet

WHEREAS, the 1978 General Assembly enacted KRS 157.800-895 which established a Kentucky School Building Authority to supply resources for school building construction; and

WHEREAS, KRS 157.820 authorized the Authority to enact rules and regulations for the conducting of its business and affairs; and

WHEREAS, the normal process for final approval of the Authority's proposed regulations by the Administrative Procedures Committee under KRS Chapter 13 will delay the offering of financial assistance well through the construction season, and thus unnecessarily enchance building costs; and

WHEREAS, the Secretary of the Education and the Arts Cabinet has stated that an emergency exists and recommends that the attached regulations become effective upon their filing with the Legislative Research Commission:

NOW, THEREFORE, I, JULIAN M. CARROLL, Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of the Secretary of the Education and the Arts Cabinet 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

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:005E. Funding procedure.

RELATES TO: KRS 157.820, 157.895
PURSUANT TO: KRS 13.082
EFFECTIVE: May 15, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: To establish procedures for funding Department of Education projects.

Section 1. The authority shall act upon projects recommended by the Superintendent of Public Instruction and approved by the appropriate state board of education.

Section 2. The authority shall consider funding projects based upon the order of priorities established by the appropriate state board of education after approval by the authority.

Section 3. In the absence of legislative determination, the authority shall determine the allocation of funds available to the authority which shall be made to the various types of projects.

Section 4. In the event funding for projects recommended by the Department of Education exceed the limit of resources established by the School Building Authority for such projects, the chairman of the authority shall notify the chairman of either affected board of the amount

by which such resources have been or will be exceeded and such board, upon recommendation of the Superintendent of Public Instruction, shall eliminate or reduce the scope of the projects recommended in order to stay within resources available.

Section 5. Upon recommendation of the Superintendent of Public Instruction, the authority shall employ a fiscal agent(s) for such project or projects which have been approved by the authority.

Section 6. Fiscal agent(s) employed by the authority shall carry out all functions normally performed by such agents and shall include but not be limited to preparing conveyances of property, preparing contracts of lease and rent, and all other functions normally associated with the preparation and sale of bonds issued by the authority.

Section 7. Upon direction of the authority, the Bureau of Facilities Management will enter into a contract with an architect and/or engineer for such project or projects which have been approved by the authority.

Section 8. Architects and/or engineers shall be employed through the use of contract form B210-26, as adopted by the Bureau of Facilities Management, Department of Finance, with such amendments thereto as may be required from time to time by the Bureau of Facilities Management.

Section 9. Architects and/or engineers so employed shall be responsible for the preparation of preliminary and completed plans and specifications which shall have the approval of the Superintendent of Public Instruction prior to bids being taken for construction of the project or projects. Such architect and/or engineer shall also be responsible for obtaining approval of their plans and specifications from all authorities having jurisdiction. This provision shall be included in every contract into which the authority enters.

Section 10. Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials used on each project. Such an estimate shall be provided the Superintendent of Public Instruction for his approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments. This provision shall be included in every contract into which the authority enters.

ARNOLD GUESS, Director

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:015E. Eligibility criteria.

RELATES TO: KRS 157.820, 157.840
PURSUANT TO: KRS 13.082
EFFECTIVE: May 16, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: To develop eligibility criteria for local school districts seeking assistance from the School Building Authority.

Section 1. The School Building Authority will act upon applications for assistance from local boards of education on projects approved by the Superintendent of Public Instruction in accordance with the priorities contained in the school district's most recent facilities survey.

Section 2. For a local board of education to be eligible for funding assistance from the authority:

(1) It must have levied the maximum general fund tax rate in accordance with KRS 160.470, which is not subject to recall, in the year in which it receives assistance from the authority or have levied a voted or permissive tax at least equal to the difference between the maximum persmissible general fund tax levy and the tax actually levied for general fund purposes.

(2) It must have levied a local tax sufficient to qualify for full participation in the rate supported by the power equalization fund in accordance with KRS 157.565.

(3) It must have submitted a balanced budget and show that no current or projected deficit exists in the district's general fund or capital construction funds in the year in which it receives assistance from the authority.

(4) It must have had a facilities survey, in accordance with 702 KAR 1:010, performed or updated at least once during the five (5) years preceding the year in which it receives assistance from the authority.

Section 3. In allocating funds to local school districts, the authority shall first fund those districts having the highest priority as shown by the classification system adopted by the authority pursuant to KRS 157.840 and 157.845.

Section 4. In developing the eligibility classification system provided for in KRS 157.835 the authority will cause to have costed facilities needs for new construction and additions to existing buildings which are provided for in the departmental facilities survey and convert such cost to a per pupil basis for each school district in the state. This raw cost of need will be adjusted by providing that need will have a weight of eight (8), effort a weight of one (1) and growth a weight of one (1). The weight for growth shall be based upon the increased average daily attendance for the last five (5) years and the weight of effort shall be based upon the cost of construction completed or obligated for the past ten (10) years as it relates to the equalized assessed value per child for each school district.

Section 5. Pursuant to KRS 157.850 the percentage participation rate for the authority shall be from thirty (30) percent for those districts having the highest equalized assessed value per pupil to seventy (70) percent for those districts having the lowest equalized assessed value per pupil. The authority establishes an expected norm of averaging fifty (50) percent participation in local school

district projects and will work toward this norm by causing the equalized assessed value of property to be converted to a standard distribution with a mean of fifty (50) and a standard deviation of ten (10). No school district will receive less than a thirty (30) percent participation rate or more than a seventy (70) percent participation rate as a result of this procedure. The obligation of each school district for meeting bond and interest redemption schedules shall be stipulated in the contract of lease and rental which shall be approved by the authority.

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:025E. Cost participation formulae.

RELATES TO: KRS 157.820, 157.835
PURSUANT TO: KRS 13.082
EFFECTIVE: May 15, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: To provide for an Authority Maximum Cost Participation Formula for use in determining the maximum cost of a local school district or Department of Education project in which the Authority will participate.

Section 1. The maximum State School Building Authority cost participation formula for new buildings shall be based upon the number of pupils served, the educational organization housed and the cost of construction per square foot and shall be as follows:

MP = N x SF x CSF x %
MP = Maximum Participation
N = Number of Pupils Served
SF = Square Feet Per Pupil
CSF = Cost Per Square Foot as determined at least annually by the Authority
% = Percent the Authority will give the system

S.F./Pupil	
Elementary	70
Middle	80
Jr. High	90
Sr. High	100

Section 2. The maximum State School Building Authority cost participation formula for additions which contain special facilities such as instructional spaces for industrial arts, physical education, science, home economics and libraries shall be based upon administrative regulations adopted by the State Board for Elementary and Secondary Education and shall be funded at a rate determined at least annually by the authority.

Section 3. The allocation of funds by these formulae shall be a grant for the use of successfully completing the project for which the funds were granted and shall be used for construction costs, necessary contingency costs, cost of issuance of bonds and architects and engineers fees.

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4:00 p.m.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:035E. Approval of documents, forms, and other instruments.

RELATES TO: KRS 157.810, 157.820
PURSUANT TO: KRS 13.082
EFFECTIVE: May 15, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: To provide for the uniform administration of the Kentucky School Building Authority.

Section 1. All documents, forms, agreements, contracts and other instruments of administration used in carrying out the purposes and objectives of the Kentucky School Building Authority shall be approved by the Kentucky School Building Authority as to form and content.

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:045E. Project architects, engineers and fiscal agents.

RELATES TO: KRS 157.820
PURSUANT TO: KRS 13.082
EFFECTIVE: May 15, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: Establishes procedures for employing architects, engineers and fiscal agents for local school district projects.

Section 1. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract, using form BG-A/E-1, with an architect and/or engineer for such project.

Section 2. Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials used on each project. Such an estimate shall be provided the local board of education for their approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may

be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the local board of education and approved by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments. This provision shall be inserted in each BG-A/E-1 contract.

Section 3. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract for the services of a fiscal agent for such project.

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:055E. Insurance coverage.

RELATES TO: KRS 157.820, 157.870
PURSUANT TO: KRS 13.082
EFFECTIVE: May 15, 1979
EXPIRES: September 12, 1979
NECESSITY AND FUNCTION: To provide for uniform project administration and required insurance programs on local school district projects.

Section 1. Local school districts receiving assistance from the authority shall administer such projects in accordance with KRS Chapter 162 and Title 702, Chapter 4, Kentucky Administrative Regulations. The architect and/or engineer shall provide the authority a copy of his report to the local board of insurance carried pursuant to 702 KAR 4:020(5).

Section 2. Once a local district project has been completed and accepted by the Superintendent of Public Instruction and a local board of education, the local board of education shall annually on or before July 1 of each year in which the authority holds title to the project, submit on forms approved by the authority, a report of insurance coverage on the project as provided for in KRS 157.870(1).

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-341
April 13, 1979

EMERGENCY REGULATION
Public Protection and Regulation Cabinet
Utility Regulatory Commission
Sewage Regulation

WHEREAS, the 1978 Legislature amended KRS Chapter 278 abolishing the Public Service Commission effective April 1, 1979; and

WHEREAS, the said amendments provide that commencing April 1, 1979, the Utility Regulatory Commission shall regulate non-energy utilities as defined in KRS 278.010(5) and enforce the provisions of that chapter with respect to such non-energy utilities; and

WHEREAS, KRS 278.040(3), as amended in 1978, provides that the Commission may adopt a reasonable regulation to implement the provisions of KRS Chapter 278; and

WHEREAS, the Utility Regulatory Commission has determined that an emergency exists and that there is an immediate need to adopt a regulation to carry out the Commission's statutory duties with regard to sewage regulations; and

WHEREAS, the Secretary of the Cabinet for Public Protection and Regulation, in conjunction with the Utility Regulatory Commission, pursuant to KRS 13.082 and KRS 278.040, has promulgated the regulation hereinabove referenced:

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 Utility Regulatory Commission within the Cabinet for Public Protection and Regulation that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the Office of the Legislative Research Commission.

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

PUBLIC PROTECTION AND REGULATION CABINET
Utility Regulatory Commission

807 KAR 25:060E. Sewage.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.280(2)
EFFECTIVE: April 16, 1979
EXPIRES: August 14, 1979
NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to sewage utilities.

Section 1. General. The purpose of this regulation is to provide standard rules and regulations governing the service of sewage utilities operating under the jurisdiction of the Utility Regulatory Commission of Kentucky.

Section 2. Definitions. The following terms when used in these rules, shall have the meaning indicated:

(1) "Commission" means the Utility Regulatory Commission of Kentucky.

(2) "Collecting sewers" means sewers, including force lines, gravity sewers, interceptors, laterals, trunk sewers, manholes, lampholes and necessary appurtenances and including service wyes, which are used to transport sewage and are owned, operated, or maintained by a sewage disposal utility.

(3) "Customer" means any person, partnership, association, corporation or governmental agency being provided with sewage disposal service by a utility.

(4) "Customer's service pipe" means any sewer pipe extending from the customer's residence or other structure receiving and transporting sewage to the utility's collecting sewer, but excluding service wyes.

(5) "Lift station" means that portion of the sewage system which is used to lift the sewage to a higher elevation.

(6) "Premises" means a tract of land or real estate including buildings and other appurtenances thereon.

(7) "Sewage" means ground garbage, human and animal excretions, and all other domestic type waste normally disposed of by a residential, commercial, or industrial establishment, through the sanitary sewer system.

(8) "Sewage treatment facilities" includes all pipes, pumps, canals, lagoons, plants, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, and controlled or managed in connection with or to facilitate the collection, carriage, treatment and disposal of sewage for the public, or other beneficial or necessary purpose.

(9) "Sewage utility" means any person except a city, who owns, controls or operates or manages any facility used or to be used for or in connection with the treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district. (KRS 278.010(5)(c).)

Section 3. Filings with this Commission. In addition to all filing requirements provided by 807 KAR 25:010, Rules of Procedure, the following requirements must also be met for all formal applications (outlined below) by sewage utilities before this commission:

(1) Application for certificates of public convenience and necessity. In addition to the filing requirements provided by 807 KAR 25:010, Sections 7 and 8, the applicant shall submit with its application, the following:

(a) A copy of a valid third-party beneficiary agreement guaranteeing the continued operation of the sewage treatment facilities or other evidence of financial integrity such as will insure the continuity of sewage service.

(b) A copy of a preliminary approval issued by the Division of Water Quality of the Kentucky Department for Natural Resources and Environmental Protection approving the plans and specifications of the proposed construction.

(c) A detailed map of the sewage treatment facilities showing location of plant, effluent discharge, collection mains, manholes, and utility service area.

(d) A detailed estimated cost of construction which should include all capitalized costs (construction, engineering, legal, administrative, etc.).

(e) A financial exhibit as described in Section 6 of 807 KAR 25:010.

(f) The manner in detail in which it is proposed to finance the new construction, specifically stating amount to be invested, recouped through lot sales, or contributions (to be) received, etc.

(g) An estimated cost of operation after the proposed facilities are completed.

(h) An estimate of the total number of customers to be served by the proposed sewage treatment facilities, initially and ultimately the class of customers served (i.e., residential, commercial, apartments, recreational, institutional, etc.) and the average monthly water consumption for each class of customer.

(i) A copy of the latest tax returns (federal and state, if applicable) filed by the applicant.

(j) A detailed depreciation schedule of all treatment plant, property and facilities, both existing and proposed, listing all major components of "package;" treatment plants separately.

(k) The proposed rates to be charged for each class of customers and an estimate of the annual revenues derived from the customers using the proposed rate schedules.

(l) A full and complete explanation of corporate or business relationships between the applicant and a parent or brother-sister corporation, subsidiary(ies), a development corporation(s), or any other party or business to afford the commission a full and complete understanding of the situation.

(m) If the establishment of rates is not sought by the applicant, omit paragraphs (i), (j), and (k) above.

(2) Application for authority to adjust rates. In addition to the filing requirements provided by 807 KAR 25:010, Sections 6, 7, and 9, the applicant shall submit with its application, the following:

(a) A copy of a valid third-party beneficiary agreement guaranteeing the continued operation of the sewage treatment facilities or other evidence of financial integrity such as will insure the continuity of sewage service.

(b) A comparative income statement (URC Form) showing test period; per books, revenues and expenses, pro forms adjustments to those figures, and explanations for each adjusted entry.

(c) A detailed analysis of any expenses contained in the comparative income statement which represent an allocation or proration of the total expense.

(d) A detailed depreciation schedule of all treatment plant properties and facilities, listing all major components of "package;" treatment plants separately.

(e) Copies of all service contracts entered into by the utility for outside services, such as but not limited to: operation and maintenance, sludge hauling, billing, collection, repairs, etc., in order to justify current contract services and charges or proposed changes in said contracts.

(f) A description of the applicant's property and facilities, including a statement of the net original cost (estimate if not known), the cost thereof to the applicant, and a current breakdown of contributed and non-contributed property and facilities owned by the applicant ("contributed property" means property paid for by others).

(g) A detailed customer listing showing number of customers in each customer class and average water consumption for each class of customers.

(h) If the utility has billing and collection services provided by the Louisville Water Company, remittance advices from the Louisville Water Company showing revenues and collection charges should be submitted for the test period.

(i) A copy of the latest tax returns (federal and state, if applicable) filed by the applicant.

(j) A full and complete explanation of corporate or business relationships between the applicant and a parent or brother-sister corporation, subsidiary(ies), a development corporation(s), or any other party or business, to afford the commission a full and complete understanding of the situation.

(3) Application for authority to issue securities, notes, bonds, stocks, or other evidences of indebtedness. In addition to the filing requirements, provided by 807 KAR 25:010 Sections 6, 7, and 10, the applicant shall submit with its application the following:

(a) Copy of amortization schedules of present and proposed indebtedness.

(b) A full and complete explanation of any corporate or business relationships between the applicant and a parent or brother-sister corporation subsidiary(ies), a development corporation(s), or any other party or business to afford the commission a full and complete understanding of the situation.

Section 4. Information Available to Customers. (1) System maps or records. Each utility shall maintain up-to-date maps, plans, or records of its entire force main and collection systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving any locality.

(2) Rates, rules, and regulations. A schedule of approved rates for sewage service applicable for each class of customers and the approved rules and regulations of the sewage utility shall be available to any customer or prospective customer upon request.

Section 5. Quality of Service. (1) General. Each utility shall maintain and operate sewage treatment facilities of adequate size and properly equipped to collect, transport, and treat sewage, and discharge the effluent at the degree of purity required by the health laws of the State of Kentucky, and all other regulatory agencies, federal, state, and local, having jurisdiction over such matters.

(2) Limitations of service. No sewage disposal company shall be obliged to receive for treatment or disposal any material except sewage as defined by Section 2(7). In compliance with the regulation, the utility shall make all reasonable efforts to eliminate or prevent the entry of surface or ground water, or any corrosive or toxic industrial liquid waste into its sanitary sewer system. A utility may request assistance from the appropriate state, county, or municipal authorities in its efforts, but such a request does not relieve the utility of its aforementioned responsibilities.

Section 6. Continuity of Service. (1) Emergency interruptions. Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall endeavor to re-establish service with the shortest posible delay consistent with the safety of its customers and the general public.

(2) Scheduled interruptions. Whenever any utility finds it necessary to schedule an interruption of its service, it shall notify all customers to be affected by the interruption stating the time and anticipated duration of the interruption. Whenever possible, scheduled interruptions shall be made at such hours as will provide least inconvenience to the customers.

(3) Record of interruptions. Each utility shall keep a complete record of all interruptions on its system. This record shall show the cause of interruption, date, time, duration, remedy, and steps taken to prevent recurrence.

Section 7. Design, Construction, and Operation. (1) General. The sewage treatment facilities of the sewage utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(2) Design and construction requirements. The design and construction of the sewage utility's collecting sewers, treatment plant and facilities, and all additions thereto and modifications thereof, shall conform to the requirements of the Kentucky Department for Natural Resources and Environmental Protection, Bureau of Environmental Quality, Division of Water Quality.

(3) Adequacy of facilities. The capacity of the sewage utility's sewage treatment facilities for the collection, treatment and disposal of sewage and sewage effluent must be sufficiently sized to meet all normal demands for service and provide a reasonable reserve for emergencies.

(4) Inspection of facilities. Each sewage utility shall adopt procedures for inspection of its sewage treatment facilities to assure safe and adequate operation of its facilities and compliance with Utility Regulatory Commission rules. These procedures shall be filed with the commission. Unless otherwise authorized in writing by the commission, the sewage utility shall make inspections of collecting sewers and manholes on a scheduled basis at intervals not to exceed one (1) year, unless conditions warrant more frequent inspections and shall make inspections of all mechanical equipment on a daily basis. The sewage utility shall maintain a record of findings and corrective actions required, and/or taken, by location and date.

Section 8. Service Pipe Connections. (1) Sewage utility's service pipe. The sewage utility shall install and maintain that portion of the service pipe from the main to the boundary line of the easement, public road, or street, under which such main may be located.

(2) Customer's service pipe:

(a) The customer shall install and maintain that portion of the service pipe from the end of the sewage utility's portion into the premises served.

(b) Requirements for customer's service pipe. That portion of the service pipe installed and maintained by the customer shall conform to all reasonable rules of the utility. It shall be constructed of materials approved by the sewage utility and installed under the inspection of the sewage utility.

(3) Restriction on installation. A sewer service pipe shall not be laid in the same trench with a water pipe.

(4) Inspection. If a governmental agency requires an inspection of the customer's plumbing, the sewage utility shall not connect the customer's service pipe until it has received notice from the inspection agency certifying that the customer's plumbing is satisfactory.

RICHARD S. TAYLOR, Chairman
ADOPTED: April 12, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: April 16, 1979 at 2 p.m.

JULIAN M. CARROLL, GOVERNOR
Executive Order 79-340
April 13, 1979

EMERGENCY REGULATION
Public Protection and Regulation Cabinet
Energy Regulatory Commission
Natural Gas Policy Act of 1978
Sewage Regulations

WHEREAS, the Governor, by Executive Order 79-169, declared an emergency to allow a Regulation of the Public Service Commission relating to the federal Natural Gas Policy Act of 1978 to become effective on February 16, 1979, for a 120-day period; and

WHEREAS, the Public Service Commission then filed a permanent Regulation with the Legislative Research Commission to become effective subject to KRS Chapter 13; and

WHEREAS, the 1978 General Assembly enacted House Bill 547, which abolished the Public Service Commission effective April 1, 1979; and

WHEREAS, the abolition of the Public Service Commission has voided the proposed Regulation and necessitates a new emergency filing the Energy Regulatory Commission to insure compliance with the federal act; and

WHEREAS, the establishment of the Energy Regulatory Commission, which is authorized by KRS 278.040(2) to regulate non-energy functions of an "energy utility," additionally necessitates the emergency filing of a Regulation pertaining to sewage; and

WHEREAS, the Secretary of the Cabinet for Public Protection and Regulation, in conjunction with the Energy Regulatory Commission, pursuant to KRS 13.082 and KRS 278.040, has promulgated both Regulations hereinabove referenced:

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 Energy Regulatory Commission within the Cabinet for Public Protection and Regulation that an emergency exists and direct that both attached Regulations become effective immediately upon being filed in the Office of the Legislative Research Commission.

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

PUBLIC PROTECTION AND REGULATION CABINET
Energy Regulatory Commission

807 KAR 50:050E. Gas well determinations.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.010(4)(b), 278.040(3), 278.110
EFFECTIVE: April 16, 1979
EXPIRES: August 14, 1979
NECESSITY AND FUNCTION: KRS 278.010(4)(b) and 278.040 subject the production of natural or manufactured gas, or a mixture of same, to or for the public for compensation, for heat or other uses, to the jurisdiction and regulation of the Energy Regulatory Commission. The federal Natural Gas Policy Act of 1978 became effective on December 1, 1978. This Act sets forth and defines certain classifications of natural gas to which are assigned maximum lawful prices that may be obtained by gas producers. The Act further provides that it shall be the duty of each state agency possessed of appropriate regulatory jurisdiction to make determinations as to the applicability of the statutorily defined classifications to particular gas wells within that state. Such determinations are to be forwarded to the Federal Energy Regulatory Commission for final determination.

KRS 278.110 empowers the Energy Regulatory Commission to contract for services of persons in a professional or scientific capacity to perform the duties and exercise the powers conferred by law on the commission. The commission has contracted with the Department of Mines and Minerals for the purpose of securing the assistance of that department's Division of Oil and Gas Conservation in collecting and analyzing data necessary for the making of the determinations described hereinabove.

It is the purpose of this regulation to set forth the manner whereby the Energy Regulatory Commission will discharge the duties conferred upon it by the Natural Gas Policy Act of 1978.

Section 1. Applications for Determinations. (1) Any owner or operator of a well productive of natural gas within this state may obtain a determination as to whether such well qualifies for one or more of the classifications set forth in sections 102, 103, 107 and 108 of the Natural Gas Policy Act of 1978 by making application to the Department of Mines and Minerals, Division of Oil and Gas Conservation, Post Office Box 680, Lexington, Kentucky 40586.

(2) Each application shall include the following items:

(a) A completed Federal Energy Regulatory Commission (FERC) Form Number 121;

(b) All information, records, documents, notices and affirmations required by 18 Code of Federal Regulations (CFR) Part 274, subpart B;

(c) Any other information, record, document, or affirmation necessary to substantiate and support the determination sought;

(d) A certified check or United State Postal Money Order in the amount of fifty ($50) dollars made payable to the Department of Mines and Minerals.

(3) Each application shall be submitted on forms available upon request to the Department of Mines and Minerals, Division of Oil and Gas Conservation, Post Office Box 680, Lexington, Kentucky 40586.

Section 2. General Requirements. (1) An applicant shall not be limited to one (1) determination per well, but may obtain all determinations to which a given well is entitled pursuant to the Natural Gas Policy Act of 1978.

(2) A separate application must be completed for each determination sought.

(3) If the person filing an application is an individual, the filing shall be signed by such individual, or in the case of a minor or other legally disabled person, his qualified legal representative. If the person making the filing is a corporation, partnership or trust, the filing shall be signed by a responsible official of the corporation, a general partner of the partnership or the trustee of the trust. In the case of any other legal entity, the operator of the well may sign the application.

(4) An operator under a joint operating agreement may

sign an application for a well covered by the operating agreement if notice of the application is given by the operator to all other parties to the joint operation agreement and that fact is certified in the application.

(5) Where an application for a determination is sought for natural gas for which the applicant has an identified purchaser, the application shall include a statement that the applicant has delivered or mailed a copy of the completed FERC Form No. 121 to the purchaser.

(6) The confidentiality of any information, record or document submitted by an applicant shall be governed by KRS 61.870 to 61.884.

Section 3. Processing of Applications. (1) Upon receipt of each application submitted in accordance with this regulation, the Department of Mines and Minerals will date-stamp the application and analyze the data submitted to determine whether the applicant is entitled to the determination sought pursuant to the Natural Gas Policy Act of 1978 and 18 CFR Parts 271 and 274, subpart B.

(2) Based upon its review of the application, the Department of Mines and Minerals will make a recommended determination and forward the application and recommended determination to the Energy Regulatory Commission.

(3) Upon receipt of an application and recommended determination, the Energy Regulatory Commission shall cause to be made public notice of the recommended order of the Department of Mines and Minerals by publication in the legal notice section of a newspaper of statewide circulation.

(4) Any interested person may request a hearing on any application by written notification to the Energy Regulatory Commission specifically stating the grounds for such request.

(5) If the request for a hearing is received by the commission within ten (10) days of the publication of the recommended determination and the hearing request states grounds which, if proven, would support a reversal or remand of the recommended determination, then the commission will schedule and conduct a hearing in accordance with the procedures set forth in regulation 807 KAR 50:005(1), (2), (3), (4) and (5).

(6) On the basis of the substantial evidence adduced at the hearing, the Energy Regulatory Commission shall issue a final order affirming or reversing the recommended determination of the Department of Mines and Minerals.

(7) If no hearing is requested within ten (10) days of the public notice of the recommended order, the commission shall issue a final order affirming the recommended determination unless upon review of the application it finds that:

(a) The recommended determination is not supported by substantial evidence in the record upon which it was made; or

(b) The recommended determination is not consistent with information contained in any public record which is not a part of the record upon which it was made.

(8) The provisions of subsections (6) and (7) notwithstanding, the commission may remand any application to the Department of Mines and Minerals for further consideration if as a result of evidence received at a hearing or upon its own review, it finds the existence of material information not made a part of the application record which would be outcome determinative.

(9) Within fifteen (15) days after issuing a final order pursuant to this regulation, the Energy Regulatory Commission shall forward the order and the entire record upon which it was made to the Federal Energy Regulatory Commission in the manner prescribed by 18 CFR 274.104.

PERRY WHITE, JR., Chairman
ADOPTED: April 12, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: April 16, 1979 at 2 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Energy Regulatory Commission

807 KAR 50:085E. Sewage.

RELATES TO: KRS Chapter 278
PURSUANT TO: KRS 13.082, 278.280(2)
EFFECTIVE: April 16, 1979
EXPIRES: August 14, 1979
NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes general rules which apply to sewage utilities.

Section 1. General. The purpose of this regulation is to provide standard rules and regulations governing the service of sewage utilities operating under the jurisdiction of the Energy Regulatory Commission of Kentucky.

Section 2. Definitions. The following terms when used in these rules, shall have the meaning indicated:

(1) "Commission" means the Energy Regulatory Commission of Kentucky.

(2) "Collecting sewers" means sewers, including force lines, gravity sewers, interceptors, laterals, trunk sewers, manholes, lampholes and necessary appurtenances and including service wyes, which are used to transport sewage and are owned, operated, or maintained by a sewage disposal utility.

(3) "Customer" means any person, partnership, association, corporation or governmental agency being provided with sewage disposal service by a utility.

(4) "Customer's service pipe" means any sewer pipe extending from the customer's residence or other structure receiving and transporting sewage to the utility's collecting sewer, but excluding service wyes.

(5) "Lift station" means that portion of the sewage system which is used to lift the sewage to a higher elevation.

(6) "Premises" means a tract of land or real estate including buildings and other appurtenances thereon.

(7) "Sewage" means ground garbage, human and animal excretions, and all other domestic type waste normally disposed of by a residential, commercial, or industrial establishment, through the sanitary sewer system.

(8) "Sewage treatment facilities" includes all pipes, pumps, canals, lagoons, plants, structures and appliances, and all other real estate, fixtures and personal property, owned, operated, and controlled or managed in connection with or to facilitate the collection, carriage, treatment and disposal of sewage for the public, or other beneficial or necessary purpose.

(9) "Sewage utility" means any person except a city, who owns, controls or operates or manages an energy utility which also renders sewer service for the public for compensation and is regulated by the Energy Regulatory Commission pursuant to KRS 278.040(2), or if the facility is a subdivision treatment facility plant located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district. (KRS 278.010(5)(c).)

Section 3. Filings with this Commission. In addition to all filing requirements provided by 807 KAR 50:005, Rules of Procedure, the following requirements must also be met for all formal applications (outlined below) by sewage utilities before this commission:

(1) Application for certificates of public convenience and necessity. In addition to the filing requirements provided by 807 KAR 50:005, Sections 7 and 8, the applicant shall submit with its application, the following:

(a) A copy of a valid third-party beneficiary agreement guaranteeing the continued operation of the sewage treatment facilities or other evidence of financial integrity such as will insure the continuity of sewage service.

(b) A copy of a preliminary approval issued by the Division of Water Quality of the Kentucky Department for Natural Resources and Environmental Protection approving the plans and specifications of the proposed construction.

(c) A detailed map of the sewage treatment facilities showing location of plant, effluent discharge, collection mains, manholes, and utility service area.

(d) A detailed estimated cost of construction which should include all capitalized costs (construction, engineering, legal, administrative, etc.).

(e) A financial exhibit as described in Section 6 of 807 KAR 50:005.

(f) The manner in detail in which it is proposed to finance the new construction, specifically stating amount to be invested, recouped through lot sales, or contributions (to be) received, etc.

(g) An estimated cost of operation after the proposed facilities are completed.

(h) An estimate of the total number of customers to be served by the proposed sewage treatment facilities, initially and ultimately the class of customers served (i.e., residential, commercial, apartments, recreational, institutional, etc.) and the average monthly water consumption for each class of customer.

(i) A copy of the latest tax returns (federal and state, if applicable) filed by the applicant.

(j) A detailed depreciation schedule of all treatment plant, property and facilities, both existing and proposed, listing all major components of "package;" treatment plants separately.

(k) The proposed rates to be charged for each class of customers and an estimate of the annual revenues derived from the customers using the proposed rate schedules.

(l) A full and complete explanation of corporate or business relationships between the applicant and a parent or brother-sister corporation, subsidiary(ies), a development corporation(s), or any other party or business to afford the commission a full and complete understanding of the situation.

(m) If the establishment of rates is not sought by the applicant, omit paragraphs (i), (j), and (k) above.

(2) Application for authority to adjust rates. In addition to the filing requirements provided by 807 KAR 50:005, Sections 6, 7, and 9, the applicant shall submit with its application, the following:

(a) A copy of a valid third-party beneficiary agreement guaranteeing the continued operation of the sewage treatment facilities or other evidence of financial integrity such as will insure the continuity of sewage service.

(b) A comparative income statement (ERC Form) showing test period; per books, revenues and expenses, pro forms adjustments to those figures, and explanations for each adjusted entry.

(c) A detailed analysis of any expenses contained in the comparative income statement which represent an allocation or proration of the total expense.

(d) A detailed depreciation schedule of all treatment plant properties and facilities, listing all major components of "package;" treatment plants separately.

(e) Copies of all service contracts entered into by the utility for outside services, such as but not limited to: operation and maintenance, sludge hauling, billing, collection, repairs, etc., in order to justify current contract services and charges or proposed changes in said contracts.

(f) A description of the applicant's property and facilities, including a statement of the net original cost (estimate if not known), the cost thereof to the applicant, and a current breakdown of contributed and non-contributed property and facilities owned by the applicant ("contributed property" means property paid for by others).

(g) A detailed customer listing showing number of customers in each customer class and average water consumption for each class of customers.

(h) If the utility has billing and collection services provided by the Louisville Water Company, remittance advices from the Louisville Water Company showing revenues and collection charges should be submitted for the test period.

(i) A copy of the latest tax returns (federal and state, if applicable) filed by the applicant.

(j) A full and complete explanation of corporate or business relationships between the applicant and a parent or brother-sister corporation, subsidiary(ies), a development corporation(s), or any other party or business, to afford the commission a full and complete understanding of the situation.

(3) Application for authority to issue securities, notes, bonds, stocks, or other evidences of indebtedness. In addition to the filing requirements, provided by 807 KAR 50:005 Sections 6, 7, and 10, the applicant shall submit with its application the following:

(a) Copy of amortization schedules of present and proposed indebtedness.

(b) A full and complete explanation of any corporate or business relationships between the applicant and a parent or brother-sister corporation subsidiary(ies), a development corporation(s), or any other party or business to afford the commission a full and complete understanding of the situation.

Section 4. Information Available to Customers. (1) System maps or records. Each utility shall maintain up-to-date maps, plans, or records of its entire force main and collection systems, with such other information as may be necessary to enable the utility to advise prospective customers, and others entitled to the information, as to the facilities available for serving any locality.

(2) Rates, rules, and regulations. A schedule of approved rates for sewage service applicable for each class of

customers and the approved rules and regulations of the sewage utility shall be available to any customer or prospective customer upon request.

Section 5. Quality of Service. (1) General. Each utility shall maintain and operate sewage treatment facilities of adequate size and properly equipped to collect, transport, and treat sewage, and discharge the effluent at the degree of purity required by the health laws of the State of Kentucky, and all other regulatory agencies, federal, state, and local, having jurisdiction over such matters.

(2) Limitations of service. No sewage disposal company shall be obliged to receive for treatment or disposal any material except sewage as defined by Section 2(7). In compliance with the regulation, the utility shall make all reasonable efforts to eliminate or prevent the entry of surface or ground water, or any corrosive or toxic industrial liquid waste into its sanitary sewer system. A utility may request assistance from the appropriate state, county, or municipal authorities in its efforts, but such a request does not relieve the utility of its aforementioned responsibilities.

Section 6. Continuity of Service. (1) Emergency interruptions. Each utility shall make all reasonable efforts to prevent interruptions of service and when such interruptions occur shall endeavor to re-establish service with the shortest posible delay consistent with the safety of its customers and the general public.

(2) Scheduled interruptions. Whenever any utility finds it necessary to schedule an interruption of its service, it shall notify all customers to be affected by the interruption stating the time and anticipated duration of the interruption. Whenever possible, scheduled interruptions shall be made at such hours as will provide least inconvenience to the customers.

(3) Record of interruptions. Each utility shall keep a complete record of all interruptions on its system. This record shall show the cause of interruption, date, time, duration, remedy, and steps taken to prevent recurrence.

Section 7. Design, Construction, and Operation. (1) General. The sewage treatment facilities of the sewage utility shall be constructed, installed, maintained and operated in accordance with accepted good engineering practice to assure, as far as reasonably possible, continuity of service, uniformity in the quality of service furnished, and the safety of persons and property.

(2) Design and construction requirements. The design and construction of the sewage utility's collecting sewers, treatment plant and facilities, and all additions thereto and modifications thereof, shall conform to the requirements of the Kentucky Department for Natural Resources and Environmental Protection, Bureau of Environmental Quality, Division of Water Quality.

(3) Adequacy of facilities. The capacity of the sewage utility's sewage treatment facilities for the collection, treatment and disposal of sewage and sewage effluent must be sufficiently sized to meet all normal demands for service and provide a reasonable reserve for emergencies.

(4) Inspection of facilities. Each sewage utility shall adopt procedures for inspection of its sewage treatment facilities to assure safe and adequate operation of its facilities and compliance with Energy Regulatory Commission rules. These procedures shall be filed with the commission. Unless otherwise authorized in writing by the commission, the sewage utility shall make inspections of collecting sewers and manholes on a scheduled basis at intervals not to exceed one (1) year, unless conditions warrant more frequent inspections and shall make inspections of all mechanical equipment on a daily basis. The sewage utility shall maintain a record of findings and corrective actions required, and/or taken, by location and date.

Section 8. Service Pipe Connections. (1) Sewage utility's service pipe. The sewage utility shall install and maintain that portion of the service pipe from the main to the boundary line of the easement, public road, or street, under which such main may be located.

(2) Customer's service pipe:

(a) The customer shall install and maintain that portion of the service pipe from the end of the sewage utility's portion into the premises served.

(b) Requirements for customer's service pipe. That portion of the service pipe installed and maintained by the customer shall conform to all reasonable rules of the utility. It shall be constructed of materials approved by the sewage utility and installed under the inspection of the sewage utility.

(3) Restriction on installation. A sewer service pipe shall not be laid in the same trench with a water pipe.

(4) Inspection. If a governmental agency requires an inspection of the customer's plumbing, the sewage utility shall not connect the customer's service pipe until it has received notice from the inspection agency certifying that the customer's plumbing is satisfactory.

PERRY WHITE, JR., Chairman
ADOPTED: April 12, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: April 16, 1979 at 2 p.m.

Amended Regulations Now In Effect

EDUCATION AND ARTS CABINET
Department of Elementary and Secondary Education
Bureau of Instruction
As Amended

704 KAR 20:020. Rank II equivalency.

RELATES TO: KRS 157.390, 161.030
PURSUANT TO: KRS 13.082, 156.070, 156.130, 156.160
EFFECTIVE: May 2, 1979
NECESSITY AND FUNCTION: KRS 157.390 authorizes the State Board *for Elementary and Secondary* [of] Education to determine equivalent qualifications for the salary ranks. This regulation defines an equivalency for the Rank II salary classification.

Section 1. [(1)] The Planned Fifth Year Program required for the renewal of provisional teaching certificates shall be accepted as an equivalency for a Rank II classification under the Foundation Law and may be satisfied by any *one (1) of the three (3) plans as described in the following* [Plan I or Plan II as defined in this] sections.

Section 2. [(2)] *The* Plan I *fifth year program* shall be the completion of a master's degree from a regionally accredited college or university.

Section 3. [(3)] *The* Plan II *fifth year program* shall consist of a program completed in accordance with the following guidelines.

(1) [(a)] The *Plan II* fifth year program shall be planned individually with each applicant by the teacher education institution which shall be an institution approved for offering programs leading to the standard teaching certificates.

(2) [(b)] The *Plan II* fifth year program shall consist of thirty-two (32) semester hours credit with an academic standing of no less than is required at the planning institution for the teacher education graduates and of the total program at least eighteen (18) semester hours must be earned at the planning institution; at least twelve (12) semester hours shall be graduate level course work; at least twelve (12) semester hours shall be professional education; and at least twelve (12) semester hours shall be from the area of the teacher's specialization.

(3) [(c)] Once the *Plan II* fifth year program has been planned with the individual, the planning institution may authorize in advance the completion of a maximum of six (6) semester hours of the program at a senior college.

(4) [(d)] Course work earned by the applicant prior to planning the fifth year program may be evaluated for acceptance by the planning institution.

(5) [(e)] Credit earned by correspondence shall not apply toward the *Plan II* fifth year program.

Section 4. (1) The Plan III fifth year program shall include at least thirty-two (32) semester hours credit except that continuing education units and/or professional staff development units may be substituted under an equivalent formula for up to twelve (12) semester hours of the total program. Among the college credits there shall be included at least twelve (12) semester hours in professional education and six (6) semester hours from the area of the teacher's specialization. Furthermore, at least eighteen (18) semester hours credit must be earned at the planning institution and twelve (12) semester hours of the total program must be for graduate level credit.

(2) The Plan III fifth year program shall be planned by the teacher education institution individually with each applicant in terms of the position held by the applicant or in terms of a position anticipated by the applicant. Standard college credits earned by the applicant prior to planning the program shall be evaluated for possible acceptance by the planning institution; however, all preparation recorded as continuing education units or as professional staff development units must be included as a component of applicant's planned program as [planned and] approved in advance for acceptance as a part of the Plan III fifth year program. The grade point standing for the college credit portion of the Plan III fifth year program shall be no less than that required at the planning institution for teacher education graduates. Once the Plan III fifth year program has been planned with the individual, the planning institution may authorize in advance the completion of a maximum of six (6) semester hours of the program at a senior college. Credit earned by correspondence shall not apply toward the Plan III fifth year program.

(3) The continuing education unit as used in the Plan III fifth year program shall be the continuing education unit now in use by accredited colleges and universities and defined as ten (10) contact clock hours of participation in an organized professional experience under responsible sponsorship, capable direction, and qualified instruction. For purposes of the Plan III fifth year program the studies and experiences for continuing education units shall be planned in advance to insure relevance to the total program being planned with the applicant. [Further guidelines as to the type of activities and experiences which may or may not be counted for this purpose shall be issued by the Superintendent of Public Instruction.] For purposes of the Plan III fifth year program two (2) [three (3)] continuing education units shall be applied on the same basis as one (1) semester hour of college credit.

(4) The professional staff development unit as used in the Plan III fifth year program shall be awarded for participation in short term workshops organized by the local school district or by the State Department of Education and shall require a mininum of ten (10) contact clock hours of participation for each unit. [defined as constituting a minimum of five (5) contact clock hours of participation in an approved continuing education experience.] For purposes of the Plan III fifth year program two (2) [three (3)] professional staff development units shall be applied on the same basis as one (1) semester hour of college credit. For this purpose the local district professional staff development committee as appointed under 704 KAR 3:280 shall approve in advance the local district workshops that are to be offered for professional staff development units on the basis of the following criteria:

(a) There is an assessment of educational need based upon input from the persons who are to be participants in the workshop activity.

(b) There is a statement of objectives relating to the assessment.

(c) The workshop activities and the study materials are appropriate to the attainment of the objectives. Participants have input into the design of the workshop.

(d) The instructor(s) has appropriate expertise for the nature of the workshop.

(e) Appropriate records will be prepared using forms authorized by the State Department of Education; each participant will be given an individual record of PSDU's granted. [The Superintendent of Public Instruction shall issue guidelines as to the type of activities and experiences which may or may not be counted for this purpose and he shall provide for a uniform system of evaluating the activities and experiences submitted for the awarding of professional staff development units and shall provide for a system of record keeping for purposes of the Plan III fifth year program.]

(5) The Superintendent of Public Instruction shall monitor and evaluate the effectiveness of the Plan III Fifth Year Program and report annually by September 1 his evaluation of program effectiveness to the State Board for Elementary and Secondary Education. For this purpose local school districts and teacher education institutions shall provide pertinent information in such form as he may require.

JAMES B. GRAHAM,
Superintendent of Public Instruction
ADOPTED: March 14, 1979
RECEIVED BY LRC: April 2, 1979 at 11:55 a.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
As Amended

806 KAR 18:010. Minimum standards for treatment of alcoholism.

RELATES TO: KRS 304.18-130, 304.18-140, 304.18-150, 304.18-160, 304.18-170, 304.32-158, 304.38-197
PURSUANT TO: KRS 13.082, 304.2-110
EFFECTIVE: May 2, 1979
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for and as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation clarifies the minimum standards for the treatment of alcoholism as set forth in KRS Chapter 304, Subtitles 18, 32 and 38.

Section 1. The purpose of this regulation is to assure all persons covered under group health insurance policies or contracts as defined in KRS 304.18-020 issued to the master policyholder, benefits for the treatment of alcoholism as hereinafter set forth when such benefits are selected by the master policyholder of the group health insurance policy or contract.

Section 2. Definitions. (1) "Emergency detoxification treatment" as used in this regulation means the systematic treatment undertaken when attempting to remove or counteract the acutely threatening physiological or hypersensitive reaction to alcohol.

(2) "Residential treatment" as used in this regulation means the process of assisting the alcoholic patient in an approved residential facility through the use of medically ordered services to attain an unimpaired or improved level of physiological, psychological, or social functioning.

(3) "Outpatient treatment" as used in this regulation means the necessary care under the direction of a licensed physician for the patient to properly function in the community.

(4) All other definitions relating to alcoholism or the treatment of alcoholism which are applicable to KRS Chapter 304, Subtitles 18, 32 and 38 are contained in KRS 222.011 and the regulations promulgated therefrom.

Section 3. Applicability. (1) The provisions of this regulation shall apply solely to:

(a) Group health insurance policies or contracts providing major medical benefits or benefits for outpatient care. Outpatient care is deemed to include eligible services or treatment received in the outpatient department of a hospital or other licensed treatment facility.

(b) The group policies or contracts as specified in subsection (1), which group health insurance carriers are required to offer to the master policyholder on behalf of its employees or members, only when the master policyholder elects to purchase in new policies or contracts the coverage specified in this regulation.

(2) Disability and accident income benefits and basic health insurance policies and contracts that do not provide major medical benefits or outpatient care are specifically excluded from complying with KRS Chapter 304, Subtitles 18, 32 and 38.

Section 4. Administration of Treatment. (1) Before benefits shall be available for services for the treatment of alcoholism, a physician must examine the patient and assign a diagnosis of alcoholism as classified in categories 303.0-304.7 of the Eighth Revision "International Classification of Diseases," Adapted for Use in the United States, U. S. Department of Health, Education and Welfare.

(2) The phases of treatment for alcoholism available to the patient shall be divided into the following levels:

(a) Emergency detoxificaiton treatment, as previously defined;

(b) Resident treatment, as previously defined; and

(c) Outpatient treatment, as previously defined.

(3) Emergency detoxification treatment is designed to furnish care to patients who are both unable to function within the community and require constant supervision and treatment in the context of [the hospital] *an inpatient* setting *in those approved treatment facilities.* Residential treatment is designed to provide care to patients unable to adjust within the community environment and who require constant supervision and care but not on the acute care level generally associated with hospital inpatients. Outpatient treatment is designed to render care to patients, who are able to function within the community and do not require constant supervision and treatment.

Section 5. Facility and Provider Eligibility. (1) Facilities in which the treatment of alcoholism *may be provided* , as hereinabove enumerated, shall be [as] licensed by the Department for Human Resources pursuant to KRS 222.210 to 222.300 and the regulations issued in accordance therewith, and accredited by the Joint Commis-

sion on the Accreditation of Hospitals for the treatment of alcoholism, except that hospitals licensed in accordance with the provisions of KRS 216.405 to 216.485 shall be approved as eligible facilities for the provision of alcoholism treatment.

(2) All services rendered by an approved facility shall comply with the requirements for such services as contained in KRS 222.210 to 222.300 and the regulations pursuant thereto.

(3) Other than the requirement established in Section 4(1), a patient admitted to any approved facility for the treatment of alcoholism or receiving such care on an outpatient basis shall at all times be under the guidance and supervision of a licensed physician or such professional personnel specifically designated by such physician who is a recognized staff member of a treament facility licensed in accordance with subsection (1).

(4) It shall be the responsibility of the approved treatment facility or the physician in charge of the care rendered to a patient, depending upon the setting of the treatment, to provide the necessary medical records and other medical information to the patient's group health insurance carrier for the purposes of claims processing and adjudication, and all such information shall be kept strictly confidential to the extent provided by law.

Section 6. Benefits and Reimbursement. (1) The minimum benefits to be provided pursuant to KRS Chapter 304, Subtitles 18, 32 and 38 on a per patient basis over the course of a contract year[,] however[,] such term is defined in the patient's group policy or contract, shall be as follows:

(a) Emergency detoxification treatment—three (3) *to five (5)* days of facility care at forty ($40) dollars a day;

(b) Residential treatment—ten (10) *to thirty (30)* days of total facility care at fifty ($50) dollars per day; and

(c) Outpatient treatment—one (1) *to fifty (50)* visits at ten ($10) dollars a visit.

(2) With respect to subsections (1)(a) and (b), the specified days of care are independent of and separate from any other eligible hospital days for which the patient has coverage under any appropriate group policy or contract. With respect to subsection (1)(c), a visit is considered only if therapy, counseling and/or psychological testing have been provided. The need for the continuation of treatment requiring repetitive visits must be certified by a physician every three (3) months.

(3) For those group health insurance carriers whose benefit structures under the appropriate group policies or contracts for the provision of alcoholism treatment are incompatible with the minimum format established under subsection (1) above, the offering of minimum benefits pursuant to this regulation shall be satisfied if an equivalent in terms of service benefits are provided for the treatment of alcoholism.

(4) Existing inpatient coverage provided under a group health insurance carrier's basic group policies or contracts shall not be reduced by the provisions of KRS Chapter 304, Subtitles 18, 32 and 38.

(5) No provision of this regulation shall be construed as prohibiting appropriate group health insurance policies or contracts from providing benefits in excess of the minimum benefits established under KRS Chapter 304, Subtitles 18, 32 and 38, whether such benefits be in the form of cash allowances, service benefits, or otherwise.

(6) All applicable policies and contracts shall stipulate that payment thereunder shall not be made by a group health insurance carrier except upon completion of a phase of treatment by the patient. Payment may be made under such group policy or contracts to the provider of service or the member covered under a group policy or contract held by the master policyholder, in accordance with the provisions of the group policy or contract, but in any event, if payment is made to the provider, the approved treament facility or the physician in charge of the care rendered to the patient, depending upon the setting of the treatment, shall have the responsibility for coordinating the charges for services rendered and submitting such charges on approved forms to the patient's group health insurance carrier. If payment is to be made to the group health insurance carrier's member, then the provider of service, be it an approved treatment facility or the physician in charge of the care rendered to the patient, depending upon the setting of the treatment, shall have the responsibility for coordinating the charges for services rendered and submitting such charges on approved forms to the patient's group health insurance carrier. If payment is to be made to the group health insurance carrier's member, then the provider of service, be it an approved facility or the physician in charge of the care rendered to a patient, shall submit a bill or statement of services rendered to the patient with sufficient information contained thereon, including diagnosis and treatment, to permit the group health insurance carrier to proceed and adjudicate claims on behalf of the patient.

(7) Treatment for alcoholism in licensed acute care hospitals shall be considered, in terms of reimbursement by all group health insurance carriers [under appropriate policies or contracts,] as any other disease, illness or condition covered by such policies or contracts.

HAROLD B. McGUFFEY, Commissioner

CORRECTION: The following regulation, 815 KAR 35:010, promulgated by the Department of Housing, Buildings and Construction, became effective on April 4, 1979 and was republished incorrectly on page 803 of the May 1 edition of the "Register." This printing incorporates all changes, and is the version that will appear in the next edition of the "Kentucky Administrative Regulations Service."

815 KAR 35:010. Electrical inspector's certification.

RELATES TO: KRS Chapter 227
PURSUANT TO: KRS13.082, 227.489
NECESSITY AND FUNCTION: The Commissioner of Housing is required by KRS 227.489 to certify electrical inspectors based on standards of the National Electrical Code. This regulation is needed to establish the procedures for achieving and maintaining such certification.

Section 1. Responsibilities of the Commissioner of Housing, Buildings and Construction. (1) The Commissioner of Housing shall require inspectors to be certified. Examinations shall be based on the National Electrical Code as provided in the Uniform State Building Code and the standards of safety prescribed by the department.

(2) The commissioner shall establish qualification requirements for electrical inspectors, and schedule examinations at regular intervals.

(3) It shall be the duty of the commissioner to investigate alleged misconduct of any electrical inspector as certified under this regulation when, in the opinion of the commissioner, there is sufficient evidence to suggest that such misconduct exists. Any party may seek redress from the department when alleged misconduct of an electrical inspector is deemed to have worked an undue hardship on the party.

(4) The commissioner shall review the conduct of any electrical inspector who shall have attempted to supplant, overrule or otherwise invalidate the judgment of another electrical inspector without first obtaining express written consent from the original inspector.

(5) Upon a finding by the commissioner that such an action as stated in subsections (3) or (4) of this section has occurred, the commissioner may suspend the certificate of the offending inspector for a period not to exceed one (1) year from the date of the commissioner's ruling.

Section 2. Applicability. This regulation shall apply to all electrical inspectors in the Commonwealth of Kentucky, and to applicants for certification as electrical inspectors.

Section 3. Definitions. The following words and terms, when used in this regulation shall have the meanings indicated:

(1) "Applicant" means the person seeking to be certified as an electrical inspector.

(2) "Commissioner" means the Commissioner of Housing, Buildings and Construction.

(3) "Certified electrical inspector" means an applicant who has met the criteria established by the commissioner for examination, has satisfactorily passed that examination, and has received a certificate attesting thereto.

(4) "Employee" means one who is employed on a full-time, part-time, or contractural basis.

(5) "Electrical" pertains to the installation of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith.

(6) "Electrical industry" pertains to those engaged in the generation, transmission and distribution of electricity; the design, manufacture, construction, installation, alteration or repair of electrical wiring facilities and apparatus for the utilization of electricity.

(7) "Authority having jurisdiction" as used in the National Electrical Code means the Department of Housing, Buildings and Construction.

(8) "Code" means the National Electrical Code and any amendments thereto which are adopted by the department.

(9) "Department" means the Department of Housing, Buildings and Construction.

Section 4. Qualifications for Residential Electrical Inspectors. Prior to being examined by the commissioner for certification as a residential inspector the applicant shall meet the following requirements:

(1) (a)Applicant shall have had not less than three (3) years of experience in the field of electrical inspection of all types of residential wiring systems, installed in accordance with the National Electrical Code; or

(b) Applicant shall have had not less than five (5) years of experience in the installation and/or design, of all types of residential wiring systems, installed in accordance with the National Elecrical Code; or

(c) Applicant shall be a Registered Professional Electrical Engineer, and shall have been registered and engaged in the practice of his profession for not less than three (3) years.

(2) Applicant shall possess the ability to speak, read, and write the English language and possess a general educational level satisfactory to perform his duties.

(3) Inspectors shall not be engaged in any other activity in the electrical industry or have pecuniary or associational interests therein which constitutes a conflict of interest. Electrical contractors, or any person employed by an electrical contractor and electricians are expressly prohibited from being certified while actively engaged in these activities.

(4) Applicant shall submit a duly notarized application, which shall be supplied by the department upon request, wherein all pertinent personal information and experience shall be stated. Application must be received by the department at least thirty (30) days prior to the desired examination date.

(5) A fee of twenty-five (25) dollars shall accompany the application, consisting of a check or money order made payable to the Treasurer, Commonwealth of Kentucky.

(6) In order to receive residential certification, the applicant must pass the examination required by the department; except that, one who is a certified electrical inspector on the effective date of this regulation, shall not be required to be examined.

Section 5. Qualifications for Commerical Electrical Inspectors: (1) Prior to being examined by the commissioner for certification as a commercial inspector, the applicant shall meet the following requirements:

(a) Applicant shall have had not less than three (3) years of experience in the field of electrical inspection of all types of commercial, or residential and industrial, electrical light and power wiring systems, installed in accordance with the National Electrical Code; or

(b) The applicant shall have had not less than five (5) years experience in the installation and/or design of all types of commercial and industrial electrical light and power wiring systems, installed in accordance with the National Electrical Code; or

(c) Applicant shall be a Registered Professional Electrical Engineer, and shall have had been registered and engaged in the practice of his profession for not less than three (3) years.

(2) Applicant shall possess the ability to speak, read, and write the English language and possess a general educational level satisfactory to perform his duties.

(3) Inspector shall not be engaged in any other activity in the electrical industry or have pecuniary or associated interests therein which constitutes a conflict of interest. Electrical contractors, or any person employed by an electrical contractor, and electricians are expressly prohibited from being certified while actively engaged in these activities.

(4) Applicant shall submit a duly notarized application, which shall be supplied by the department upon request, wherein all pertinent personal information and experience shall be stated. Application must be received by the department at least thirty (30) days prior to the desired examination date.

(5) A fee of twenty-five dollars ($25) shall accompany the application, consisting of a check or money order made payable to the Treasurer, Commonwealth of Kentucky.

(6) Applicant shall successfully pass the departmental examination; except that, one who is a certified electrical inspector on the effective date of this regulation shall be deemed qualified as a residential inspector and need not take the examination.

(7) Applicant who is a certified electrical inspector on the effective date of this regulation shall be certified as a commercial inspector, without examination, upon proper submission to the department of applicant's knowledge and experience of commercial light and power wiring systems.

Section 6. Examinations. (1) Examinations for qualified applicants shall be administered within sixty (60) days after receipt and approval of application unless otherwise scheduled by the department.

(2) Examinations will be administered at the department's offices, the 127 Building, U.S. 127 S., Frankfort, Kentucky, 40601, unless another location is specifically designated.

(3) Examinations will be based on the National Electrical Code and will be open book. The code book and all necessary supplies will be provided by the department.

(4) A grade of seventy (70) percent shall be considered passing. An applicant, otherwise qualified, who fails to make a passing score shall, upon request, be scheduled for re-examination at the next examination date without the paying of additional fees.

(5) Those persons who were previously certified as electrical inspectors and/or those persons who have been engaged in the inspection of electrical light and power wiring installations, based on the requirements of the National Electrical Code for three (3) or more years, may be certified without examination. An applicant shall so state on his application form if he claims entitlement to and desires to be certified without examination, and shall submit proof of prior certification or of meeting the experience requirements. This provision will be in effect for applications received until November 30, 1979. After this date all applicants will be required to take the examination prior to certification.

Section 7. Certification. (1) Certificates will be issued to individuals and not to corporations, partnerships, companies or any other entities.

(2) Certificates will be reissued upon request after re-examination or after a presentation of proof by the electrical inspector that he has successfully completed a continuing education course conducted or approved by the department prior to expiration. The fee for renewal shall be ten (10) dollars, payable to the Treasurer, Commonwealth of Kentucky.

(3) All electrical inspector certifications shall expire on November 30, every two (2) years, beginning November 30, 1979. The department shall mail to each certified inspector, prior to the date of expiration, a renewal application form and the inspector shall be recertified subject to the terms and conditions of this regulation.

Section 8. Revocation of Certificates. The commissioner may revoke, suspend or refuse to renew the certificate of an electrical inspector who is determined by the commissioner, after a departmental hearing, to have:

(1) Engaged in fraud, deceit or misrepresentation in obtaining certification.

(2) Been guilty of negligence, incompetenance, or misconduct in the field of electrical inspection.

(3) Affixed or caused to be affixed to any electrical installation subject to his inspection a seal of approval, where he has not personally inspected such installation and found it to be satisfactory.

(4) Operated as an electrical inspector in localities or jurisdictions in conflict with state or local laws, ordinances, or regulations.

(5) Improperly overruled the findings of another electrical inspector.

Section 9. Complaints and Grievances. (1) Any person who believes that any act or ommission of any electrical inspector certified by the commissioner has worked an undue hardship on him or who believes that an electrical inspector is guilty of misconduct in the performance of his duties, may seek redress from the commissioner.

(2) Any complaints or allegations of misconduct should be submitted in writing to the Commissioner, Department of Housing, Buildings and Construction and set forth the nature of the complaint or alleged misconduct and the action desired on the part of the commissioner to alleviate same.

(3) After any investigation the commissioner may, at his discretion, cause the matter to be set for public hearing or take any other appropriate action to resolve or correct the matter.

Section 10. Retention of Records. (1) Each electrical inspector shall make and retain for a minimum time of three (3) years a complete record of each inspection. Such record shall contain, as a minimum, sufficient information to identify the location of the structure inspected, the date of the inspection, the type of structure,whether residential, commercial, industrial or other, the designation of any required permits and the agency(s) granting same, the size and complexity of the structure, any deficiencies in meeting code requirements and action required to comply, and any other pertinent information considered necessary to allow for a review of the inspection.

(2) Such records shall be available for examination by any authorized representative of the commissioner upon request.

Section 11. Duties and Responsibilities of a Certified Electrical Inspector. (1) All inspections shall be made in compliance with the National Electrical Code and any amendments as adopted by the department.

(2) In addition to the National Electrical Code, the electrical inspector shall familiarize himself with the applicable building codes or fire safety codes governing buildings in the areas where he performs inspections, to the extent that it is necessary to determine the occupancy load of a facility.

(3) The electrical inspector shall make a minimum two (2) inspections.

(a) When an electrical inspector makes a rough inspection, he shall attach a sticker with his signature and certification number on the main service entrance equipment or other appropriate location.

(b) When an electrical inspector makes a final inspection he shall attach a sticker to the main service entrance equipment with his signature and certification number, stating that the system is in full compliance with the National Electrical Code. He shall also provide the owner of the installation or his authorized agent with a certificate of approval.

(4) In order to insure uniformity throughout the state, all stickers and certificates to be issued by the electrical inspector shall be approved or furnished by the department.

(5) Upon request by the owner of the inspected facility, the electrical inspector shall immediately furnish a copy of the certificate of compliance to the department. Copies of

all other certificates issued by the inspector shall be sent to the department on a semi-annual basis.

Section 12. Electrical Inspections of State Properties. All buildings constructed by the state under the authority of the Department of Finance may be inspected by a certified commercial electrical inspector who is an employee of the State Fire Marshal's Office. (3 Ky.R. 192; Am. 593; eff. 2-2-77; Recodified from 807 KAR 2:061, 7-5-78; Am. 5 Ky.R. 555; 803; eff. 4-4-79.)

Proposed Amendments

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 positions 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 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 cases where a change in the salary range applicable to a particular class of position provides a maximum salary increase of one (1) step, persons employed in that class of position may have their salary adjusted to the step of the new salary range which would provide a two (2) step salary increase.* 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. 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 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.

(b) A former employee reinstated, 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 (1) 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.

(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 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 *may be* advanced, *with the approval of the appointing authority,* 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 state service.]
(3) An employee shall be eligible and *may be* advanced, *with the approval of the appointing authority,* to the *next* [second] longevity step after completion of twelve (12) months service at the salary rate or step preceding *that* [the second] longevity step. [and nine (9) years of 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 state service.]
(4) [(5)] Requirements as to 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. 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.

(5) [(6)] The longevity steps may be used for promotions, demotions, and changes in pay grade *with the approval of the appointing authority and the Commissioner of Personnel.* [, 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: May 11, 1979
RECEIVED BY LRC: May 11, 1979 at 2:45 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 for Local Government
(Proposed Amendment)

109 KAR 5:010. District boards; directors, terms.

RELATES TO: KRS Chapter 147A
PURSUANT TO: KRS 147A.060
NECESSITY AND FUNCTION: KRS 147A.060 requires that the composition of the Board of Directors and the terms of its members in each district shall be specified by administrative regulation issued by the [Executive] Department *of* [for] Finance [and Administration].

Section 1. Definitions: (1) "Area Development Districts" means the fifteen (15) Area Development Districts as set out in KRS 147A.050.
(2) "Board of Directors" means the boards of directors established in each area develpment district as set out in KRS 147A.060 to 147A.090.

Section 2. Composition: The board of directors of each area development district shall consist of the categories and memberships as hereinafter enumerated, and the composition characteristics hereinafter specified, including geopraphy and interest groups. *A majority of the board of directors of each area development district shall be composed of elected officials.*

Section 3. *Board Membership* [Ex-Officio Members. A simple majority of the board of directors of each area development district shall be composed of elected officials.] (1) The county judge/*executive* of each county located within the area development district shall be a member of the board of directors.

(2) A mayor of at least one (1) incorporated city in each county located within the area development district shall be a member of the board of directors.

(a) The mayor of each city of the first, second or third class located in the area development district shall be a member of the board of directors.

(b) If more than one (1) incorporated city below the third class is located within a county of the area development district, the board of directors shall establish the procedure in which a mayor will be selected.

[(3) The board of directors may make provision for ex-officio membership of additional elected officials. In this regard membership for state legislators should be encouraged.]

(3) [(4)] Elected officials, *provided for in subsections (1) and (2) of this section,* [as noted above] may authorize by *letter* [written proxy] alternates to represent their interests on the board of directors. A person so designated shall serve at the pleasure of the elected official who designated him or her, and any action taken or vote cast by a designated alternate shall be considered the action or vote of the designating elected official. Designated alternates who are not elected officials must meet the requirements of citizen members as set out hereinafter.

(4) [Section 4. Citizen Members. (1) A citizen member must reside within the area development district.] *The elected officials provided for in subsections (1) and (2) of this section shall select citizen members in accordance with the procedure set forth in this regulation:*

(a) A citizen member must reside within the area development district and shall have demonstrated an interest in regional development and/or public service.

(b) The distribution should be fair among the counties of the area development district.

(c) Provisions shall be made for reasonable representation of the major minority group, females, low-income citizens and the principal economic interests of the district. Such representation may be provided by appropriate persons who are either elected officials or citizen members of the board.

[(2) The elected public officials serving on the board of directors shall select citizen members in accordance with the procedure hereinafter set out:]

[(a) Each board of directors shall make provision for the inclusion of reasonable representation relative to population in the district of major minority groups. Provision should also be made for adequate representation of women on the board.]

[(b) Each board of directors shall make provisions for representation of low-income groups.]

(5) The board of directors may make provision for additional elected officials to serve on the board. At least one (1) resident member of the House of Representatives and/or one (1) resident member of the Senate shall be offered such board membership under conditions established by the board of directors. Such members shall not be considered in determination of a quorum.

Section *4.* [5.] Advisory Committee Chairman: The chairmen of functional advisory committees of the board of directors may serve as members of the board of directors.

Section *5.* [6.] Elections; Tenure: (1) Elected public officials shall serve on the board of directors of each area development district during the tenure of their public office.

(2) Citizen members shall be individually selected to the board of directors for terms not to exceed three (3) years; *provided, such citizen members shall be eligible for election to additional terms as directors.*

[(3) The board of directors of each area development district shall provide for staggered terms to assure continuity of involvement by citizen members.]

[(4) Each board of directors shall provide for rotation of citizen members to insure broad participation of the citizens of the district.]

(3) [Section 7. Termination of Membership: (1)] Citizen board membership shall terminate on expiration of a term, board acceptance of a resignation, or change of residence to locality outside the area development district.

(4) [(2)] The board of directors may declare a membership vacant when a member has failed, without reason, to attend three (3) successive regular or special meetings of the board.

Section *6.* [8.] Officers: (1) The board of directors of each area development district shall elect the following officers: a chairman, a vice-chairman, a secretary, a treasurer, and such other officers as the board may deem necessary. The office of secretary and treasurer may be combined. Each officer shall be elected for a term of one (1) year. No member shall be eligible to hold more than one (1) office at a time, and no officer shall be eligible to serve more than two (2) full terms consecutively in the same office. Officers shall perform such duties as may be prescribed by the board of directors.

(2) Annual selection of officers shall be held at a designated [regular] meeting in each calendar year.

WILLIAM S. O'DANIEL, Commissioner
ADOPTED: April 16, 1979
RECEIVED BY LRC: April 16, 1979 at 1:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stanley A. Stratford, Department for Local Government, 909 Leawood Drive, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Optometric Examiners
(Proposed Amendment)

201 KAR 5:010. Application for examination; reciprocity.

RELATES TO: KRS 320.220, 320.250, 320.270
PURSUANT TO: KRS 13.082, 320.240
NECESSITY AND FUNCTION: KRS 320.220 requires all persons who practice optometry in this state to be licensed by the Kentucky Board of Optometric Examiners. This regulation prescribes the procedures to be followed in making application to the board for a license by examination of reciprocity.

Section 1. Any person wishing to take the examination for license to practice optometry must file the following in the office of the secretary not later than thirty (30) days prior to the examination:
(1) Completed application form;
(2) Undergraduate and graduate college credits;
(3) Optometry credits;
(4) Three (3) recent photographs of head and shoulders, front view, about three (3) inches by three (3) inches; and
(5) A money order or cashier's check payable to the Kentucky State Treasurer in the amount of twenty-five dollars ($25) for residents and seventy-five ($75) for non-residents. Resident, for the purpose of these regulations, shall mean a person legally qualified to vote in this state at the time his or her application is received.

Section 2. *Certification by the national board on Parts 1 and 2 may be accepted in lieu of the written portion of the Kentucky board examination if the applicant has passed the national board examination within five (5) years of the date of application.* [Certification by the national board on Parts (1) and (2) may be accepted in lieu of the written portion of the Kentucky board examination.] However, all applicants shall be required to take the oral and practical examination.

Section 3. No application fee for examination will be returned to any applicant after his application has been approved by the board, because of the decision of the applicant not to stand examination or his failure, for any reason, to take the examination; provided, however, if mitigating circumstances appear, the board may at its discretion apply the fee to a subsequent examination. Upon successfully completing the examination, the applicant will then pay an additional fee of *thirty* [fifteen] dollars *($30)* [($15)] for the license certificate and printing. In addition, those applicants successfully passing the examination shall pay the annual fee of *up to seventy-five* [thirty] dollars *($75)* [($30)] for the remainder of the licensing year.

Section 4. All applicants for license by reciprocity must have all required information in the office of the secretary at least ninety (90) days prior to the examination date, and must personally appear before the board at the examination meeting.

Section 5. All applicants for license by reciprocity must furnish the following information to the board:
(1) A completed application including undergraduate, graduate and optometric college credits;
(2) Three (3) photographs, head and shoulders, front view, about three (3) inches by three (3) inches;
(3) Letters of recommendation from the following:
(a) President or secretary of state board of state wherein the applicant is licensed;
(b) Any other reliable person that knows him well.
(4) Statement if applicant has ever been cited before any state board and if answer is "yes," enclose complete report of the details;
(5) Information from state board;
(a) That he is licensed and has been practicing optometry five (5) years or more;
(b) That his state board can grant a license by reciprocity and would give favorable consideration to a Kentucky licensee for license by reciprocity if such request were made.
(6) A written statement explaining why applicant wants to come to Kentucky;
(7) Certified check or money order in the amount of seventy-five dollars ($75).

HENRY K. LEADINGHAM, President
ADOPTED: May 7, 1979
RECEIVED BY LRC: May 11, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Edward H. Gersh, Secretary-Treasurer, Kentucky Board of Optometric Examiners, 1706 Sutherland Drive, Louisville, Kentucky 40502.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Optometric Examiners
(Proposed Amendment)

201 KAR 5:040. Unprofessional conduct.

RELATES TO: KRS 320.310(1)(f)
PURSUANT TO: KRS 13.082, 320.240
NECESSITY AND FUNCTION: KRS 320.310(1)(f) provides that the board shall have the power to refuse to grant, issue or renew any license, or to make or suspend any license for grossly unprofessional or dishonorable conduct, as determined by the board. This regulation defines grossly unprofessional or dishonorable conduct as determined by the board.

Section 1. It shall be grossly unprofessional conduct for an optometrist to practice optometry in any office where the instruments and equipment, including office furniture, fixtures and furnishings, contained therein are not maintained in a clean and sanitary manner.

Section 2. No optometrist shall give or receive any fee, salary, commission or other renumeration or thing of value, in any manner, or under any guise or pretext whatever, to or from any person, firm or corporation in return for optometric patients being referred to said optometrist, or in order to secure optometric patients, nor shall any optometrist enter into any contract, agreement or arrangement, either oral or written, whereby his professional services are hired or leased out, nor shall he permit

himself to be employed by an unlicensed optometrist, person, firm or corporation for the purpose of engaging in the practice of optometry for said unlicensed optometrist, firm or corporation.

Section 3. No optometrist shall practice optometry in, on or about the premises where others engage in any unlawful or grossly unprofessional or incompetent practice which is known to the optometrist, or by the exercise of reasonable intelligence should it come to his attention, and further no optometrist shall be associated with or share offices and/or fees with any person who is engaged in the unauthorized practice of optometry in the Commonwealth of Kentucky.

Section 4. Every optometrist shall refrain from citicizing the visual services rendered by a fellow practicing optometrist, and complaints and criticism regarding the practice, procedures and conduct of a fellow practitioner shall be made only to the board.

Section 5. Every optometrist shall keep the visual welfare of his patient uppermost at all times, and shall strive to see that no person calling as a patient shall lack visual care, regardless of his financial status.

Section 6. Every optometrist shall treat with confidence the professional information obtained from his patient, except as otherwise required by law.

Section 7. *No optometrist shall use any wording in the display mentioned in KRS 320.310(1)(t) to describe the profession other than the words "optometrist," "vision specialist" and/or "eyes examined."* [No optometrist shall use any wording in the display mentioned in the KRS 320.310(1)(t) to describe the profession other than the words "optometrist" and/or "vision specialist" and/or not more than the listing of one (1) of the specialties as recognized by the American Optometric Association. This shall likewise apply to listings in telephone directories.]

Section 8. It shall be grossly unprofessional conduct for an optometrist to fail to have in good working order or to be unable to operate those instruments and equipment necessary to perform the minimum examination as specified in Section 9. Such instruments and equipment shall be maintained in all offices where optometry is practiced in this state.

Section 9. In the absence of compelling reasons to the contrary, it shall be considered grossly unprofessional conduct and gross incompetence for an optometrist to fail to make the following minimum examination and keep a permanent record thereof:

(1) *Complete case history (ocular, physical, occupational, medical, generic and other pertinent information);* [Case history;]

(2) *Chief ocular complaint;* [Unaided visual activity;]

(3) *Aided and unaided visual acuity;* [Internal ocular examination;]

(4) *External examination (eye and adnexia);* [External ocular examination;]

(5) *Internal ophthalmoscopic examination (media, lens, fundus, etc.);* [Retinoscopy;]

(6) *Neurological integrity;* [Subjective refraction at distance;]

(7) *Static retinoscopy;* [Phoria at distance and near;]

(8) *Far and near point subjective;* [Near point testing (acuities and subjective;]

(9) *Test of accommodation and convergence and binocular coordination at far and near;* [biomicroscopy and cornea curvature measurements on contact lens patients.]

(10) For adults over thirty-five (35) tonometry;

(11) In addition to the above, the minimum examination for contact lenses shall include the following:

(a) Biomicroscopic examination;

(b) Use of Fluorescein or Rose Bengal dyes;

(c) Diagnostic evaluation with lenses on eye;

(d) Corneal curvature measurements dioptral.

Section 10. It shall be grossly unprofessional conduct for an optometrist to fail to notify the patient to return the completed prescription for verification for accuracy, when the prescription is to be filled and fabricated by another licensed person.

HENRY K. LEADINGHAM, O. D., President
ADOPTED: May 7, 1979
RECEIVED BY LRC: May 11, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Edward H. Gersh, Secretary-Treasurer, Kentucky Board of Optometric Examiners, 1706 Sutherland Drive, Louisville, Kentucky 40502.

DEPARTMENT OF TRANSPORTATION
Bureau of Highways
(Proposed Amendment)

603 KAR 5:040. Use of rest areas.

RELATES TO: KRS 177.230
PURSUANT TO: KRS 13.082, 174.080, 177.230
NECESSITY AND FUNCTION: This regulation is considered necessary to preserve the original purpose of safety rest areas and to avoid dangerous traffic and pedestrian congestion within and around the safety rest areas.

Section 1. Time Limit; Restricted Uses. (1) Except as provided in Section 3, the use of a safety rest area located within the right of way of limited access facilities, as defined in KRS 177.220, shall be limited to a maximum of four (4) hours during any twenty-four (24) hour period for the same person or group of persons.

(2) Rest areas shall not be used as a relay station or transfer point for trailers in transit. No cargo trailer or mobile home shall be uncoupled from the power unit in a rest area except in case of fire or explosion.

(3) Safety rest areas shall not be used by any person for the purpose of displaying, selling or offering for sale, any merchandise, wares, produce, services or any other items, *except as authorized by section 153 of the Surface Transportation Assistance Act of 1978 (Public Law 95-599; 23 U.S.C. 111 note).*

Section 2. Animals shall not be allowed within buildings in such safety rest areas.

Section 3. The Department of Transportation may grant permits to exceed the limit in Section 1(1) upon application therefore showing that such permission will contribute to the safety of motorists. Persons actually engaged in work on such limited access facility requiring their presence at such safety rest area are excluded from the application of Section 1.

Section 4. The Department of Transportation shall erect and maintain appropriate signs to adequately notify the public of the limitations provided for in this regulation.

Section 5. "Safety rest areas" does not include service areas where commercial facilities are provided.

Section 6. Violators of any provision of this regulation are subject to the penalty provided for in KRS 177.990(1).

CALVIN G. GRAYSON, Commissioner
ADOPTED: April 16, 1979
RECEIVED BY LRC: April 16, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Ed W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, State Office Building, Frankfort, Kentucky 40601.

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:

KY 36
AAA—From s end of Ohio River Bridge at Milton to jct. US 42 at Prestonville near Carrollton[.] *; from I-75 southbound ramps at Williamstown Interchange to jct. US 25 in Williamstown;* [AAA—] from jct. US 27 in Cynthiana to jct. KY 1743, nw of Cynthiana; [and] from jct. US 68, approximately 13 miles ne of Paris to jct. KY 32 in Carlisle[. AAA—]*; and* from jct. US 60 at Owingsville to jct. US 460 at Frenchburg.
AA—From jct. US 25 south of Williamstown to jct. KY 1743, nw of Cynthiana[. AA—] *; and* from jct. KY 1944, 3.3 miles nw of Owingsville to jct. US 60 in Owingsville.
A—From jct. KY 227 near Carrollton to *I-75 southbound ramps at Williamstown Interchange* [jct. US 27 in Cynthiana]; from jct. US 27 in Cynthiana to jct. US 68 near Carlisle; and from jct. KY 32 in Carlisle to jct. KY 1944, 3.3 miles nw of Owingsville.

[KY 2590
A—From jct. US 45 bypass southbound ramp via Sutton Lane Service Road to a point 3,337 feet n of KY 80 on Sutton Lane (excluding a 2,410 foot section eliminated by constuction of Purchase Parkway) (Graves Co.).]

[KY 2766
A—From a point 1.5 miles sw of KY 1375 on north side of W.K. Parkway in Hardin Co. to a point 2.1 miles sw of KY 1375.]

[KY 3004
A—From a point on east side of I-75, 0.95 mile south of KY 363 extending south and parallel to I-75 for 1.884 miles (Laurel Co.).]

KY 3008
A—From [a point on ne side of I-75, 0.489 mile se of] *jct.* US 25 *near Hare,* extending nw along I-75 to a point 0.190 mile nw of *US 25* [I-75] (Laurel Co.).

KY 3104
A—From jct. US 23, *approximately 1.8 miles north* [near the NCL] of Pikeville to jct. Airport Road near C&O Railroad (Pike Co.).

KY 3108
A—From jct. KY 61, approximately 0.6 mile north of KY 214, to jct. KY 953, 0.1 mile ne of Littrell, a distance of 2.700 miles (Cumberland Co.).

* COMPILER'S 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: April 13, 1979
RECEIVED BY LRC: April 16, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Ed W. Hancock, Deputy Secretary for Legal Affairs, Department of Transportation, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Occupational Safety and Health
(Proposed Amendment)

803 KAR 2:020. Adoption of 29 CFR Part 1910.

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry.

Section 1. The Occupational Safety and Health Standards Board hereby adopts 29 CFR Part 1910, the Occupational Safety and Health Standards, published in the Federal Register, June 27, 1974 Edition, Volume 39, Number 125, Government Printing Office, Washington, D.C. 20402. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Commissioner of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National Consensus Standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established Federal Standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Department of Labor, U.S. 127 South, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.13 through 1910.16 relating to ship repairing, shipbuilding, shipbreaking, and longshoring; and 1910.267a relating to pesticides, as well as paragraph (a)(6) in Section 1910.267 which refers to Section 1910.267a, are excluded and deleted in their entirety.

(4) 29 CFR 1910.141(c)(2)(i) shall read as follows:

"(i) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(5) The changes which have been adopted by the U.S. Department of Labor relating to 29 CFR 1910.211, and 1910.217, mechanical power presses, and published in the Federal Register Volume 39, Number 233, December 3, 1974, a copy of which is attached hereto, are hereby adopted by reference.

(6) The changes and additions which have been adopted by the U.S. Department of Labor relating to Telecommunications which are contained in 29 CFR 1910.67, 1910.70, 1910.183, 1910.189, 1910.190, 1910.268, 1910.274, and 1910.275, published in the Federal Register, Volume 40, Number 59, March 26, 1975, a copy of which is attached hereto, are adopted by reference.

(7) 29 CFR 1910.93q, the Occupational Safety and Health Standard covering Vinyl Chloride which was published in the federal Register, Volume 39, Number 194, October 4, 1974, a copy of which is attached hereto, is hereby adopted by reference.

(8) 29 CFR 1910.106(d)(2)(iii) of the Federal Register, Volume 39, Number 125, June 27, 1974, shall be amended by adding Table H-12 of the Federal Register, Volume 40, Number 18, page 3982, January 27, 1975, a copy of which is attached hereto, is adopted by reference.

(9) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by a consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(10) Recodification of 29 CFR 1910.93 through 1910.93q as 1910.1000 through 1910.1017 respectively, as published in the Federal Register, Volume 40, Number 103, May 29, 1975, a copy of which is attached hereto, is hereby adopted by reference.

(11) 29 CFR 1910.141(d)(2)(i) of the Federal Register, Volume 40, Number 82, April 28, 1975, amended by deleting the last half of Table J-2, a copy of which is attached hereto, is hereby adopted by reference.

(12) The new standard, adopted by the U.S. Department of Labor relating to Industrial Slings contained in 29 CFR 1910.184, published in the Federal Register, Volume 40, Number 125, June 27, 1975, a copy of which is attached hereto, is hereby adopted by reference.

(13) 29 CFR 1910.94 which was amended by revoking paragraphs (b)(2)(i) and (b)(2)(ii) and by revising

paragraph (b)(2), as published in the Federal Register, Volume 40, Number 111, June 9, 1975, a copy of which is attached hereto is adopted by reference.

(14) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(15) 29 CFR 1910.94(d)(4)(i) Table G-14, Page 23594, published in the Federal Register, Volume 39, Number 125, Thursday, June 27, 1974, as adopted, contains a typographical error and is hereby revoked. The corrected version published in the Federal Register, Volume 37, No. 202, Wednesday, October 18, 1972, Table G-14, Page 22155, a copy of which is attached hereto, is hereby adopted by reference.

(16) 29 CFR 1910.1001(i)(l) which was revised by the U.S. Department of Labor, for retention of records of Asbestos Exposure Monitoring from three (3) years to twenty (20) years, as published in the Federal Register, Volume 41, No. 55, Friday, March 19, 1976, a copy of which is attached hereto, is hereby adopted by reference.

(17) 29 CFR 1910.184(f)(6) which was amended by the U.S. Department of Labor, to delete the paragraph which prohibits the use of knots or wire rope clips to form eyes in wire rope slings, as published in the Federal Register, Volume 41, No. 62, Tuesday, March 30, 1976, a copy of which is attached hereto is hereby adopted by reference.

(18) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4, 4' Methylene bis (2-Chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(19) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(20) 29 CFR 1910.1029 Exposure to Coke Oven Emissions as printed in the Federal Register, Volume 41, Number 206, Friday, October 22, 1976, a copy of which is attached hereto, is adopted by reference.

(21) Corrections and omissions which have been adopted by the U.S. Department of Labor, relating to Coke Oven Emissions Standards, 29 CFR 1910.1029, published in the Federal Register, Volume 42, Number 12, Tuesday, January 18, 1977, a copy of which is attached hereto, is hereby adopted by reference.

(22) 29 CFR 1910.309 is hereby amended by revising Paragraph (c) to require either the use of Ground-fault Circuit Interrupters or the implementation of an assured equipment grounding conductor program on construction sites. This amendment, as published in the Federal Register, Volume 41, No. 246, Tuesday, December 21, 1976, a copy of which is attached hereto, is hereby adopted by reference with the following modification:

"Effective Date: Page 55704, 2nd paragraph is changed to read, 'These amendments of Part 29 CFR 1910 become effective August 22, 1977.'"

(23) The following corrections and omissions which have been adopted by the U.S. Department of Labor, copies of which are attached hereto, are hereby adopted by reference.

(a) Federal Register, Volume 39, No. 233, December 3, 1974, Standard for Exposure to Vinyl Chloride-corrections;

(b) Federal Register, Volume 40, No. 18, January 27, 1975;

1. Mechanical power presses-corrections
2. Correct error of omission-Table H-12

(c) Federal Register, Volume 40, No. 58, March 25, 1975, Standard for Exposure to Vinyl Chloride-effective date;

(d) Federal Register, Volume 40, No. 82, April 28, 1975, National Fire Protection Association mailing address change;

(e) Federal Register, Volume 40, No. 125, June 27, 1975, Overhead and Gantry Cranes, Paragraph 1910.179(j)(2)(iv)-corrections and (v) revoked; Paragraph 1910.190 Standards Organization-amended;

(f) Federal Register, Volume 40, No. 145, July 28, 1975, Industrial Slings-correction.

(24) 29 CFR 1910.410 through 1910.441, Subpart T, the Occupational Safety and Health Commerical Diving Standard, published in the Federal Register, Volume 42, No. 141, Friday, July 22, 1977, a copy of which is attached hereto, is hereby adopted by reference.

(25) 29 CFR 1910.1028 the permanent standard "Occupational Exposure to Benzene," printed in the Federal Register, Volume 43, No. 29, February 10, 1978, a copy of which is hereto, is hereby adopted by reference.

(a) Amend 29 CFR 1910.1028 by exempting:

1. Employee exposure from liquid mixtures containing 0.5 percent (0.1 percent after June 27, 1981) or less Benzene by volume, or the vapors released from such liquids.

2. The caution label requirements for liquid mixtures containing 5.0 percent or less Benzene packaged before June 27, 1978.

(b) The following corrections and omissions to the standard 29 CFR 1910.1028 "Occupational Exposure to Benzene," which appeared in the Federal Register, Volume 43, No. 63, March 31, 1978, are hereby adopted by reference.

(26) 29 CFR 1910.1044 "Occupational Exposure to 1, 2 Dibromo-3-Chloropropane (DBCP)," printed in the Federal Register, Volume 43, No. 53, March 17, 1978, a copy of which is attached hereto, is hereby adopted by reference.

(27) (a) 29 CFR 1910.1018 "Occupational Exposure to Inorganic Arsenic," printed in the Federal Register, Volume 43, No. 88, May 5, 1978, a copy of which is attached hereto, is hereby adopted by reference.

(b) The corrections and omissions, adopted by the U.S. Department of Labor, which appeared in Federal Register 28472, June 30, 1978, a copy attached hereto, are hereby adopted by reference.

(28) Amend 29 CFR 1910.19 by properly placing air contaminants by paragraph under section heading. This amendment, as adopted by the U.S. Department of Labor, appeared in the Federal Register, page 28473, June 30, 1978, a copy of which is attached hereto, is adopted by reference.

(29) 29 CFR 1910.1043 and 29 CFR 1910.1046 "Occupational Exposure to Cotton Dust," printed in the Federal Register, Volume 43, No. 122, June 23, 1978, and the corrections and omissions to this standard which appeared in the Federal Register 28473 through 28474, June 30, 1978 and 35032 through 35036, August 8, 1978, copies of which are attached hereto, are hereby adopted by reference.

(30) Amend 29 CFR 1910 by adding a new Subpart C, "General Safety and Health Provisions" containing a new 1910.20 preservation of records. This amendment, as adopted by the U. S. Department of Labor, appeared in

the Federal Register, Volume 43, No. 139, July 19, 1978, a copy of which is attached hereto, is adopted by reference with the following addition and revision:

(Page 31020) 1910.20 (b) "Qualified Professional" means any person trained in the field of industrial hygiene, toxicology, epidemiology, nursing, medicine or health physics.

(Page 31021) 1910.20 (d) Availability of records. See line 6 and line 10: delete the word designee and insert "A designated qualified professional."

(31) 29 CFR 1910.1045 "Occupational Exposure to Acrylonitrile (Vinyl Cyanide)," printed in the Federal Register, Volume 43, No. 192, October 3, 1978, a copy of which is attached hereto, is hereby adopted by reference.

(32) 29 CFR 1910.125 "Occupational Exposure to Lead," printed in the Federal Register, Volume 43, No. 220, November 14, 1978, a copy of which is attached hereto, is hereby adopted by reference. *The corrections and additions to 29 CFR 1910.1025 adopted by the U. S. Department of Labor, which appeared in Federal Register, Volume 44, No. 19, January 26, 1979, a copy of which is attached hereto, is hereby adopted by reference.*

(33) The 29 CFR 1910 General Industry Safety and Health Standards, selected by the U.S. Department of Labor for revocation, printed in the Federal Register, Volume 43, No. 206, and the corrections which appeared in the Federal Register, Volume 43, No. 216, November 7, 1978, copies of which are attached hereto, are hereby revoked by reference.

(34) The corrections to Table Z1, Z2 and Z3, Exposure Limits for Air Contaminants in 29 CFR 1910.1000, printed in Federal Register, Volume 43, No. 237, December 8, 1978, a copy of which is attached hereto, are hereby adopted by reference.

(35) 29 CFR 1910.106(a)(3) shall read as follows:

"The term automotive service station, or service station, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments."

JAMES R. YOCOM, Commissioner
ADOPTED: April 19, 1979
APPROVED: DONALD N. RHODY, Secretary
RECEIVED BY LRC: May 15, 1979 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Executive Director, Kentucky Department of Labor, Occupational Safety and Health Program, U.S. 127 South, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Administrative Services
(Proposed Amendment)

901 KAR 1:025. Schedule III substances.

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 13.082, 194.050, 211.090
NECESSITY AND FUNCTION: KRS 218A.080 provides that the Department for Human Resources shall place a substance in Schedule III under the Kentucky Controlled Substances Act if: (1) the substance has a potential for abuse less than the substances listed in Schedules I and II; (2) the substance has currently accepted medical use in treatment in the United States; and (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence. The Department for Human Resources hereby finds that the substances in this regulation meets this criteria.

Section 1. Amphetamine and Methamphetamine Combination Products. The Department for Human Resources hereby designates the following amphetamine and methamphetamine combination products as "Schedule III Controlled Substances" and any other drug of the quantitative composition shown below or which is the same except that it contains a lesser quantity of controlled substances, to wit:

(1) Edrisal; Tablet: Amphetamine sulfate 2.5 mg.; aspirin, 162 mg.; phenacetin 162 mg.

(2) Genegesic Capsules; Capsule: Methamphetamine hydrochloride, 1.2 mg.; chlorpheniramine maleate, 3.8 mg.; phenacetin, 120.0 mg.; salicylamide, 180.0 mg.; caffeine, 30.0 mg.; ascorbic acid, 50.0 mg.

(3) Hovizyme; Tablet: Methamphetamine hydrochloride, 0.5 mg.; conjugated estrogens-equine, 0.125 mg.; methyl testosterone, 1.25 mg.; amylase, 10.0 mg.; protease, 5.0 mg.; cellulase, 2.0 mg.; nicotinyl alchol tartrate, 7.5 mg.; dehydrocholic acid, 50.0 mg.; ferrous fumarate, 6.0 mg.

(4) Mediatric; Tablet or capsule: Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; methyl testosterone, 2.5 mg.

(5) Mediatric Liquid; Solution (15 cc.): Methamphetamine hydrochloride, 1 mg.; conjugated estrogens-equine, 0.25 mg.; mthyl testosterone, 2.5 mg.

(6) Special Formula 711; Tablet: d-Amphetamine sulfate, 2.5 mg.; mephenesin, 500 mg.; salicylamine, 300 mg.

(7) Thora-Dex No. 1; Tablet: Dextroamphetamine sulfate, 2 mg.; chlorpromazine hydrochloride, 10 mg.

(8) Thora-Dex No. 2; Tablet: Dextroamphetamine sulfate, 5 mg.; Chlorpromazine hydrochloride, 25 mg.

Section 2. Certain Amobarbital, Secobarbital and Pentobarbital Preparations in Combination with a Non-Controlled Substance. The Department for Human Resources hereby designates as "Schedule III" controlled substances the following: Any compound, mixture or preparation containing amobarbital, secobarbital, pentobarbital or any salt thereof and one or more other active medicinal ingredients which is not a controlled substance.

Section 3. Suppository Dosage Forms Containing Amobarbital, Secobarbital and Pentobarbital. The Department for Human Resources hereby designates as "Schedule III" controlled substances the following: Any

suppository dosage form containing amobarbital, secobarbital, pentobarbital, or salt thereof which has been approved by the United States Food and Drug Administration for marketing only as a suppository.

Section 4. Stimulants: New Anorectic Drugs. The Department for Human Resources hereby designates as "Schedule III" controlled substances any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers (whether optical position or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Benzphetamine;
(2) Chlorphentermine;
(3) Chlortermine;
(4) Mazindol; and
(5) Phendimetrazine.

Section 5. Pentazocine Drug Products. The Department for Human Resources hereby designates, in addition to the parenteral or injectable form of Pentazocine which is designated as a "Schedule III" controlled substance by KRS 218A.090(3), all other dosage forms of Pentazocine as "Schedule III" controlled substances. Any material, compound, mixture, or preparation which contains any quantity of Pentazocine, including its salts, is hereby designated as a "Schedule III" controlled substance.

ROBERT SLATON, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 1, 1979
RECEIVED BY LRC: May 3, 1979 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
(Proposed Amendment)

902 KAR 2:060. Immunization schedules.

RELATES TO: KRS 158.035, 211.180, 214.032, 214.034, 214.036
PURSUANT TO: KRS 13.082, 194.050, 211.090
NECESSITY AND FUNCTION: KRS 211.180 mandates the Department for Human Resources to implement a statewide program for the detection, prevention and control of communicable diseases. KRS 214.034 requires the establishment of immunization schedules by the Department for Human Resources. The regulation specifies the recommended schedule for mandatory immunization and is in keeping with the latest scientific information on the topic.

Section 1. Schedule for Required Immunizations. The recommended schedule for active immunization of normal infants and children against diphtheria, tetanus, pertussis, poliomyelitis, rubeola (measles) and rubella is as follows:

(1) Initial series:
(a) Two (2) months of age: DTP, TOPV;
(b) Four (4) months of age: DTP, TOPV;
(c) Six (6) months of age: DTP;
(d) Fifteen (15) months of age: Measles, Rubella; and
(e) Eighteen (18) months of age: DTP, TOPV.
(2) Booster doses:
(a) Shortly before starting school: DTP, TOPV; and
(b) Fourteen (14) to sixteen (16) years of age: Td.

Section 2. Definitions. As used in this regulation:
(1) "DPT" means diphtheria and tetanus toxoids combined with pertussis vaccine;
(2) "TOPV" means trivalent oral poliovirus vaccine;
(3) "Td" means combined tetanus and diphtheria toxoids (adult type);
(4) "Measles vaccine" and "rubella vaccine" may be given as measles-rubella combined vaccine.

Section 3. Variance from Immunization Schedule. *(1)* The individual physician or local health department shall have the authority to alter the recommended immunization schedule when indicated for any individual vaccinee or to suit any unusual local conditions.
(2) A school age child who has begun but not completed the immunization schedule required by KRS 158.035 may be permitted to attend classes for a limited period of time specified by the individual physician or local health department as necessary for the completion of the immunization schedule.

ROBERT SLATON, Commissioner
ADOPTED: April 11, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: April 20, 1979 at 10:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Division for Consumer Health Protection
(Proposed Amendment)

902 KAR 10:040. Youth camps.

RELATES TO: KRS 211.180
PURSUANT TO: KRS 13.082, 194.050, 211.090(3)
NECESSITY AND FUNCTION: KRS 211.180 authorizes the Department for Human Resources to regulate certain public health matters including the sanitation of public and semipublic recreational areas; the detection, prevention and control of communicable disease and health hazards; and to provide for the protection and improvement of the health of school age children. This regulation establishes uniform standards for youth camps and includes the issuance, suspension, and revocation of premits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; solid waste disposal;

sanitary standards for operation; inspections; and other matters necessary to insure a safe and sanitary environment in order to protect the health and safety of children who attend camps in this state.

Section 1. Citation of Regulation. This regulation may be cited as "The Kentucky Youth Camp Regulation."

Section 2. Definitions. The following definitions shall apply in the interpretation and enforcement of this regulation.

(1) "Camp" or "youth camp" means any area, parcel, or tract of land on which facilities are established, maintained or operated for recreational, educational, or vacation purposes for five (5) or more youths under eighteen (18) years of age, either free of charge, or for payment of a fee; provided, however, that individual or family camp units are excluded from the requirements of this regulation. This definition includes the following types of camps:

(a) "Day camp" means a camp operated for all or part of the day but less than twenty-four (24) hours a day during one (1) or more seasons of the year;

(b) "Primitive or outpost camp" means a portion of the permanent camp premises or other site under control of the youth camp operator at which the basic needs for camp operation, such as places of abode, water supply system, and permanent toilet and cooking facilities are not usually provided; and

(c) "Residential camp" means a camp operating on a permanent campsite and providing overnight lodging facilities.

(2) "Camper" means any child under eighteen (18) years of age living apart from, or with the intention of living apart from, his relatives, parents, or legal guardians, while attending a youth camp.

(3) "Camp director" means the individual on the premises of any youth camp who has the primary responsibility for the administration of program operations and supportive services for such camp and the supervision of the youth camp staff of such camp.

(4) "Camp operator" means any private or public agency, organization, or person, and any individual, who operates, controls or supervises a youth camp, whether such camp is operated for profit or not for profit.

(5) "Department" means the Department for Human Resources and the local health department having jurisdiction and their duly designated representatives.

(6) "Natural bathing place" means a swimming place, together with shores, buildings, equipment, and appurtenances if any, and the water and the land areas used in connection therewith, at a lake, stream, or other body of fresh water.

(7) "Permanent structure" means any building and appurtenances owned and operated by the camp management for living, dining, kitchen, sleeping, toilet, bathing, shelter, tool shed, storage, assembly, infirmary, or stable, so constructed as to be immobile and permanent.

(8) "Permit" means a written document issued by the department giving a designated person permission to operate a specific camp.

(9) "Person" means any individual, firm, partnership, company, corporation, trustee, association, or any public or private entity.

(10) "Semi-permanent structure" means any building, tent, structure or trailer and appurtenances owned and operated by the camp management for sleeping, living, dining, toilet, bathing, kitchen, tool shed, storage, assembly, infirmary, or animal shelter, so constructed as to be moveable, may be easily disassembled, and not permanent in nature.

(11) "Swimming crib" means a pool structure partly submerged in a stream, river or lake to utilize the water thereof, and used as an enclosure for swimming.

Section 3. Permits. No person shall operate a youth camp within the Commonwealth of Kentucky who does not possess a valid permit issued to him without fee by the department. Only a person who complies with the requirements of this regulation shall be entitled to receive and retain such a permit. Permits shall not be transferable from one person to another person or place. The permit shall be posted or readily available at every camp. Each permit shall expire on December 31 next following its date of issuance.

Section 4. Application for a Permit. (1) Any person desiring to operate a camp shall make written application on forms provided by the department. The application shall include:

(a) Applicant's full name and address and indicate whether the applicant is an individual, firm or corporation;

(b) If a partnership, the names of the partners, and their addresses;

(c) The location of the camp;

(d) The type of camp; and

(e) The signature of the applicant or applicants.

(2) Upon receipt of such an application, the department shall make an inspection of the camp to determine compliance with the provisions of this regulation. When inspection discloses that the applicable requirements of this regulation have been met, a permit shall be issued to the applicant by the department.

Section 5. Camp Site. The camp site shall be located on land that provides good natural drainage. The area on which the tents, buildings, or structures are erected, together with such other areas frequently used for camp activities, shall be well drained and not located in a swamp or similar place in which mosquitos may breed.

Section 6. Lodging Facilities. (1) All places used for human habitation in a camp shall be provided with adequate artificial or natural lighting and ventilation and shall be maintained in a safe and sanitary condition; provided, however, that artificial lighting shall not be required in tents.

(2) Floors, walls and ceilings in all permanent and semi-permanent structures used for living and sleeping purposes shall be kept clean and in good repair. Tent material shall be flame retardant[; provided, however, that existing camps shall have three (3) years from the effective date of this regulation to meet this requirement].

(3) All gas or oil burning heating and cooking facilities provided in any camp shall be properly vented and maintained. No open-faced gas or oil burning heaters shall be allowed under any circumstances.

(4) The number of sleepers per permanent structure of any camp shall be such that each sleeper may be provided with at least *thirty (30)* [forty (40)] square feet of floor space[; provided, however, that existing camps shall have three (3) years from the effective date of this regulation to meet this requirement unless a time extension is granted by the department for justifiable cause but in no event shall the area per sleeper be less than thirty (30) square feet]. Permanent structures used as sleeping quarters shall be

designed to provide a minimum of two (2) feet between beds, cots, or sleeping bags when arranged side by side. Beds, cots, or sleeping bags shall be placed so that heads of sleepers are at least six (6) feet apart, and if double decked beds are used, there shall be not less than twenty-seven (27) inches between the lower mattress and the bottom of the upper bed. If semi-permanent structures at a residential camp are used for sleeping purposes, the provisions of this subsection shall apply.

(5) Mattresses shall be flame retardant and provided with covers[; provided, however, that existing camps shall have two (2) years from effective date of this regulation to meet this requirement]. Sleeping surfaces shall be provided with at least one (1) sheet or mattress cover; provided, however, this requirement shall not apply if the camper provides his own sleeping bag.

(6) All articles of bedding provided by the camp shall be kept clean and in good repair. Linen shall be changed at least once weekly and more often if necessary, or when there is a new camper.

Section 7. Water Closets, Privies, Lavatory and Shower Facilites. (1) Each residential and day camp site shall be provided with water closets, handwashing and shower facilities for each sex accommodated, as shown in the following tables; provided, however, that day camps shall not be required to provide shower facilities.

Persons of Each Sex to be Served	Boys		Girls	Boys or Girls	
	Water Closets	Urinals*	Water Closets	Lavatories	Showers
1-18	1	1	2	1	1
19-33	2	1	2	2	2
34-48	2	2	3	2	3
49-63	3	2	4	3	4
64-79	3	3	5	3	5
80-95	4	3	6	4	6

* Water closets can be substituted for urinals when facilities may be used by both sexes.

For camps having more than ninety-five (95) residents there shall be provided: one (1) additional water closet and lavatory for each twenty-five (25) residents; one (1) additional shower for each twenty (20) residents; and one (1) urinal per fifty (50) male residents.

(2) Toilets and bathhouses containing water closets, lavatories and showers shall be adequately ventilated, have natural or aritificial lighting of twenty (20) footcandles, the floors shall be of concrete or other impervious material. Toilets shall be so located and distributed that no habitable permanent or semi-permanent structure or tent will be more than 500 feet from such facilities.

(3) Hot and cold water shall be provided at all showers at the campsites where overnight facilities are furnished; provided, however, existing camps will not be required to furnish hot water.

(4) Lavatories or handwashing facilities shall be conveniently located to all toilet facilities. Water, hand-cleansing soap, and approved sanitary towels or other approved hand-drying device shall be provided at all lavatories and handwashing facilities.

(5) All toilets, lavatories and bathing facilities shall be maintained in good repair and shall be kept clean at all times.

(6) When flush type toilets are not provided, other types of toilet facilities such as earth pit privies or chemical type may be used if so constructed and maintained as to prevent flybreeding, nuisances and contamination of any water supply. Privies shall be provided at the ratio of one (1) pit opening for every ten (10) campers. Privies shall not be located within 100 feet of any kitchen or other place where food is prepared or served, and shall be located apart from any building used for bathing or lodging.

(7) Adequate toilet tissue shall be provided at each toilet facility.

(8) Flame retardant, easily cleanable containers shall be provided in all toilet facilities and shall be covered in toilets for females.

(9) All plumbing shall comply with the State Plumbing Code.

Section 8. Sewage and Waste Disposal. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the Department for Natural Resources and Environmental Protection *and the Department of Housing, Buildings and Construction;* provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the camp sewerage system shall be discontinued.

Section 9. Water Supply System. (1) The water supply shall be potable, adequate and from an approved public supply of a municipality or water district, if available. In the event a public water suply of a municipality or water district is not available, the supply for the camp shall be developed and approved in accordance with applicable requirements of the Department for Natural Resources and Environmental Protection; provided, however, if a public water supply of a municipality or water district subsequently becomes available, connections shall be made thereto and the camp supply shall be discontinued.

(2) Adequate drinking fountains or portable water coolers of an approved type shall be provided within the camp. Common drinking cups, glasses or vessels are prohibited.

(3) Where portable drinking water containers are used, they shall be of easily cleanable construction, kept securely closed and so designed that water may be withdrawn from the container only by water tap or faucet and shall be maintained in a sanitary condition.

(4) All ice used shall be from an approved source and shall be handled and stored in such a manner as to prevent contamination. If ice is made on the premises of any camp, the ice-making machine shall be of approved construction and the water shall be of the same bacteriological quality as approved drinking water.

Section 10. Refuse Handling. (1) The storage, collection and disposal of refuse shall be so conducted as not to create a health hazard, rodent harborage, insect breeding area, accident or fire hazard, or air pollution violation and shall conform to all other requirements of the Department for Natural Resources and Environmental Protection.

(2) All refuse shall be stored in flytight, watertight, rodent proof containers and containers shall be emptied and cleaned at such frequency so as to prevent a nuisance; provided, however, plastic bags containing food waste may be used if *disposed* [disposal] of on a daily basis or if used as liners in rodent proof containers, or if used for non food refuse.

(3) Approved container storage location shall be provided and shall be so designed and maintained as not to create a nuisance.

(4) All refuse containing garbage shall be collected at least once per week or more often if deemed necessary.

Section 11. Maintenance of Animal Facilities. (1) Barns, stables, corrals or other structures used to house horses and other animals shall be located at least 500 feet from any sleeping, eating or food preparation area. Tie-rails, or hitching posts shall not be located within 200 feet of any dining hall, kitchen or other place where food is prepared, cooked or served.

(2) Barns, stables and corrals shall be located on a well-drained sloping area and so situated as to prevent contamination of any water supply.

(3) Manure shall be removed from barns, stalls, and corrals as often as necessary to prevent a fly problem. Fly repellants or other precautions shall be used to prevent such shelters from becoming an attractant for or breeding place for flies.

Section 12. Swimming Facilities and Recreational Water Activities. (1) All swimming pools, natural bathing places and swimming cribs shall comply with applicable regulations of the Department for Natural Resources and Environmental Protection and with applicable local regulations.

(2) All small craft and boating activities shall be conducted in compliance with applicable rules and regulations of the Department of Transportation, Division of Water Enforcement.

(3) All swimming and small craft and boating activities shall be under the supervision of a person holding a current American Red Cross Senior Life Saving Certificate or its equivalent at all times. All necessary life saving devices shall be provided.

(4) A method of checking swimmers recognized by the American Red Cross Life Saving and Water Safety Standards shall be enforced.

(5) Epidemiological investigation, sanitary survey and other factors shall indicate that the area is safe for swimming.

Section 13. Insect, Rodent and Pest Control. (1) Grounds, buildings, and structures shall be maintained free of insect and rodent harborage and infestations. Extermination methods and other measures to control insects and rodents shall be in accordance with applicable state laws and regulations.

(2) Camps shall be maintained free of accumulations of debris which may provide rodent harborage or breeding places for flies, mosquitos or other pests.

(3) Storage areas shall be so maintained as to prevent rodent harborage. Lumber, pipe and other building materials shall be stored at least one (1) foot above the ground.

Section 14. Camp Director, Records and Reports, Medical Supervision and First Aid. (1) The camp operator shall assure that a camp director or an authorized representative is available within the camp boundaries at all times while the camp is in operation.

(2) Records or personal data, including a medical history, shall be kept on each person attending a camp. Minimum records shall include the name, date of birth, and address of each person in camp; the name, address and telephone number of parents or guardians; and the medical history, and dates of admission and discharge of each camper.

(3) Residential camps shall have facilities for isolation of persons suspected of having a communicable disease. Other camps shall provide for the immediate isolation of campers suspected of having a communicable disease.

(4) Adequate first aid supplies and equipment as designated by the physician on call shall be located within the camp. Residential camps shall have a person holding an American Red Cross Standard First Aid and Personal Safety Certificate or its equivalent on site twenty-four (24) hours a day while the camp is in session. All other camps shall have a person holding, as a minimum, a First Aid Course Certificate from the American Red Cross or its equivalent on site while camp is in session. The certificates shall be made available for examination upon request of an authorized agent of the department.

(5) All prescription drugs shall be kept in a locked cabinet or container.

(6) A nearby physician shall be available or on call for medical emergencies and the camp shall have access to a telephone, with emergency telephone numbers posted. Transportation shall be available at all times in the event of an emergency.

(7) All serious illnesses and accidents resulting in death or injury, other than minor injuries which require only first aid treatment and which do not involve medical treatment, shall be reported to the department at the end of the camping season, but in no event later than December 31 of each year, on forms provided by the department.

Section 15. Safety and Accident Prevention. (1) All camps shall comply with applicable rules and regulations of the State Fire Marshal and applicable local fire codes pertaining to fire safety, fuel supply and fuel connections.

(2) In every camp with an electrical system, the wiring, fixtures, and equipment shall be installed and maintained in accordance with applicable codes and regulations.

(3) Protection; natural hazards:

(a) Natural hazards within the boundaries of the camp shall be plainly marked as such and such measures and procedures as approved by the department shall be complied with to insure the safety of the campers.

(b) Poison plants such as poison sumac and poison ivy shall be subject to control and elimination from areas where their presence is hazardous to campers.

(4) Elimination of artifical hazards:

(a) All buildings, grounds and equipment shall be maintained in such a manner as to eliminate or minimize the danger from holes, glass, splinters, sharp projections and other hazardous conditions so as to protect the safety of all persons residing or using the facilities at the camp site.

(b) All insecticides, pesticides and chemical poisons shall be plainly labeled and stored in a safe place.

(c) Gasoline and other highly flammable fluids shall be plainly marked and stored in a locked container or building not occupied by residents of the camp and at a safe distance from sleeping quarters or buildings where people congregate.

Section 16. Plan Review of Future Construction. (1) Any person or persons contemplating construction, alteration, addition to or change in the construction of any permanent camp shall, prior to the initation of any such construction, submit plans in triplicate to the department, through the local health department concerned, of any proposed camp, additions, alterations, or change in construction which shall show:

(a) Name and address of owner or operator of camp;

(b) Area and dimension of the site;

(c) Property lines;

(d) A separate floor plan of all buildings and other improvements constructed or to be constructed including location and number of sanitary conveniences, including water closets, urinals, showers, handwashing facilities and including a plumbing riser diagram;
(e) Detail drawings of sewage disposal facilities including written specifications of sewage plant disposal facilities;
(f) Detail drawings of water supply if source is other than public; and
(g) The location and size of water and sewer lines within the camp.
(2) In camps where central food preparation and food service buildings are to be provided, plans and specifications shall be submitted showing the kitchen floor plan, layout and type of equipment, storage area, restrooms, dining area all in accordance with the state food service code.
(3) In camps where artificially constructed swimming pools are contemplated, plans and specifications shall be submitted to the Department for Natural Resources and Environmental Protection for review and approval prior to construction.

Section 17. Inspection of Camp. (1) Each camping season an inspection shall be made by the department on each camp at least once prior to the opening of the camp and at least once while the camp is in actual operation. The department shall make as many additional inspections and reinspections as are necessary for the enforcement of this regulation.
(2) Whenever an agent of the department makes an inspection of a camp he shall record his findings on an official department inspection report form and provide the permit holder or operator with a copy. The inspection report shall:
(a) Set forth any violation(s) found;
(b) Establish a specific and reasonable period of time for the correction of the violations(s) found; and
(c) State that failure to comply with any notice issued in accordance with the provisions of this regulation may result in suspension of the permit.

Section 18. Suspension of Permit. (1) Whenever the department has reason to believe that an imminent public health hazard exists, or whenever the permit holder has interfered with the authorized agents of the department in the performance of their duties, the permit may be suspended immediately upon notice to the permit holder without a hearing. In such event the permit holder may request a hearing which shall be granted as soon as practicable.
(2) In all other instances of violation of the provisions of this regulation the department shall serve upon the holder of the permit a written notice specifying the violation(s) in question and afford the holder a reasonable opportunity to correct same. Whenever a permit holder or operator has failed to comply with any written notice issued under the provisions of this regulation, the permit holder or operator shall be notified in writing that the permit shall be suspended at the end of five (5) days following service of such notice, unless a written request for a hearing is filed with the department, by the permit holder, within such five (5) day period.
(3) The hearing provided for in this regulation shall be conducted by the department at a time and place designated by it. At the conclusion of the hearing, the department shall make a finding of fact and conclusion of the law. A transcript of the hearing need not be made unless the interested party assumes the cost thereof and a request is made therefor at the time a hearing is requested.

Section 19. Reinstatement of Suspended Permits. Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within five (5) days following receipt of written request, including a statement signed by the applicant that in his opinion the conditions causing the suspension of the permit have been corrected, the department shall make a reinspection. If the applicant is found to be in compliance with the requirements of this regulation, the permit shall be reinstated.

Section 20. Revocation of Permits. For serious or repeated violations of any of the requirements of this regulation or for interference with the agents of the department in the performance of their duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the department. Prior to such action, the department shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of ten (10) days following service of such notice, unless a request for a hearing is filed with the department by the permit holder, within such ten (10) day period.

ROBERT SLATON, Commissioner
PETER D. CONN, Secretary
ADOPTED: April 9, 1979
RECEIVED BY LRC: April 9, 1979 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:041. Payments for intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the department, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the department for intermediate care facility services.

Section 1. Intermediate Care Facilities. In accordance with 1902(a)(13)(E) of the Social Security Act, and 45 CFR 250.30, recodified as 42 CFR 450.30, the department shall make payment to participating providers on the following basis:

(1) Payment shall be made on a reasonable cost related basis.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the department and supplemented by the use of the Title XVIII-A reimbursement principles.

(3) For the period July 1, 1975 through June 30, 1976, payment amounts arrived at shall not exceed, on a statewide average basis, those amounts which would have been paid using the Title XVIII-A principles and methods of cost reimbursement.

Section 2. Implementation of the Payment System. The department's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The department's reimbursement system includes the following specific policies, components, or principles:

(1) Prospective payment rates for routine services, reasonably related to costs, shall be set by the department on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the department. An adjustment to the prospective rate (subject to the maximum payment) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements; or other direct governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment. Such maximum payment rate may be reviewed annually by the department and may be adjusted as deemed appropriate with consideration given to the factors of facility costs, program objectives and budgetary resources.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the department exceeding twenty-five (25) percent of billed charges, or where an evaluation by the department of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of intermediate facility care. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relate to providing intermediate care facility services. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing, the principal of which will generally be repaid within one (1) year; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost.

(c) For both paragraphs (a) and (b), above, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess twenty (20) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, and intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, the department will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(9) Each facility shall maintain and make available such records (in a form acceptable to the department) as the department may require to justify and document all costs to and services performed by the facility. The department shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

(10) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Departmental approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for intermediate facility care. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the department shall not be construed as approval of the item or expansion.

(11) The department shall audit each year-end cost report in the following manner: an initial desk review shall be performed of the report and the department will determine the necessity for and scope of a field audit in relation to routine service cost. A field audit may be conducted for purposes of verifying prior year cost to be used in setting the new prospective rate; field audits may be conducted annually or at less frequent intervals. A field audit of ancillary cost will be conducted as needed.

(12) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(13) Program entry into the prospective rate system will be accomplished in the following manner: each facility shall be afforded the opportunity of securing reimbursement at prospective rates effective July 1, 1975. Each facility not choosing to receive reimbursement at the prospective rate as of July 1, 1975 shall receive reimbursement at the prospective rate effective July 1, 1976, and shall receive reimbursement for the period July 1, 1975 through June 30, 1976 at a program maximum payment of fifteen dollars ($15) per day per patient for general intermediate care facilities and eighteen dollars ($18) per day per patient or established Title XVIII-A cost rate for facilities providing intermediate care for the mentally retarded.

(14) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the department).

(15) The department may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the department to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(16) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. The department shall, under normal circumstances, be expected to determine the prospective rate and make notification to the facility within an additional sixty (60) days after actual receipt of the required documents. These time limits may be extended as necessary for the procuring of additional documentation, resolution of disputed facts, at the specific request of the facility (with the department's concurrence), and at such times as the rate review and appeal process is utilized by a facility and the determination and/or notification is held awaiting completion of that process.

Section 3. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost.

(2) The allowable prior year cost will then be increased by a percentage based on the percent of change in the Consumer Price Index. Such percentage increase shall be known as an inflation factor.

(3) The basic per diem cost (defined as the allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the department. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-five (95) percent of licensed bed days (or ninety-five (95) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of licensed bed days for facilities with less than ninety (90) percent licensed bed occupancy. The department may impose a lower occupancy rate for newly constructed or opened facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. Such reduction in the minimum occupancy rate, whether for a newly constructed or opened facility or for an existing facility, shall be granted for not more than one (1) year or for such lesser time as may be required for the facility to reach the minimum occupancy rate.

(4) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to nonprofit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(Continued on next page)

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-79)

Basic Per Diem Cost	*Investment Factor Per Diem Amount*	*Incentive Factor Per Diem Amount*
*$19.99 & below**	—	—
$20.00 - 20.99	*$1.38*	*.87*
$21.00 - 21.99	*1.29*	*.75*
$22.00 - 22.99	*1.18*	*.62*
$23.00 - 23.99	*1.06*	*.47*
$24.00 - 24.99	*.92*	*.31*
$25.00 - 25.99	*.76*	*.13*
$26.00 - 26.99	*.53*	—

Maximum Payment $27.00

** For a basic per diem of $19.99 and below, the Investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the Incentive amount will be equal to 5.0 percent, but not to exceed $.87.*

[(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-75 through 12-31-77)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$14.99 & below*	—	—
$15.00 - 15.99	$1.05	.66
$16.00 - 16.99	.99	.58
$17.00 - 17.99	.92	.48
$18.00 - 18.99	.83	.37
$19.00 - 19.99	.73	.24
$20.00 - 20.99	.61	.10
$21.00 - 21.99	.43	—

Maximum Payment $22.00

* For a basic per diem of $14.99 and below, the Investment Factor shall be 7.5 percent, but the return may not exceed $1.05, and the Incentive Factor shall be 5.0 percent, but the return may not exceed $.66. For example, a return based on a basic per diem cost of $14.50 would be computed as follows: $14.50 x 7.5% = $1.09 which would be adjusted downward to $1.05; $14.50 x 5.0% = $.73 which would be adjusted downward to $.66.]

[(b) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 1-1-78)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$16.99 & below*	—	—
$17.00 - 17.99	$1.18	.74
$18.00 - 18.99	1.11	.65
$19.00 - 19.99	1.02	.54
$20.00 - 20.99	.92	.41
$21.00 - 21.99	.81	.27
$22.00 - 22.99	.67	.11
$23.00 - 23.99	.47	—

Maximum Payment $24.00

* For a basic per diem of $16.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed $1.18 and the Incentive Amount will be equal to 5 percent, but not to exceed $.74.]

[(c) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-75 through 12-31-77)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$20.99 & below*	—	—
$21.00 - 21.99	$1.45	.91
$22.00 - 22.99	1.35	.79
$23.00 - 23.99	1.23	.65
$24.00 - 24.99	1.10	.49
$25.00 - 25.99	.96	.32
$26.00 - 26.99	.79	.13
$27.00 - 27.99	.55	—
$28.00 and over	—	—

Maximum Payment $70.00

* For a basic per diem of $20.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed $1.45 and the Incentive Amount will be equal to 5 percent, but not to exceed $.91.]

(b) [(d)] Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 1-1-79[8])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$22.99 & below*	—	—
$23.00 - 24.99	$1.45	.91
$25.00 - 26.99	1.35	.79
$27.00 - 28.99	1.23	.65
$29.00 - 30.99	1.10	.49
$31.00 - 32.99	.96	.32
$33.00 - 34.99	.79	.13
$35.00 and over	—	—

Maximum Payment $ *78* [75]

* For a basic per diem of $22.99 and below, the Investment Amount will be equal to 7.5 percent, but not to exceed $1.45 and the Incentive Amount will be equal to 5 percent, but not to exceed $.91.

(5) The prospective rate is then compared with the maximum payment. This shall be twenty-two dollars ($22) per patient per day for routine services for the period 7/1/75 through 12/31/77, and twenty-four dollars ($24) per patient per day for routine services for the period beginning 1/1/78, *and twenty-seven dollars ($27) per patient per day for routine services for the period beginning 1/1/79* for general intermediate care facilities; and seventy dollars ($70) per patient per day for routine services for the period 7/1/75 through 12/31/77, and seventy-five dollars ($75) per patient per day for routine services for the period beginning 1/1/78, *and seventy-eight dollars ($78) per patient per day for routine services for the period beginning 1/1/79* for intermediate care facilities for the mentally retarded. If in excess of *the program maximum,* [twenty-two dollars ($22) or twenty-four dollars ($24), or seventy dollars ($70) or seventy-five dollars ($75), as applicable,] the prospective rate shall be reduced to the appropriate maximum payment amount.

Section 4. Rate Review and Appeal. Participating

facilities may appeal departmental decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division for Medical Assistance, a re-evaluation of the point at issue. This request must be received within twenty (20) days following notification of the prospective rate by the program. The director shall review the matter and notify the facility of any action to be taken by the department (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Bureau for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be received within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Center for Program Development, Bureau for Social Insurance. The panel shall meet to consider the issue within fifteen (15) days after receipt of the written request, and shall issue a binding decision on the issue within five (5) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the department's expense.

Section 5. Definitions. For purposes of this regulation, the following definitions shall prevail unless the specific context dictates otherwise:

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the department in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of intermediate care facility services and the cost incurred by the facility is within cost limits established by the department; i.e., the allowable cost is "reasonable."

(2) "Amounts which would have been paid under Title XVIII-A" means the statewide average amounts theoretically payable under Title XVIII-A principles at the time the department's cost related payment system is implemented. Included within this definition is the recognition by the department that actual vendor expenditures for allowable costs vary according to the reimbursement system utilized, and that an after the fact determination of amounts payable under Title XVIII-A principles would not be valid.

(3) "Ancillary services" means those direct services for which a separate charge is customarily made. Ancillary services are limited to the following:

(a) Legend drugs.

(b) Drugs (legend or non-legend) provided through a "unit dosage" system.

(c) Physical, occupational and speech therapy.

(d) Laboratory procedures.

(e) X-ray.

(f) Oxygen and other related oxygen supplies.

(g) Psychological and psychiatric therapy (IC/MR only).

(4) "Inflation factor" means the comparison of allowable prior year routine service costs with an inflation rate to arrive at projected current year cost increases, which when added to allowable prior year costs yields projected current year allowable costs.

(5) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(6) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(7) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(8) "Maximum payment" means the maximum amount the department will reimburse, on a facility basis, for routine services.

(9) "Occupancy factor" means the comparison of the occupancy rate with projected current year costs to arrive at basic per diem cost for routine services.

(10) "Prospective rate" means a payment rate of return for routine services based on prior year costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the department.

(11) "Reasonable cost related basis" means the payment to the facility shall be based on the reasonable cost experienced by the facility, and that such reimbursement may include amounts to encourage investment and the availability of services, and to reward cost containment and efficiency.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, paper tissues, water pitchers, basins, bed pans, deodorants, and mouthwashes.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids, non-legend antacids, aspirin (and other non-legend drugs ordinarily kept on hand), suppositories and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing an intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services; including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs, effective with any facility fiscal year ending after December 1, 1978.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 4, 1979
RECEIVED BY LRC: May 15, 1979 at 10:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance
(Proposed Amendment)

904 KAR 2:015. Supplemental programs for the aged, blind and disabled.

RELATES TO: KRS 205.245
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Department for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973 recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation: Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.

(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the bureau in determining optional supplementation payments for a class of recipients is increased.

(2) In cases of man and wife, living together, income changes after September, 1974, will result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

Section 2. Optional State Supplementation: Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 904 KAR 1:003 and 904 KAR 1:004 who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:030 or family care home as defined in 902 KAR 20:040 or situations in which a caretaker must be hired to provide care *other than* [in excess of] room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the caretaker service is provided by the spouse, parent (of an adult disabled child or a minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

Section 3. Income Considerations: In determining the amount of optional supplementation payment, total net income of the applicant or recipient, or applicant or recipient and spouse, including payments made to a third party in behalf of an applicant or recipient, is deducted from the standard of need with the following exceptions:

(1) Income is conserved for an ineligible, non-SSI spouse and/or minor dependent children in the amount of the medical assistance program basic maintenance scale for family size adjusted by deduction of sixty-five dollars ($65) from monthly earnings of spouse.

(2) If one (1) member of a couple is institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 4. Standard of Need: (1) The standard, based on living arrangement, from which income as computed in Section 3 is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: $320, effective 7/1/77; $335, effective 1/1/78; not less than $350, effective 7/1/78; *not less than $360, effective 1/1/79;*

(b) Family care home: $258, effective 7/1/77; not less than $273, effective 7/1/78;

(c) Caretaker:

1. Single individual: $216, effective 7/1/77; not less than $227, effective 7/1/78;

2. Married couple, one (1) requiring care: $300, effective 7/1/77; not less than $322, effective 7/1/78;

3. Married couple, both requiring care: $328, effective 7/1/77; not less than $350, effective 7/1/78.

(2) In couple cases, both requiring a caretaker, and both eligible, one-half (½) of the deficit is payable to each. If one (1) is ineligible (neither aged, blind nor disabled) one-half (½) of the deficit is payable to the eligible member.

Section 5. Institutional Status: No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under the Health Licensure Act, KRS 216.425.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary
ADOPTED: May 8, 1979
RECEIVED BY LRC: May 15, 1979 at 10:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40601.

Proposed Regulations

DEPARTMENT OF FINANCE

200 KAR 5:300. Distribution of procurement activities and functions.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.040, relative to the distribution of the department's procurement activities and functions among the bureaus within the department.

Section 1. The procurement activities and functions vested in the Department of Finance by KRS Chapter 45A shall be distributed among the bureaus of administrative services, facilities management and public properties in the Department of Finance as provided herein:

(1) Bureau of Administrative Services. The Division of Purchases in the Bureau of Administrative Services shall be responsible for and perform the department's activities and functions in the areas of procurement of commodities, supplies and equipment and contractual services except as otherwise provided in this regulation.

(2) Bureau of Facilities Management. The Division of Contracting and Administration in the Bureau of Facilities Management shall be responsible for and perform the department's activities and functions in the areas of the procurement of construction services, equipment of all kinds and description required for or as a part of any construction project as defined in KRS 45A.030(4), and contractual services of architects, engineers and land surveyors.

(3) Bureau of Public Properties. The Bureau of Public Properties through its component organizational divisions as otherwise provided for and established shall be responsible for and perform the department's activities and functions in the areas of the acquisition by purchase, lease, condemnation or otherwise, except as provided in KRS Chapters 175, 176, 177 and 180, of all real property and interests in real property determined to be needed by the state, and for the disposition of all property, real, personal and mixed, not needed by the state, or which has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use.

Section 2. As used in all regulations adopted by the Department of Finance pursuant to the provisions of KRS Chapter 45A, the term "purchasing agency" shall mean the Division of Purchases, the Division of Contracting and Administration, the Bureau of Public Properties, or any agency to which purchasing authority has been delegated by the Department of Finance as provided by regulations adopted by the Department of Finance in accordance with the provisions of KRS Chapter 45A. References to "commissioner of the bureau" shall mean, according to the context, the commissioners of the bureaus of administrative services, facilities management, or public properties.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:301. Delegation of purchasing authority.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035(2)
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035, relative to delegations of purchasing authority.

Section 1. Delegations of Purchasing Authority. (1) Standing delegations of purchasing authority may be made to the various cabinets, departments, institutions and other agencies of state government by the Secretary of the Department of Finance upon recommendation of the commissioner of the bureaus of administrative services, facilities management and public properties as appropriate with regard to the procurement activity or function to be delegated. Such standing delegations shall be made on the basis of a written order signed by the Secretary of the Department of Finance setting forth with particularity the kind or type of procurement activity or function delegated together with any limitations or restrictions on the exercise of such authority.

(2) All standing delegations of purchasing authority by the secretary shall remain in force according to the original terms thereof unless modified, or until rescinded by the secretary.

(3) Delegations of purchasing authority for agency's individual requirements, or to authorize procurement activities by an agency for pre-established and limited periods of time may be granted as appropriate with regard to the procurement activity or function by the commissioners of the bureaus of administrative services, facilities management or public properties by letter setting forth with particularity the kind or type of procurement activity or function authorized by the delegation and fixing the limits and restrictions on the exercise of the delegation and its duration. No such delegation of purchasing authority shall be extended or renewed except with the written approval of the Secretary of the Department of Finance.

Section 2. Agency Purchases. All state agencies shall be authorized to make purchases within the monetary limits and according to the procedures for small purchases as authorized by KRS 45A.100 and regulations adopted pursuant thereto without necessity for specific delegation of purchasing authority from the Department of Finance.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:302. Management and procedures manual.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2).

Section 1. The purchasing policies and procedures of the Department of Finance published in the department's "Management and Procedures Manual" in effect on January 1, 1979, filed herein by reference and not specifically, or by necessary implication, superseded or repealed by procurement regulations adopted by the Department of Finance pursuant to the provisions of KRS Chapter 45A, together with any revisions as may from time to time hereafter be made in such policies and procedures not inconsistent with the provisions of KRS Chapter 45A and regulations of the department adopted pursuant thereto, are hereby adopted and incorporated by reference, the same as if set forth at length, in and as a part of the procurement regulations of the Department of Finance adopted pursuant to KRS Chapter 45A.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:303. Written procurement determinations.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.025, relative to making procurement determinations.

Section 1. Every determination by a buyer or other employee, except secretarial, stenographic, or clerical employees, of the bureaus of administrative services, facilities management or public properties engaged in or responsible for the performance of any procurement activity or function and constituting a final procurement action, or as otherwise provided by KRS Chapter 45A or regulations adopted pursuant thereto, shall be made in writing, based on written findings in support of said decision, and shall be signed by the employee making said determination.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:304. Application to be placed on vendor's list.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(e) and 45A.110.

Section 1. Any person, firm or corporation desiring to receive written notice of procurement requirements of the Commonwealth may make application to have his name placed on a bidders' list for the types or kinds of procurement activities or functions he wishes to supply or provide. Upon request to either the Division of Purchases, for commodities, supplies, equipment, contractual services and related matters, or the Division of Contracting and Administration, for construction services and related activities and functions, an "Application to be placed on Vendors List" will be sent to any prospective bidder. Complete information as requested in the application must be submitted by the prospective bidder before his name will be placed on a bidders' list.

Section 2. (1) Upon receipt of a completed "Application to be placed on Vendors List," the qualifications of the prospective bidder will be verified in terms of:
(a) The ability and capacity to perform on a timely basis under contract for goods and services which he desires to bid on and furnish.
(b) Good character, integrity, reputation, and experience.
(c) Satisfactory performance in prior dealings with the Commonwealth of Kentucky and its agencies.

(d) Previous satisfactory compliance with the health rules and regulations of the Commonwealth of Kentucky.

(2) The purchasing agencies may refuse to list any prospective bidder not meeting the minimum qualifications set forth above. The prospective bidder has the burden of showing that he meets the qualificaitons for inclusion on the bidders' lists to which he seeks to gain entry. The prospective bidder will be promptly advised if his application is disapproved and the reason or reasons for disapproval. A prospective bidder may appeal the disapproval of his application to the Secretary of the Department of Finance. The appeal must be in writing and filed in the office of the secretary within two (2) calendar weeks after the date of the notice of the application; grounds for the appeal shall be stated with reasonable particularity and shall relate directly to reason or reasons for disapproval of the application. Any prospective bidder whose "Application to be placed on Vendors List" is disapproved may reapply after the expiration of six (6) months following the date of disapproval of his last application.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:305. Performance bonds; forms; payments.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.145
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.190 and 45A.195.

Section 1. (1) Every contractor to whom it is proposed to award a contract for construction services costing more than $25,000 shall, prior to the award of such contract, give a bond or bonds to the Commonwealth of Kentucky as obligee, in form satisfactory to the purchasing agency, executed by a surety company authorized to do business in Kentucky, and in a penal sum equal to 100 percent of the contract price as it may be increased, the conditions of which shall bind the contractor, as principal, and the surety to the performance of the contract according to the terms, conditions and specifications of the contract, and in any changes or modifications thereto, and to the payment of all costs for labor, materials, equipment, supplies, taxes, and other proper charges and expenses incurred or to be incurred in the performance of said contract.

(2) Every contractor to whom it is proposed to award a contract for construction services costing $25,000 or less, shall, prior to the award of such contract, give bond to the Commonwealth of Kentucky, as obligee, as provided in subsection (1) of this section, when required by the terms of an invitation for bids issued pursuant to KRS 45A.080, or an advertisement and solicitation for proposals for competitive negotiations pursuant to KRS 45A.085 and 45A.090.

Section 2. The provisions of Section 1 notwithstanding, every contractor to whom it is proposed to award a contract for the purchase of commodities, supplies or equipment or services by the Commonwealth of Kentucky or any state agency shall, when required by the terms of an invitation for bids, or solicitation or request for proposals, give bond to the Commonwealth of Kentucky, as obligee with surety satisfactory to the purchasing agency, in a penal amount, not to exceed 100 percent of the contract price, to be determined by the purchasing agency as sufficient to assure faithful performance of the contract by the contractor according to its terms.

Section 3. A contract shall not be awarded to any contractor who fails or refuses to give bond to the Commonwealth when required as provided by KRS 45A.190 and this regulation.

Section 4. A contractor may be declared in default of his contract with the Commonwealth of Kentucky, and his bond forfeited, when it is determined by the purchasing official that the contractor is in breach of the terms and conditions of the contract, including, in contracts for construction services, failure to make timely payment of bills for labor, materials and supplies as evidenced by liens filed against the construction fund by laborers and suppliers pursuant to KRS 376.195 to 376.260, or by letters of indebtedness filed with the purchasing agency evidencing that such bills are due and have not been paid by the contractor.

Section 5. (1) The form of performance and payment bond required to be given by contractors pursuant to Section 1, including the terms and conditions thereof, together with any revisions as may from time to time be made in such bond, shall be published in the Department of Finance "Management and Procedures Manual," filed by reference in 200 KAR 5:302. Such form of bond shall be applicable to, and included in all contracts for construction services when required by KRS 45A.190 and this regulation; provided, however, that such bond form may be modified, or different terms substituted or other terms added, when, in connection with a particular procurement, it is determined in writing by the purchasing official that such modification, substitution or addition of terms is reasonably required for the procurement in the best interest of the Commonwealth of Kentucky.

(2) The form of bond required to secure the performance of all other contracts for procurement shall be the standard form of performance or payment bond such as is usually and customarily written and issued by surety companies authorized to do business in Kentucky, together with such additional terms as may be required by the purchasing agency and agreed to by the surety.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:306. Competitive sealed bidding.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035, 45A.080
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.080.

Section 1. All contracts for construction exceeding an estimated cost of $5,000, and $1,000 for all other purchases, shall be awarded upon the basis of competitive sealed bids unless it is determined in writing that this method is not practicable and that the procurement may, in the best interests of the Commonwealth, more practically be obtained through competitive negotiations.

Section 2. The purchasing agencies shall cause public notice of invitations for bids for furnishing procurement requirements of the Commonwealth and its agencies through newspaper advertisement in the manner set forth in KRS 45A.080(3) and shall solicit bids from interested persons listed on the bidders' lists for particular requirements by sending invitations for bids to at least ten (10) persons listed in such bidders' lists. If there are not ten (10) persons listed on a particular bidders' list, invitations shall be sent to all persons listed on such list.

Section 3. Bidders shall complete, execute and submit their bids in strict compliance with the instructions contained in the invitation for bids. Bid forms shall be provided by the purchasing agencies and a bidder responding to an invitation for bids shall use only the bid form or form of proposal furnished by the purchasing agency in submitting his bids.

Section 4. Bidders shall submit their bids at the place and at, or prior to the date and hour set in the invitation for bids. Bids received after the hour set for opening bids are late bids and shall be so marked. A late bid shall not be considered for an award unless no other bid is received in response to an invitation for bids. The late bid, together with the envelope in which the bid was submitted bearing the stamped date and hour of receipt of the bid, and a note, signed by the buyer, indicating whether or not the bid was considered for an award shall be retained in the file pertaining to the invitation for bids to which the late bid relates.

Section 5. All bids, and any modifications to bids previously filed, received prior to the date and hour fixed for opening bids shall be kept secure and unopened. Envelopes containing bids but not marked to indicate that they contain a bid and listing the invitation for bids number and the date and hour of opening bids for that invitation may be opened for the purpose of identification of the contents of the envelope and will be marked and resealed.

Section 6. The buyer or other employee of the purchasing agency designated to open the bids shall determine when the time set for opening bids has arrived and shall so declare the time to those present for the bid opening. He shall then and there personally, in the presence of the bidders or their representatives and anyone else who may wish to attend the bid opening, open all bids received as of that date and hour; when practical, the names of the bidders and the amounts of their bids may be read aloud to the persons present. Except where, due to the nature or complexity of an invitation for bids, it may be deemed impractical, a bid tabulation summary sheet shall be prepared for each invitation for bids recording the name of each bidder, a description of the supplies or services bid and the amounts of the bids received. The bid tabulation summary sheet shall be permanently retained in the file pertaining to that invitation for bids and shall be available for public inspection. Inspection of bids by interested persons shall not be permitted or authorized during the formal bid opening process.

Section 7. The bids shall be examined by the buyer responsible for the procurement for any clerical or technical errors, reviewed for technical compliance with the terms of the invitation for bids, and the supplies or services bid evaluated for conformity with the specifications contained in the invitation for bids. Every bidder shall, when requested by the purchasing official responsible for the particular procurement, clarify or explain, in writing, any matter contained in his bid about which the purchasing officer may have question or believes in good faith needs to be clarified and explained. The bid of any bidder who fails or refuses, within a reasonable time to give a written clarification or explanation of his bid, or any part thereof, when requested to do so by the purchasing officer, shall not be considered further for an award on the basis of that invitation for bids. The written clarification or explanation of a bid, or a part of a bid, shall be incorporated in and become a part of any contract awarded on the basis of that bid. In due course, and after a reasonable bid evaluation period, the contract shall be awarded to the responsive and responsible bidder whose bid is either the lowest bid price or the lowest evaluated bid price, whichever is determined by the purchasing official to be in the best interests of the Commonwealth or as designated in the invitation for bids as the basis for award of the contract. If, after evaluation of the bids, including consideration of any clarifying or explanatory information submitted by the bidders, it is determined by the purchasing officer that no satisfactory bid has been received, all bids may be rejected and, in the discretion of the purchasing officer, the invitation for bids cancelled, new bids invited on the basis of the same or revised specifications, or competitive negotiations undertaken for the procurement. The basis for the rejection of all bids and subsequent action taken or to be taken with respect to the invitation for bids shall be recorded in writing and filed in the invitation for bids file relating to the particular procurement.

Section 8. (1) The right to reject any and all bids and to waive technicalities and minor irregularities in bids shall be maintained and preserved in the case of all invitations for bids issued by purchasing agencies within the Department of Finance or pursuant to delegations of purchasing authority by the Department of Finance.
(2) Grounds for the rejection of bids include but shall not to be limited to:
(a) Failure of a bid to conform to the essential requirements of an invitation for bids.
(b) Any bid which does not conform to the specifications contained or referenced in any invitation for bids shall be rejected unless the invitiation authorized the submission of

alternate bids and the items offered as alternatives meet the requirements specified in the invitation.

(c) Any bid which fails to conform to a delivery schedule established in an invitation for bids.

(d) A bid imposing conditions which would modify the terms and conditions of the invitation for bids, or limit the bidder's liability to the state on the contract awarded on the basis of such invitation for bids.

(e) Any bid determined by the purchasing officer in writing to be unreasonable as to price.

(f) Bids received from bidders determined to be not responsible bidders.

(g) Failure to furnish a bid guarantee when required by an invitation for bids.

(3) Technicalities or minor irregularities in bids which may be waived when the purchasing official determines that it will be in the Commonwealth's best interest to do so, are mere matters of form not affecting the material substance of a bid or some immaterial deviation from or variation in the precise requirements of the invitation for bids and having no or a trivial or negligible effect on price, quality, quantity or delivery of supplies or performance of the services being procured, the correction or waiver of which will not affect the relative standing of, or be otherwise prejudicial to other bidders. The purchasing officer may either give a bidder an opportunity to cure any deficiency resulting from a technicality or minor irregularity in his bid, or waive such deficiency where it is advantageous to the Commonwealth to do so.

Section 9. Where a mistake in a bid is claimed, and the evidence is clear and convincing that a material mistake was made in the bid and that due to such mistake, the bid submitted was not the bid intended, the bidder may be permitted to withdraw his bid. It shall be the duty of all contractors bidding to carefully review and verify the accuracy of their bids both before submitting them and prior to execution of a contract. When a mistake in a bid is claimed after the award and execution of a contract, on the basis of such bid, the contractor shall be required to perform according to the terms and conditions of the contract unless it is established by clear and convincing evidence that a material mistake had been made in the original bid and that the contractor would sustain a financial loss if required to perform the contract according to its terms; a reduction or diminution in profit margin shall not be deemed a financial loss under this section. Where the evidence is clear and convincing that a material mistake has been made in a bid after the award of a contract, and the contractor will sustain a financial loss if required to perform the contract, the contract shall be rescinded and the contractor shall be ineligible to submit a bid upon readvertisement for the construction services.

Section 10. The following matters shall be applicable to all invitations for bids issued, bids submitted, and contracts awarded for the purchase of commodities, supplies and equipment pursuant to KRS 45A.080 and this regulation:

(1) Time discounts or cash discounts shall not be considered.

(2) Trade discounts: trade discounts should be deducted by the vendor in calculating the unit price quoted, unless otherwise indicated in the bid.

(3) Quantity discounts: quantity discounts should be included in the price of the item. When not included in the item price, the discount shall be considered only if the purchasing agency, or the agency for whose benefit the procurement has been undertaken, deems it to be in the Commonwealth's best interests. The unit price shown on the contract shall be the net price, less the discount, unless otherwise indicated in the bid.

(4) Unit prices: In case of a discrepancy in the extension of a price, the unit or item price shall govern over the total price of all items.

(5) Awards on an aggregate or individual item basis: An award may be made to the lowest aggregate bidder for all items, group of items, or on an individual item basis, whichever is deemed to be in the Commonwealth's best interest. The methods and bases of award of contract and of evaluation of bids shall be stated in the invitation for bids.

(6) Telegraphic bids: When the purchasing agency has invited bids or requested written quotations, telegraphic responses shall not be accepted.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:307. Competitively negotiated contracts.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035, 45A.090
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.085 and 45A.090.

Section 1. When, due to the complex nature or technical detail of a particular procurement, or when, in the opinion of the purchasing official, specifications cannot be fairly and objectively prepared so as to permit competition in the invitation for sealed bids, or for high technology electronic equipment available from a limited number of sources of supply and for which specifications cannot practicably be prepared except by reference to the specifications of the equipment of a single source of supply, or when it is otherwise determined by the purchasing official that the invitation for competitive sealed bids is not practicable, or when it is determined by the purchasing official that the conditions described in KRS 45A.085(3) or 45A.090(1) exist, and except for procurements under KRS 45A.095 and 45A.100, and regulations adopted pursuant thereto, a contract may be awarded for a procurement by competitive negotiations as authorized by KRS 45A.085 and 45A.090 and this regulation. The purchasing official shall make a written determination of the reasons it is considered impractical to invite bids prior to initiating any other action leading toward the award of a contract on the basis of competitive negotiations.

Section 2. When it has been determined that it is not practical to invite competitive bids as provided in Section

1, except when such determination is based on the existence of the conditions mentioned in KRS 45A.085(3) or 45A.090(1), action to obtain a procurement by competitive negotiations shall commence by advertisement and solicitation for written proposals in the manner specified by KRS 45A.080(3) and regulations adopted pursuant thereto. The advertisement or solicitation for proposals for competitive negotiations shall state:

(1) That the purchasing agency proposes to enter into competitive negotiations with responsible offerors for a procurement;

(2) The date, hour and place that written proposals for the procurement shall be received;

(3) The type of procurement involved and a description of the supplies or services sought; provided, however, that detailed specifications need not be listed in newspaper advertisements, or solicitations for proposals sent to vendors listed on a bidder's list maintained by the purchasing agency if it is considered impractical by the purchasing official to do so, but potential offerors shall be informed by such advertisement or solicitation where such detailed specifications, if available for the particular procurement, may be obtained;

(4) The evaluation factors to be considered by the purchasing agency in the competitive negotiations in determining the proposal most advantageous to the Commonwealth, and the proposed method or methods of award of contract;

(5) Such other information as, in the opinion of the purchasing official, may be desirable or necessary to reasonably inform potential offerors about the requirements of the procurement or the limits or bounds of the competitive negotiations proposed to obtain the procurement.

Section 3. All written proposals received by the purchasing agency in response to advertisement or solicitation for proposals for competitive negotiations shall be kept secure and unopened until the date and hour set for opening the proposals. Proposals for competitive negotiations not clearly marked as such on the envelope in which received may be opened for identification purposes, and shall be appropriately identified with reference to the particular procurement and resealed until the time for opening proposals.

Section 4. At the close of business on, or at the beginning of the next business day after the date fixed for receiving proposals for competitive negotiations, all proposals received as of the close of business on that date shall be transmitted to the purchasing official for the procurement for opening. Proposals for competitive negotiations shall not be subject to public inspection until negotiations between the purchasing agency and all offerors have been concluded and a contract awarded to the responsible offeror submitting the proposal determined in writing to be the most advantageous to the Commonwealth, price, and the evaluation factors set forth in the advertisement and solicitations for proposals considered.

Section 5. (1) The purchasing official shall examine each written proposal received for general conformity with the advertised terms of the procurement. If it has been provided in the advertisement or solicitation for proposals that an award may be made without written or oral discussions, the purchasing official may, upon the basis of the written proposals received, award the contract to the responsible offeror submitting the proposal determined in writing to be the most advantageous to the Commonwealth, price, and the published evaluation factors considered. If, after the proposals have been examined, it is determined that written and/or oral discussions should be had with the offerors, the purchasing official shall determine in writing, based on an individual review, those proposals received from responsible offerors that are preliminarily susceptible of being selected for award of a contract for the procurement. Each such offeror shall be contacted informally by the purchasing official and a meeting scheduled for discussion of the offeror's proposals. Discussions need not be conducted under the circumstances of or relative to the topics enumerated in KRS 45A.085(6)(a), (b) or (c).

(2) Discussions with offerors shall be held informally and may be conducted orally, in writing, or both orally and in writing, as determined by the purchasing official in writing to be the most advantageous to the Commonwealth. If, however, after discussions with all responsible offerors have concluded, or after examination of the written proposals initially submitted, it is determined that no acceptable proposal has been submitted, any or all proposals may be rejected and, in the discretion of the purchasing official, new proposals may be solicited as provided in this regulation on the basis of the same, or revised terms, or the procurement may be abandoned.

Section 6. The purchasing official shall prepare a written summary of all oral discussions in competitive negotiations setting forth the date or dates of discussions with all responsible offerors and the general substance of the discussions. Verbatim records of the discussion shall not be required.

Section 7. When it is determined in writing by the purchasing official that the conditions mentioned in either KRS 45A.085(3), or 45A.090(1), exist with respect to any particular procurement, competitive negotiations may be undertaken to obtain the requirements of such procurement as provided by KRS 45A.085(3) or 45A.090(1), and according to the procedures set forth in Sections 3 to 7.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979

RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:308. Small purchase procedures.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(c) and 45A.100.

Section 1. Small purchase procedures may be used by all agencies without prior approval by the Department of Finance where procurement for a total requirement is estimated not to exceed an aggregate amount of $5,000 for construction services, and $1,000 for all other categories of purchases. Procurement requirements shall not be parceled, split, divided or purchased over a period of time in order to meet the dollar limitations for use of small purchase procedures.

Section 2. Agencies shall informally obtain three (3) or more price quotations from qualified sources of supply for all small purchases exceeding $1,500 for construction services and $500 for all other purchases, except as otherwise delegated. The price quotations received, a tabulation of prices offered, and comments by the agency handling the small purchase concerning the basis selected for placing the order, shall be recorded in writing and shall be filed in a small purchase order file to be maintained by the agency. Small purchases may be made by agencies from any available source of supply, without first obtaining quotations, for construction services costing $1,500 or less, and $500 or less for all other purchases.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:309. Noncompetitive negotiations.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035, 45A.045
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.095.

Section 1. Procurement contracts may be awarded through noncompetitive negotiations only as provided in this regulation. Contracts which may be awarded on the basis of noncompetitive negotiations include, and shall be limited to the following:

(1) Contractual services for telephone service, electrical energy and other public utility services, and other contractual services provided within a defined geographic area pursuant to a franchise for such service awarded pursuant to law by a city, county or other political subdivision authorized to award such franchise; provided, however, that except for telephone and other public utility services, the invitation for bids or the award of a contract by competitive negotiations for other contractural services performed under a franchise awarded by a political subdivision shall not be precluded when it is determined by the purchasing official to be in the best interest of the Commonwealth; nor shall the award of a contract for the purchase or lease of a telephone system to serve the internal needs of state agencies or institutions by invitation for bids or on the basis of competitive negotiations be precluded under this subsection.

(2) Commodities, equipment and services available, in the discretion of the purchasing official, from a single source. Such items shall include, but not be limited to, patented equipment and copyrighted material, and equipment peripheral to other equipment already owned by the Commonwealth or any state agency determined by the purchasing officer to be incompatible to such other equipment without modification or adjustment in either the equipment already owned or the equipment to be acquired.

(3) Instructional materials available, in the discretion of the purchasing official, from a single source. A written determination setting forth need in relation to a particular instructional program, and justifying the procurement of the particular materials on a noncompetitive basis, shall be made by the purchasing official prior to the award of the contract.

(4) Special supplies or equipment required for laboratory or experimental studies. A written determination setting forth the need in relation to such studies, and justifying the procurement of such supplies or equipment on a noncompetitive basis shall be made by the purchasing official prior to the award of contract.

(5) Contracts or subscriptions for the purchase of published books, maps, periodicals, technical pamphlets, and except for those specially commissioned for use by an agency which shall be contracted for as provided by subsection (7) of this section, recordings, films and works of art for museum and public display.

(6) Commercial items purchased for resale to the general public through a resale outlet maintained by a state agency. Such items shall be purchased only from a wholesaler, manufacturer or producer of the item or items.

(7) Contracts for professional, technical, scientific, or artistic services. Except for contracts for architectural or engineering services negotiated in accordance with the provisions of KRS 45A.205, or agreements with multiple vendors of medical or health care and related services, and fixed rates of payment for such services as prescribed by state or federal law or regulations, and entered into for the benefit of persons who are wards of the Commonwealth, or who are otherwise entitled pursuant to law to the provision of such services by the Commonwealth, all contracts for professional, technical, scientific, or artistic services by state agencies shall be made, awarded and entered into only as provided in KRS 45.530 to 45.545.

(8) Contracts for the purchase of commodities, supplies, equipment, and construction services that would ordinarily be purchased on a competitive basis when an emergency has been declared in the manner prescribed by KRS 45.400.

(9) Contracts or agreements for the purchase or sale of supplies, equipment or services between the Commonwealth and the Government of the United States, another state, a political subdivision of the Commonwealth, or non-profit organization organized under the laws of the Commonwealth, another state or the District of Columbia, or chartered under an Act of Congress, and lawfully doing business in the Commonwealth of Kentucky, and serving a public purpose of an essentially government, civic, educational or charitable nature.

(10) Contracts with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contracts executed under this provision shall authorize a

price higher than is contained in the contract between general service administration and the vendor.

(11) Contracts for the purchase of real property, or interests in real property.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979

RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:310. Multiple contracts.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.035, 45A.105

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(b).

Section 1. Multiple contracts may be awarded on the basis of a single invitation for bids as after competitive negotiations when it is determined in writing by the purchasing official in advance of the invitation for bids or the advertisement and solicitation for proposals for competitive negotiations that due to the geographic distribution of the agencies requiring supplies of the kind or kinds to be sought through the procurement, the need for a variety of kinds and quality of supplies of the same general nature, or when it is otherwise determined that the award of multiple contracts may be in the Commonwealth's best interests, and its needs met at a reasonable cost. A determination, and notice to potential bidders and offerors, that multiple contracts may be awarded for any procurement shall not preclude the award of a single contract for such procurement where it is determined by the purchasing official to be in the best interest of the Commonwealth, price and other factors considered.

Section 2. When it is determined in writing by the purchasing official after the evaluation of competitive bids, or the closing of competitive negotiations, that bids or offers substantially and materially responsive to terms of the procurement have been received for only a part or parts of the requirements of the procurement, and the bids or offers received for another part or parts of the procurement are not substantially and materially responsive to such terms, a contract or contracts may be awarded as to the part or parts of the procurement for which responsive bids or offers have been received, and the bids or offers determined to be nonresponsive may be rejected in the discretion of the purchasing official and new bids invited, or proposals for competitive negotiations for the procurement advertised and solicited, on the same or revised terms, conditions and specifications.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979

RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:311. Contract modifications.

RELATES TO: KRS Chapter 45A

PURSUANT TO: KRS 45A.210(1)

NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.210(1).

Section 1. The purchasing agencies within the Department of Finance, and any state agency to whom purchasing authority has been delegated by the Department of Finance, shall be authorized to provide by appropriate clauses to contracts for supplies or services of all types for changes and modifications to such contracts and providing for the method or methods of calculating the costs of any decrease, increase, or other change in the contract price resulting from such change or modification. In contracts for the purchase in fixed amounts of commodities, supplies and equipment, increases in quantities in excess of ten (10) percent of the original quantity, fixed by the contract shall not be permitted unless the invitation for bids or advertisement and solicitation for proposals for competitive negotiations for the procurement informed prospective bidders or offerors that an increase in quantities might be forthcoming, nor shall increases in unit prices be permitted in such contracts for increased quantities except as provided by a price escalation formula authorized by the invitation for bids or request for proposals for competitive negotiations.

Section 2. All changes or modifications to contracts for the purchase of commodities, supplies, equipment and construction services shall be effected by an advice of change in order to the contract which shall be supported by a written determination by the purchasing official documenting the reason and basis for the change or modification to the contract. A copy of the advice of change in order and the supporting documentation relative to any change or modification to a contract shall be filed and maintained in the contract file by the purchasing agency.

Section 3. Every contractor to whom a contract containing clauses authorizing changes or modifications to the contract shall be deemed, by acceptance of the contract, to

have agreed to the changes or modifications of the contract as provided therein.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:312. Termination of contracts.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.210(2), (3)
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.210(2), (3).

Section 1. (1) Any contractor who is determined in writing by the purchasing official to be in breach of any of the terms and conditions of a contract with the Commonwealth of Kentucky held by such contractor, shall, in the discretion of the purchasing official, be declared in default and such contract may be terminated as a result of such default.

(2) A default in performance by a contractor for which a contract may be terminated shall include, but shall not necessarily be limited to, failure to perform the contract according to its terms, conditions and specifications; failure to make delivery within the time specified or according to a delivery schedule fixed by the contract; late payment or nonpayment of bills for labor, materials, supplies, or equipment furnished in connection with a contract for construction services as evidenced by mechanics' liens filed pursuant to the provisions of KRS Chapter 376, or letters of indebtedness received from creditors by the purchasing agency; failure to diligently prosecute the work under a contract for construction services.

(3) The Commonwealth shall not be liable for any further payment to a contractor under a contract terminated for the contractor's default after the date of such default as determined by the purchasing official except for commodities, supplies, equipment or services delivered and accepted on or before the date of default and for which payment had not been made as of that date. The contractor, and/or his surety, if a performance or payment bond has been required under the contract, shall be jointly and severally liable to the Commonwealth for all loss, cost or damage sustained by the Commonwealth as a result of the contractor's default; provided, however, that a contractor's surety liability shall not exceed the final sum specified in the contractor's bond.

Section 2. The Commonwealth shall be authorized to terminate for its own convenience all contracts for the procurement of supplies and services when the purchasing official has determined that such termination will be in the Commonwealth's best interests. When it has been determined that a contract should be terminated for the convenience of the Commonwealth, the purchasing agency shall be authorized to negotiate a settlement with the contractor according to terms deemed just and equitable by the purchasing agency. Compensation to a contractor for lost profits on a contract terminated for convenience of the Commonwealth shall not exceed an amount proportionate to the sum that the contractor's total expected margin of profit on the contract bore to the contract price, based on the total out of pocket expense incurred by the contractor as of the date of termination of the contract. Whenever a contract is terminated for the convenience of the Commonwealth, the contractor shall have the burden of establishing the amount of compensation to which he believes himself to be entitled by the submission of complete and accurate cost data employed in submitting his bid or proposal for the contract, and evidence of expenses paid or incurred in performance of the contract from the date of award through the date of termination. Payment of the sum agreed to in settlement of a contract terminated for convenience of the Commonwealth shall be made from the same source of funds or account as the original contract.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:313. General and special conditions for bidding.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(e).

Section 1. The Division of Purchases, for commodity and other procurement functions within its jurisdiction, and the Division of Contracting and Administration, for construction and related services and items, shall adopt, and revise from time to time as may be necessary and convenient in the discretion of the directors of the divisions, with the approval of the Commissioners of the Bureaus of Administrative Services and Facilities Management, respectively, general conditions for bidding to the Commonwealth of Kentucky. The divisions shall also be authorized to promulgate and adopt in relation to any particular procurement, or class or type of procurement, special conditions, supplemental to and in extension of the

general conditions of bidding. The general conditions of bidding, and any revisions thereto, adopted by both the Division of Purchases and the Division of Contracting and Administration shall be published in the Department of Finance "Policy and Procedure Manual," filed by reference in 200 KAR 5:302.

Section 2. The general conditions of bidding shall be applicable to, and incorporated by reference in all invitations for bids issued by the Division of Purchases, the Division of Contracting and Administration, or by any agency to which purchasing authority has been delegated pursuant to authorization contained in KRS Chapter 45A and these regulations.

Section 3. All vendors, firms, contractors and persons who submit a bid in response to an invitation for bids issued by the Department of Finance, or by any agency of the Commonwealth of Kentucky pursuant to a delegation of purchasing authority by the Department of Finance, shall be deemed to have agreed to comply with all terms, conditions, and specifications of such invitation for bids.

Section 4. The general conditions of bidding, or specific portions thereof, shall be applicable to all requests for proposals for competitive negotiations pursuant to KRS 45A.085 and 45A.090, in the discretion of the purchasing agencies; provided, however, the advertisement and solicitation for proposals for competitive negotiations shall inform prospective offerors that the request for proposals shall be subject to the general conditions or parts thereof, by specific reference to the particular parts or sections of the general conditions applicable to the particular procurement to be obtained by the competitive negotiations.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:314. General food and perishable items purchasing.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(d).

Section 1. The conditions and procedures for the purchase of general food and perishable items and commercial items purchased for resale shall be established by written policy published in the Department of Finance "Management and Procedures Manual," filed by reference in 200 KAR 5:302, and revised from time to time as may be required in the opinion of the Director of the Division of Purchases and approved by the Secretary of the Department of Finance with the advice of the Commissioner of the Bureau of Administrative Services.

Section 2. Commercial items purchased for resale shall be exempt from competitive bidding.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

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

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.035(2)(b).

Section 1. Any bidder or contractor to the Commonwealth of Kentucky who, except for good cause shown, shall have committed, or failed to perform, as the context may require, one or more of the following acts or omissions, shall be liable to disciplinary action by the Department of Finance as set forth in Section 2. Specific grounds for disciplinary action include:

(1) Failure to post bid or performance bonds, or to provide alternate bid or performance guarantee in form acceptable to the purchasing agency in lieu of a bond, as required by an invitation for bids or a solicitation for proposals;

(2) Substitution of commodities without the prior written approval of the purchasing agency;

(3) Failure to comply with the terms and conditions of the invitation for bids or solicitation for proposals, or with the terms, conditions and specifications of a contract, including failure to complete performance of a contract within the time specified in the contract;

(4) Failure to replace inferior or defective materials, supplies or equipment immediately after notification by the purchasing agency or the agency to which such materials, supplies or equipment has been delivered;

(5) Failure by a bidder listed on a bidder's list to respond to three (3) (five (5) for construction service contracts) invitations for bids sent to such bidder;

(6) Refusal to accept a contract awarded pursuant to the terms of an invitation for bids, or following the close of competitive negotations;

(7) Falsifying invoices, or making false representations to any state agency or state official, or untrue statements about, any payment under a contract, or to procure award of a contract, or to induce a modification in the price or the terms of a contract to the contractor's advantage;

(8) Collusion, or collaboration with another bidder or other bidders, in the submission of a bid or bids for the purpose of lessening or reducing competition;
(9) Falsifying information in the submission of an application for listing on a Department of Finance bidders' list.
(10) Failure to report, and to pay over to the Department of Revenue any Kentucky sales and/or use taxes as may be due in connection with a procurement contract as provided by law;
(11) Failure to comply with the prevailing wage law requirements of state or federal laws as may be applicable to any public works contract of the Commonwealth or any political subdivision or public authority.

Section 2. (1) Any contractor preliminarily determined to have done any act prohibited, or to have failed to do any act required by Section 1(1) to (6) shall, in the discretion of the commissioner of the bureau having jurisdiction over the particular procurements activity or function, be liable to be placed on probation, or suspended from bidding to the Commonwealth of Kentucky, or a combination of suspension from bidding and probation, for not more than twelve (12) months.
(2) Any contractor preliminarily determined to have done any act prohibited by Section 1(7), (8) and (9) shall be removed from the bidders' lists and shall be ineligible for reinstatement to such lists for a period not to exceed twenty-four (24) months following the date of removal. Any contractor removed from the bidders' lists under this section shall be eligible to apply for reinstatement as provided in 200 KAR 5:304, after the expiration of the removal period.
(3) Any contractor, or any subcontractor to a contractor, determined by the Department of Labor to have violated the prevailing wage requirements of KRS Chapter 337 shall be suspended from bidding to the Commonwealth of Kentucky, or to participate in a public works contract of the Commonwealth of Kentucky, effective on and after the date the Department of Finance receives notice from the Department of Labor that such contractor or subcontractor has been determined to have violated the prevailing wage law, and until such time as the Department of Labor has determined the contractor or subcontractor to be in compliance with the requirements of such law.

Section 3. Except for the grounds mentioned in Section 1 (5), (6) and (11) a preliminary written determination shall be made concerning the facts of any allegation or claim that a bidder or contractor has either committed an act prohibited, or failed to perform an act required, by Section 1 before any disciplinary action is taken against such contractor. Such preliminary determination shall be submitted to the Office of General Counsel, Department of Finance, for review prior to the administration of any disciplinary action as authorized by Section 2. Notice of disciplinary action shall be sent to the bidder or contractor at the address shown in the department's records by certified mail, return receipt requested.

Section 4. Bidders or contractors against whom disciplinary action has been taken under this regulation may appeal the action of the Secretary of the Department of Finance. The appeal must be filed in the office of the secretary within ten (10) working days after the date of notice of the disciplinary action has been received by the bidder or contractor as shown by the certified mail receipt. The appeal must be filed in writing and must state facts showing cause why the disciplinary action should be set aside. An appeal constituting a general denial of the charges contained in the notice of disciplinary action, unless supported by specific facts rebutting such charges, shall be preemptorily dismissed. The appellant may request either a formal hearing before a hearing officer to be designated by the secretary to take proof and make findings and recommendations to the secretary, or an informal hearing to be conducted by the commissioner of the bureau having jurisdiction over the particular procurement activity or function, or his designee. A written report of the substance of the matters raised in such informal hearing shall be prepared and submitted to the secretary and recommending that the appeal be sustained or denied. The rules of evidence shall not apply in either formal or informal hearings conducted under this section and any matter considered pertinent to the issues of the hearing shall be admissible, subject only to the determination by the presiding officer as to the proper weight to be accorded all matters introduced at the hearing.

Section 5. No purchase of any kind shall be made by any state agency from a bidder or contractor who has been suspended or removed from the bidders' lists, except for those removed for the grounds stated in Section 1(8). All state agencies shall be promptly informed about bidders or contractors suspended or removed from the bidders' lists and shall immediately comply with this prohibition.

Section 6. The administration of disciplinary action against a bidder, potential bidder or contractor under this regulation shall not preclude the taking of other action by the Commonwealth, based on the same facts, as may be otherwise available, either at law or in equity, including, without limitation to the generality thereof, suits for damages or actions for specific performance.

ROY STEVENS, Secretary
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE

200 KAR 5:316. Works of art.

RELATES TO: KRS Chapter 45A
PURSUANT TO: KRS 45A.035
NECESSITY AND FUNCTION: The Secretary of the Department of Finance is authorized by KRS 45A.055 to publish state purchasing regulations for the implementation of the Kentucky Model Procurement Code (KRS Chapter 45A). This regulation implements the provisions of KRS 45A.050.

Section 1. Every state agency and institution, including institutions of higher learning, which maintains a museum

shall be authorized to purchase or otherwise acquire from any source, and to sell, trade, or otherwise dispose of works of art and artifacts acquired for display in such museum, or which the agency is authorized to dispose of, according to terms determined to be fair and just, and will promote the purposes of the museum by the head of the agency or institution, or the governing board of an institution, or the curator of the museum or other officer or employee of the agency or institution to which such authority has been delegated by the agency or institution head or governing board, without necessity for approval of such acquisition or dispositions by the Department of Finance. The curator, or other employee of the agency or institution responsible for the operation of the museum shall prepare an inventory of all works of art and artifacts belonging to the museum, which shall be filed with the Bureau of Public Properties, and shall maintain records of all acquisitions and disposition of works of art and artifacts of the museum, and shall file annually with the Bureau of Public Properties a revised inventory of such works of art and artifacts.

Section 2. Every state agency shall be authorized to purchase or otherwise acquire, for its own use, or for any statutorily authorized purpose of such agency, published books, maps, periodicals, and technical pamphlets, without necessity for approval by the Department of Finance as to such acquisition.

ROY STEVENS, Secretary

ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 6:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary, Department of Finance, Capitol Annex Building, Frankfort, Kentucky 40601.

DEPARTMENT OF FINANCE
Division of Occupations and Professions
Board of Optometric Examiners

201 KAR 5:037. Advertising.

RELATES TO: KRS 320.300(3), 326.060, 438.065
PURSUANT TO: KRS 13.082, 320.240
NECESSITY AND FUNCTION: KRS 320.300(3) prohibits advertisement of the price of visual aid glasses and other matters relating to the sale of visual aid glasses. In view of court decisions declaring statutory prohibitions against price advertising unconstitutional, particularly the case of Consumer Association of Kentucky, Inc., v. The Kentucky Board of Optometric Examiners, decided by the U.S. District Court for the Eastern District of Kentucky, on November 1, 1977, the following regulation is adopted.

Section 1. Advertising which is informational and not deceptive is permitted, but is limited as follows:
(1) To informing the public of the availability of visual aid services and materials;
(2) Such advertisement may be by radio, television or any other medium;
(3) If additional charges may be incurred in an eye examination for related services in individual cases, then the advertisement shall so state;
(4) All advertisements of price for visual aid glasses alone shall clearly state: "does not include eye examination."

Section 2. (1) In the absence of compelling reasons to the contrary, a minimum examination must be performed in all cases. In advertising a price for an eye examination, a minimum examination must be performed for the price stated; the required minimum eye examination to be performed includes the following:
(a) Complete case history (ocular, physical, occupational, medical, generic and other pertinent information);
(b) Chief ocular complaint;
(c) Aided and unaided visual acuity;
(d) External examination (eye and adnexia);
(e) Internal ophthalmoscopic examination (media, lens, fundus, etc.);
(f) Neurological integrity;
(g) Static retinoscopy;
(h) Far and near point subjective;
(i) Test of accommodation and convergence and binocular coordination at far and near;
(j) For adults over thirty-five (35) tonometry.
(2) In addition to the above, the minimum eye examination for contact lenses shall include the following:
(a) Biomicroscopic examination;
(b) Use of Fluorescein or Rose Bengal dyes;
(c) Diagnostic evaluation with lenses on eye;
(d) Corneal curvature measurements dioptral.

Section 3. (1) The advertisement of eye glass lenses shall include the following: Single vision or specified type of multifocal lenses.
(2) Advertisement of contact lenses shall include the following information:
(a) Type, whether hard or soft;
(b) Whether or not an eye examination is included in the advertised price.
(3) If Dispensing fees are not included in the advertisement of visual aid glasses, then the advertisement should so state.
(4) Advertising which is permitted under this regulation is limited to advertising which is in the public interest and which is not prohibited by Section 5 below.

Section 4. No person, either individually, or while employed or connected with a corporation or association, shall advertise the fitting of contact lenses unless he is an optometrist, physician or osteopath, except an ophthalmic dispenser may advertise that he fits contact lenses if all fittings occur in the presence of and under the supervision of an optometrist, physician or osteopath.

Section 5. Advertising which is not in the public interest and which is prohibited shall include, but is not limited to, advertising that:
(1) Is false, fraudulent, deceptive, misleading or unfair;
(2) Any prices advertised for ophthalmic materials or services must be effective for the period of time prescribed for the advertising of prices under KRS Chapter 367.
(3) Represents an optometrist as a specialist in any optometric specialty unless that optometrist has been certified by a certifying board approved by the Kentucky Board of Optometric Examiners, and has furnished proof of such certification to the board's satisfaction;

(4) Represents intimidation or undue pressure;
(5) Claiming or using any secret or special method or treatment which the licensee refuses to divulge to the Kentucky Board of Optometric Examiners;
(6) Uses coded or special names for visual materials or services that have an established trade name where such coded or special names are deceptive to consumers.

Section 6. The prescription may contain the following or similar language:
(1) The (below) (above) contains those measurements and directions which are included in a prescription for spectacle lenses. As a matter of information you are advised that the person fitting or attempting to fit contact lenses will probably have to take additional measurements and made interpretations of those measurements as they relate to this prescription. Under Kentucky law only optometrists, osteopaths and physicians are authorized to fit contact lenses, except ophthalmic dispensers may fit contact lenses in the presence of and under the supervision of an optometrist, osteopath or physician.
(2) The signed prescription shall be given to the patient at the completion of the examination.

HENRY K. LEADINGHAM, O.D., President
ADOPTED: May 7, 1979
RECEIVED BY LRC: May 11, 1979 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Edward H. Gersh, Secretary-Treasurer, Kentucky Board of Optometric Examiners, 1706 Sutherland Drive, Louisville, Kentucky 40502.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:005. Funding procedure.

RELATES TO: KRS 157.820, 157.895
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To establish procedures for funding Department of Education projects.

Section 1. The authority shall act upon projects recommended by the Superintendent of Public Instruction and approved by the appropriate state board of education.

Section 2. The authority shall consider funding projects based upon the order of priorities established by the appropriate state board of education after approval by the authority.

Section 3. In the absence of legislative determination, the authority shall determine the allocation of funds available to the authority which shall be made to the various types of projects.

Section 4. In the event funding for projects recommended by the Department of Education exceed the limit of resources established by the School Building Authority for such projects, the chairman of the authority shall notify the chairman of either affected board of the amount by which such resources have been or will be exceeded and such board, upon recommendation of the Superintendent of Public Instruction, shall eliminate or reduce the scope of the projects recommended in order to stay within resources available.

Section 5. Upon recommendation of the Superintendent of Public Instruction, the authority shall employ a fiscal agent(s) for such project or projects which have been approved by the authority.

Section 6. Fiscal agent(s) employed by the authority shall carry out all functions normally performed by such agents and shall include but not be limited to preparing conveyances of property, preparing contracts of lease and rent, and all other functions normally associated with the preparation and sale of bonds issued by the authority.

Section 7. Upon direction of the authority, the Bureau of Facilities Management will enter into a contract with an architect and/or engineer for such project or projects which have been approved by the authority.

Section 8. Architects and/or engineers shall be employed through the use of contract form B210-26, as adopted by the Bureau of Facilities Management, Department of Finance, with such amendments thereto as may be required from time to time by the Bureau of Facilities Management.

Section 9. Architects and/or engineers so employed shall be responsible for the preparation of preliminary and completed plans and specifications which shall have the approval of the Superintendent of Public Instruction prior to bids being taken for construction of the project or projects. Such architect and/or engineer shall also be responsible for obtaining approval of their plans and specifications from all authorities having jurisdiction. This provision shall be included in every contract into which the authority enters.

Section 10. Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials used on each project. Such an estimate shall be provided the Superintendent of Public Instruction for his approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments.

This provision shall be included in every contract into which the authority enters.

ARNOLD GUESS, Director
ADOPTED: May 15, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:015. Eligibility criteria.

RELATES TO: KRS 157.820, 157.840
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To develop eligibility criteria for local school districts seeking assistance from the School Building Authority.

Section 1. The School Building Authority will act upon applications for assistance from local boards of education on projects approved by the Superintendent of Public Instruction in accordance with the priorities contained in the school district's most recent facilities survey.

Section 2. For a local board of education to be eligible for funding assistance from the authority:
(1) It must have levied the maximum general fund tax rate in accordance with KRS 160.470, which is not subject to recall, in the year in which it receives assistance from the authority or have levied a voted or permissive tax at least equal to the difference between the maximum persmissible general fund tax levy and the tax actually levied for general fund purposes.
(2) It must have levied a local tax sufficient to qualify for full participation in the rate supported by the power equalization fund in accordance with KRS 157.565.
(3) It must have submitted a balanced budget and show that no current or projected deficit exists in the district's general fund or capital construction funds in the year in which it receives assistance from the authority.
(4) It must have had a facilities survey, in accordance with 702 KAR 1:010, performed or updated at least once during the five (5) years preceding the year in which it receives assistance from the authority.

Section 3. In allocating funds to local school districts, the authority shall first fund those districts having the highest priority as shown by the classification system adopted by the authority pursuant to KRS 157.840 and 157.845.

Section 4. In developing the eligibility classification system provided for in KRS 157.835 the authority will cause to have costed facilities needs for new construction and additions to existing buildings which are provided for in the departmental facilities survey and convert such cost to a per pupil basis for each school district in the state. This raw cost of need will be adjusted by providing that need will have a weight of eight (8), effort a weight of one (1) and growth a weight of one (1). The weight for growth shall be based upon the increased average daily attendance for the last five (5) years and the weight of effort shall be based upon the cost of construction completed or obligated for the past ten (10) years as it relates to the equalized assessed value per child for each school district.

Section 5. Pursuant to KRS 157.850 the percentage participation rate for the authority shall be from thirty (30) percent for those districts having the highest equalized assessed value per pupil to seventy (70) percent for those districts having the lowest equalized assessed value per pupil. The authority establishes an expected norm of averaging fifty (50) percent participation in local school district projects and will work toward this norm by causing the equalized assessed value of property to be converted to a standard distribution with a mean of fifty (50) and a standard deviation of ten (10). No school district will receive less than a thirty (30) percent participation rate or more than a seventy (70) percent participation rate as a result of this procedure. The obligation of each school district for meeting bond and interest redemption schedules shall be stipulated in the contract of lease and rental which shall be approved by the authority.

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:025. Cost participation formulae.

RELATES TO: KRS 157.820, 157.835
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To provide for an Authority Maximum Cost Participation Formula for use in determining the maximum cost of a local school district or Department of Education project in which the Authority will participate.

Section 1. The maximum State School Building Authority cost participation formula for new buildings shall be based upon the number of pupils served, the educational organization housed and the cost of construction per square foot and shall be as follows:

MP = N x SF x CSF x %
MP = Maximum Participation
N = Number of Pupils Served
SF = Square Feet Per Pupil
CSF = Cost Per Square Foot as determined at least annually by the Authority
% = Percent the Authority will give the system

S.F./Pupil	
Elementary	70
Middle	80
Jr. High	90
Sr. High	100

Section 2. The maximum State School Building Authority cost participation formula for additions which contain special facilities such as instructional spaces for industrial arts, physical education, science, home economics and libraries shall be based upon administrative regulations adopted by the State Board for Elementary and Secondary Education and shall be funded at a rate determined at least annually by the authority.

Section 3. The allocation of funds by these formulae shall be a grant for the use of successfully completing the project for which the funds were granted and shall be used for construction costs, necessary contingency costs, cost of issuance of bonds and architects and engineers fees.

ARNOLD GUESS, Director

ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4:00 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:035. Approval of documents, forms, and other instruments.

RELATES TO: KRS 157.810, 157.820
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To provide for the uniform administration of the Kentucky School Building Authority.

Section 1. All documents, forms, agreements, contracts and other instruments of administration used in carrying out the purposes and objectives of the Kentucky School Building Authority shall be approved by the Kentucky School Building Authority as to form and content.

ARNOLD GUESS, Director

ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:045. Project architects, engineers and fiscal agents.

RELATES TO: KRS 157.820
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: Establishes procedures for employing architects, engineers and fiscal agents for local school district projects.

Section 1. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract, using form BG-A/E-1, with an architect and/or engineer for such project.

Section 2. Architects and/or engineers so employed shall at the end of each month for each construction project prepare an estimate of work completed and materials used on each project. Such an estimate shall be provided the local board of education for their approval on or before the tenth day of each month and shall cause to be withheld ten (10) percent of the first one (1) million dollars and five (5) percent of the completed performance above one (1) million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to five (5) percent with certification of the architect or engineer and approval of the Superintendent of Public Instruction. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction in accordance with approved plans, specifications and contract documents. When certified for payment by the local board of education and approved by the Superintendent of Public Instruction, such estimate shall provide the basis for all authority payments. This provision shall be inserted in each BG-A/E-1 contract.

Section 3. Each school district submitting an application for assistance from the authority shall, upon written request, submit for review and final approval by the authority a contract for the services of a fiscal agent for such project.

ARNOLD GUESS, Director

ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

KENTUCKY SCHOOL BUILDING AUTHORITY

723 KAR 1:055. Insurance coverage.

RELATES TO: KRS 157.820, 157.870
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To provide for uniform project administration and required insurance programs on local school district projects.

Section 1. Local school districts receiving assistance from the authority shall administer such projects in accordance with KRS Chapter 162 and Title 702, Chapter 4, Kentucky Administrative Regulations. The architect and/or engineer shall provide the authority a copy of his report to the local board of insurance carried pursuant to 702 KAR 4:020(5).

Section 2. Once a local district project has been completed and accepted by the Superintendent of Public Instruction and a local board of education, the local board of

education shall annually on or before July 1 of each year in which the authority holds title to the project, submit on forms approved by the authority, a report of insurance coverage on the project as provided for in KRS 157.870(1).

ARNOLD GUESS, Director
ADOPTED: April 25, 1979
RECEIVED BY LRC: May 15, 1979 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Arnold Guess, Secretary, Kentucky School Building Authority, Room 1520, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:011. Acetazolamide.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Acetazolamide pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Acetazolamide Tablet Pharmaceutical Products. The following Acetazolamide tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Acetazolamide 250 mg. Tablet Form:

(1) Acetazolamide: Bolar Pharmaceutical Company, Cooper Drug Company, Murray Drug Corporation, Parmed Pharmaceuticals, Inc., Richie Pharmacal Company, Rugby Laboratories, Spencer-Mead, Inc., Theda Corporation;
(2) Diamox: Lederle Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:012. Metaproterenol.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Metaproterenol pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Metaproterenol Tablet Pharmaceutical Products. The following Metraproterenol tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Metaproterenol 20 mg. Tablet Form:

(1) Alupent: Boehringer Ingelheim, Ltd.;
(2) Metaprel: Dorsey Laboratories.

Section 2. Metaproterenol Syrup Pharmaceutical Products. The following Metaproterenol syrup pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Metaproterenol 10mg/5ml Syrup:

(1) Alupent: Boehringer Ingelheim, Ltd.;
(2) Metaprel: Dorsey Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:013. Methapyrilene.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Methapyrilene Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Methapyrilene Hydrochloride Capsule Pharmaceutical Products. The following Methapyrilene Hydrochloride capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Methapyrilene Hydrochloride 25 mg. Capsule Form:

(1) Histadyl: Eli Lilly and Company;
(2) Methapyrilene Hydrochloride: Cooper Drug Company, West-ward, Inc.;

(3) Relax-U-Caps: Columbia Medical Company;
(4) Sleep Rite Caps: Parmed Pharmaceuticals.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:014. Methocarbamol.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Methocarbamol pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Methocarbamol Tablet Pharmaceutical Products. The following Methocarbamol tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Methocarbamol 500 mg. Tablet Form:
(a) Methocarbamol: Bolar Pharmaceuticals, Danbury Pharmacal, Generic Pharmaceuticals, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Purepac Pharmaceuticals, Rugby Laboratories, Spencer-Mead, Inc., Trust Pharmaceuticals/Thrift Drug Company, West-ward, Inc., Zenith Laboratories;
(b) Robaxin: A. H. Robins Company.
(2) Methocarbamol 750 mg. Tablet Form:
(a) Methocarbamol: Bolar Pharmaceuticals, Danbury Pharmacal, Generic Pharmaceuticals, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Pharmecon, Inc., Purepac Pharmaceuticals, Rugby Laboratories, Spencer-Mead, Inc., West-ward, Inc., Zenith Laboratories;
(b) Robaxin: A. H. Robins Company.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:016. Methenamine Mandelate.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Methenamine Mandelate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Methenamine Mandelate Enteric Coated Tablet Pharmaceutical Products. The following Methenamine Mandelate enteric coated tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Methenamine Mandelate 250 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methenamine Mandelate: Rugby Laboratories.
(2) Methenamine Mandelate 500 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methelate: Chromalloy Pharmaceutical, Inc./Cooper Drug Company Division;
(c) Methenamine Mandelate: Murray Drug Corporation, Purepac Pharmaceuticals, Richie Pharmacal Company, Rugby Laboratories, Tablicaps, Inc.
(3) Methenamine Mandelate 1000 mg. Enteric Coated Tablet Form:
(a) Mandelamine: Warner/Chilcott Laboratories;
(b) Methelate: Chromalloy Pharmaceutical, Inc./Cooper Drug Company Division;
(c) Methenamine Mandelate: Bioline Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Richie Pharmacal Company, Rugby Laboratories, Tablicaps, Inc.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:018. Norethindrone with Mesteranol.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a for-

mulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Norethindrone with Mesteranol pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Norethindrone with Mestranol Tablet Pharmaceutical Products. The following Norethindrone with Mestranol tablet pharmaceuticl products are determined to be therapeutically equivalent, in each respective dosage:
(1) Norethindrone with Mestranol 1 + 50 (21) Tablet Form:
(a) Norinyl: Syntex laboratories, Inc.;
(b) Ortho-Novum: Ortho Pharmaceutical Corporation.
(2) Norethindrone with Mestranol 1 + 50 (28) Tablet Form:
(a) Norinyl: Syntex Laboratories, Inc.;
(b) Ortho-Novum: Ortho Pharmaceutical Corporation.
(3) Norethindrone with Mestranol 1 + 80 (21) Tablet Form:
(a) Norinyl: Syntex Laboratories, Inc.;
(b) Ortho-Novum: Ortho Pharmaceutical Corporation.
(4) Norethindrone with Mestranol 1 + 80 (28) Tablet Form:
(a) Norinyl: Syntex Laboratories, Inc.;
(b) Ortho-Novum: Ortho Pharmaceutical Corporation.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:019. Nylidrin Hydrochloride.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Nylidrin Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Nylidrin Hydrochloride Tablet Pharmaceutical Products. The following Nylidrin Hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage:
(1) Nylidrin Hydrochloride 6 mg. Table Form:
(a) Arlidrin: USV Pharmaceuticals;
(b) Nylidrin Hydrochloride: Bolar Pharmaceuticals, Columbia Medical Company, Danbury Pharmacal, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Spencer-Mead, Inc., West-ward, Inc., Zenith Laboratories;
(c) Rudilin: Rugby Laboratories.
(2) Nylidrin Hydrochloride 12 mg. Tablet Form:
(a) Arlidrin: USV Pharmaceuticals;
(b) Nylidrin Hydrochloride: Bioline Laboratories, Danbury Pharmacal, Geneva Generics, Lederle Laboratories, Murray Drug Corporation, Spencer-Mead, Inc., Westward, Inc., Zenith Laboratories;
(c) Rudilin: Rugby Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:021. Phentermine Hydrochloride.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Phentermine Hydrochloride pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Phentermine Hydrochloride Tablet Pharmaceutical Products. The following Phentermine Hydrochloride tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Phentermine Hydrochloride 8 mg. Tablet Form:
(1) Obetab-8: R. P. Thomas and Company;
(2) Phentermine Hydrochloride: Camall Company, Harnell Pharmaceuticals, Kay Pharmacal Company, Pharmecon, Inc., Rugby Laboratories, Spencer-Mead, Inc., United Research Laboratories, Veratex Corporation, Wolins Pharmacal;
(3) Teramine: R. J. Legere and Company.

Section 2. Phentermine Hydrochloride Capsule Pharmaceutical Products. The following Phentermine Hydrochloride capsule paharmaceutical products are determined to be therapeutically equivalent, in each respec-

tive dosage: Phentermine Hydrochloride 30 mg. Capsule Form:
(1) Fastin: Beecham Laboratories;
(2) Phentermine Hydrochloride: Pharmecon, Inc.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:291. Ferrous Gluconate.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Ferrous Gluconate pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Ferrous Gluconate Tablet Pharmaceutical Products. The following Ferrous Gluconate tablet pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Ferrous Gluconate 5 gr. Tablet Form:
(1) Fergon: Sterling Drug Company;
(2) Ferrous Gluconate: Bolar Pharmaceutical Company, Geneva Generics, ICN Pharmaceuticals, Lederle Laboratories, Murray Drug Corporation, Parmed Pharmaceuticals, Purepac Pharmaceuticals, Richie Pharmacal Company, Rugby Laboratories, Spencer-Mead, Inc.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Kentucky Drug Formulary Council

902 KAR 1:301. Dioctyl Sodium Sulfosuccinate with Casanthranol.

RELATES TO: KRS 217.814 to 217.826, 217.990(9)(10)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 217.819 directs the Kentucky Drug Formulary Council to prepare a formulary of drugs and pharmaceuticals with their generic or chemical names that are determined by the council to be therapeutically equivalent to specified brand name drugs and pharmaceuticals. This regulation lists Dioctyl Sodium Sulfosuccinate with Casanthranol pharmaceutical products by their generic and brand names that have been determined by the council to be therapeutically equivalent.

Section 1. Dioctyl Sodium Sulfosuccinate with Casanthranol Capsule Pharmaceutical Products. The following Dioctyl Sodium Sulfosuccinate with Casanthranol capsule pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dioctyl Sodium Sulfosuccinate 100 mg-Casanthranol 30 mg. Capsule Form:
(1) Aqualax Forte: Parmed Pharmaceuticals, Inc.;
(2) Comfolax-Plus: Searle Laboratories;
(3) Constiban: Columbia Medical Company;
(4) Dioctyl Sodium Sulfosuccinate with Casanthranol: Geneva Generics, H. L. Moore Drug Exchange, Phillips-Roxane Laboratories, Richie Pharmacal Company, Rugby Laboratories, Theda Corporation, West-ward, Inc.;
(5) Doctase: Purepac Pharmaceuticals;
(6) D-S-S Plus: Parke, Davis and Company;
(7) DSS with Casanthranol: Three P Products;
(8) Lace-Copari: Murray Drug Corporation;
(9) Peri-Colace: Mead Johnson and Company;
(10) Pro-Sof Plus: Vangard Laboratories;
(11) Provilax Plus: Reid-Provident, Laboratories, Inc.

Section 2. Dioctyl Sodium Sulfosuccinate with Casanthranol Liquid Pharmaceutical Products. The following Dioctyl Sodium Sulfosuccinate with Casanthranol liquid pharmaceutical products are determined to be therapeutically equivalent, in each respective dosage: Dioctyl Sodium Sulfosuccinate 60mg/15 ml-Casanthranol 30 mg/15 ml:
(1) Diocto-C: National Pharmaceuticals, Richie Pharmacal Company;
(2) Dioctyl Sodium Sulfosuccinate with Casanthranol: Lederle Laboratories, West-ward, Inc.;
(3) DSS with Casanthranol: Three P Products;
(4) Pro-Sof Plus: Vangard Laboratories.

KENNETH P. CRAWFORD, M.D., Chairperson
ADOPTED: May 2, 1979
APPROVED: PETER D. CONN, Secretary
RECEIVED BY LRC: May 10, 1979 at 12:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Andy Naff, Kentucky Drug Formulary Council, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:020. Child support.

RELATES TO: KRS 205.795
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: The Department for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of

the Social Security Act and KRS 205.710 to KRS 205.800 and 205.992. The Department is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving Aid to Families with Dependent Children, hereinafter referred to as AFDC, as a result of desertion or abandonment or due to birth out-of-wedlock and for non-AFDC children on application. KRS ~~207.795~~ empowers the Secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

205.795

Section 1. Compliance with Federal Regulations. The department shall administer the Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 C.F.R. Sections 301, 302, 303, 304, and 305.

Section 2. Relation to Title IV-A Program. The department shall administer the Kentucky Child Support Program, as the program relates to Title IV-A recipients, in accordance with regulations cited in Section 1 above and Title 45 C.F.R. Sections 205, 232, 233, 234, and 235.

Section 3. Definitions. (1) "Department" shall mean the Department for Human Resources.

(2) "Secretary" shall mean Secretary of the Department for Human Resources.

(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.

(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services from the IV-D agency.

(5) "Duty of support" shall mean any obligation of support imposed or imposable by law or by court order, decree, or judgment whether interlocutory or final, and includes the duty to pay arrearages of support past due.

(6) "Parent" shall mean the natural or adoptive parent of an AFDC or non-AFDC child and includes the father of a child born out-of-wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state.

(7) "AFDC recipient" shall mean a child or caretaker relative who is receiving AFDC as prescribed by Title IV-A of the Social Security Act.

(8) "Cooperation" shall mean the act of providing to the IV-D agency or local law enforcement official any verbal or written information or documentation needed by the IV-D agency or local official for child support activities, and otherwise complying with the requirements of the child support program.

(9) "Good cause" shall mean that the AFDC recipient has a valid and acceptable reason (as determined by the department) for failing to cooperate in activities related to the child support program.

(10) "Non-AFDC recipient" shall mean any child or family who does not receive AFDC, but does receive child support services based on an application filed with the IV-D agency or with a local law enforcement official who has entered into a written agreement with the IV-D agency.

(11) "Local law enforcement official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities.

Section 4. Initiation of Child Support Action. Child support activity shall be initiated by referral of forms from the local public assistance office to the IV-D agency immediately following approval of an application for a child eligible for public assistance based on the absence of one or both parents due to divorce, desertion, separation, military service, or birth out-of-wedlock. Referral is also required for all children receiving aid to families with dependent children-foster care (AFDC-FC) unless both parents are dead or parental rights have been terminated. Referral shall not be made when a child is eligible for public assistance based upon death of a parent or upon hospitalization or incarceration, so long as such parent intends to return to the home upon release. The department will determine, in accordance with federal guidelines and state law, instances in which action would not be in the best interest of the child.

Section 5. Safeguarding Information. Pursuant to federal and state laws and regulations, the department will disclose information regarding recipients of child support services only to public officials or the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the child support program or other federally assisted programs which provide cash benefits or services to needy individuals.

Section 6. Establishing Paternity. In establishing paternity for children in the child support program pursuant to the Social Security Act, the department may utilize any of the provisions which are contained in Kentucky Revised Statutes related to paternity.

Section 7. Securing and Enforcing Child Support. In securing or enforcing child support for children in the child support program pursuant to the Social Security Act, the department may utilize any of the provisions which are contained in Kentucky Revised Statutes related to child support.

Section 8. Assignment of Child Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, an AFDC recipient assigns to the department the right to all past due and future child support including any voluntary contributions made by the absent parent. These support payments will not be considered as income in the budget for the AFDC recipient. Any support income received by AFDC recipients must be forwarded to the department no later than the tenth (10th) day of the month following receipt. A portion of the assigned support may be returned to the recipient in accordance with normal distribution procedures established by the department pursuant to federal laws and regulations.

(2) Non-AFDC recipients may assign their support rights to the department, but these recipients are not required to make such an assignment.

Section 9. Agency Receipt of Support Payments. (1) When the support payment is made payable to the department, money received is credited to the account of the noncustodial or absent parent.

(2) If the amount of child support collected equals the court ordered amount and exceeds the AFDC grant, a redetermination of eligibility for AFDC will be made in compliance with federal regulations. If the income would make the family or child ineligible, action must be taken by

the IV-A agency to discontinue benefits for the child or family. In instances where AFDC benefits are discontinued, other benefits which are dependent on eligibility for AFDC may also be discontinued.

Section 10. Non-AFDC Recipients. All child support services in the IV-D agency are available for individuals not receiving or applying for AFDC when those individuals make a written application for such services with the IV-D agency or with a local official who has entered into a cooperative agreement with the IV-D agency. The department may at any time elect to impose an application fee for this service, not to exceed twenty dollars ($20). This fee would not be charged retroactiely. Also, the department may, at any time, elect to recover costs in excess of the application fee by deducting such costs from support recovered. If the department elects to recover costs in this manner, non-AFDC applicants and recipients will receive advance written notice of the fact.

Section 11. Cooperative Agreements. An opportunity will be provided to all eligible local law enforcement officials to enter into a written agreement with the department to cooperate in activities relative to the child support program. When law enforcement officials enter into an agreement with the department, federal financial participation (FFP) for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the department. If no agreement is executed, referrals for child support activities will still be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 12. Distribution of Child Support Payments. Distribution of child support payments received by the department are made in accordance with federal laws and regulations. In unusual situations not covered by federal guidelines, the department will make a decision as to distribution in accordance with the general intent and purpose shown in federal laws and regulations. When the department makes a decision in unusual situations, the department will notify, when possible, concerned parties of the proposed distribution to provide an opportunity for comment and/or objection.

Section 13. Good Cause for Refusal to Cooperate. (1) The IV-D agency must immediately notify the IV-A agency at such time as the AFDC recipient refuses to cooperate in child support enforcement efforts. If the IV-A agency should determine, pursuant to IV-A laws and regulations, that the recipient has a good cause for failing to cooperate and that pursuit of child support action would be detrimental to the best interests of the child, the IV-D agency will not pursue any action in the child's behalf.

(2) If the IV-A agency determines that the recipient has good cause for not cooperating but that additional child support action would not harm the child, the IV-D agency may proceed in the name of the department for the use of and in behalf of the minor dependent child pursuant to federal laws and regulations.

Section 14. Parent Locator Service. The department may use available services to locate absent parents for children in the child support program in accordance with Kentucky Revised Statutes and applicable federal laws and regulations.

Section 15. Payment for Court Fees, Court Orders and Other Documents. When copies of existing court orders or other required documents cannot be obained free of charge, the providing official may submit a bill for reasonable charges to the department for payment. Local officials may also submit a bill to the department for any reasonable and necessary fees relating to the filing and/or prosecution of a case referred for action by the department on behalf of recipients of AFDC benefits.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 3, 1979
RECEIVED BY LRC: May 15, 1979 at 10:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 5:191. Repeal of 904 KAR 5:190.

RELATES TO: KRS 341.275, 341.277
PURSUANT TO: KRS 13.082, 194.050, 341.115
NECESSITY AND FUNCTION: This regulation is being repealed in order to provide uniform implementation of the provision of the Unemployment Insurance Law relating to deposit requirements of reimbursing employers, more specifically KRS 341.275(4)(a) and 341.277(3)(a). The proposed amendment to this regulation which would have applied the regulation to governmental entities which elect to become reimbursing employers was rejected by the Administrative Regulation Review Subcommittee for noncompliance with statutory authority.

Section 1. 904 KAR 5:190 is hereby repealed.

GAIL S. HUECKER, Commissioner
PETER D. CONN, Secretary

ADOPTED: May 2, 1979
RECEIVED BY LRC: May 3, 1979 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Services

905 KAR 1:085. Foster care review.

RELATES TO: KRS 199.465
PURSUANT TO: KRS 13.082, 194.050, 199.465
NECESSITY AND FUNCTION: This regulation is required by KRS 199.465. It serves to set forth minimum standards for a periodic review of children placed in foster family homes by the Department for Human Resources.

Section 1. The method for periodic review shall include but is not limited to the following:

(1) (a) A case conference shall be held within one (1) week of the child's placement in a foster home. The purpose of the case conference is to initiate a structured treatment plan to insure that case plans and activities progress toward permanency for the child. The team leader is responsible for scheduling and conducting the initial case conference. In addition to the team leader, the initial case conference may be attended by the family services worker, the foster care worker, the natural parents, and if appropriate, the child. At the request of the team leader, other staff within the bureau or professionals outside the bureau who have knowledge of the family may attend. With the permission of the natural parents, the foster parents and/or relatives of the natural parents may attend the initial case conference.

(b) When the foster parents do not attend, they will be involved on the individual basis through the foster care worker. The foster parents will receive a copy of the child's treatment plan.

(c) During the initial case conference, the treatment program shall be designed. The overall goal of the program is to give parents, who desire the return of their child, all the support and service necessary for them to resume the care of their child. Treatment plans shall be formulated for the natural parents and the child and shall include the following:

1. A list of the specific problems the parents and/or child are experiencing which serve as barriers to the return of the child or limitations to the optimal development of the child;
2. The objectives which will lead to the resolution of the specific problems the parents and/or child are experiencing which serve as barriers to the return of the child or limitations to the optimal development of the child;
3. A list of services to be provided to attain these objectives, and the person(s) responsible for providing these services;
4. The identified objectives for which the parents will assume responsibility;
5. The time frame in which the objectives should be accomplished.

(d) In instances where natural parents are unwilling or unable to participate in conferences and/or the drawing up of the treatment plan:

1. The family treatment plan will be drawn up to serve as a case goal activity guide.
2. The natural family will be informed that the conference was held and informed of the content of the discussion and the treatment plan.
3. The worker must give the natural family a copy of the treatment plan and inform them of the date for the next scheduled conference.

(e) The plan is signed by all conference participants. If the natural parents disagree with part of the treatment plan, their specific objections should be noted beside their signatures. If the parents are dissatisfied with the content of the treatment plan or with the substance of the services rendered, the client may file a service complaint within ninety (90) days of the case conference to the Commissioner, Bureau for Social Services. During the case conferences, the natural parents shall be informed of their right to file a service complaint.

(f) During the first six (6) months of placement, ongoing case conferences are to be held as needed. The purpose of the ongoing case conference is to assess progress, to assure that there is adherence to the time frames included in the original treatment plan, to alter treatment plans and visitation contracts, and to insure that all necessary services are being provided to the child, natural family, and foster family.

(g) When the child has been in placement for six (6) months, a conference is to be held. Although the treatment program may extend beyond six (6) months, a decision on the permanent plan for the child must be established at this time.

(h) The frequency of case conferences following the six (6) month case conference will be established as needed according to the treatment plan. The case of every child must be reviewed by the team leader and the worker(s) at least every six (6) months.

(2) Ongoing casework and support services that are set forth in the review and planning process shall be provided to best meet the needs of the child. These services will vary in accordance with the individual needs of the child. Services may include, but are not limited to, the following: providing medical care, effecting behavorial change, improving relationships with adults or peer groups, improving school adjustment, maintaining developmental charts, and utilizing all available community resources. The original treatment plan may be modified as necessary.

(3) Visitation contracts will be established during the initial case conference and will be signed by the natural parents, the worker(s), the team leader, the foster parents, and if appropriate, the child. The frequency of parent/child visits will vary in accordance with the needs of the case. Such factors as the permanent plan for the child and the desires of the parents and the child will be considered.

(a) When the plan for the child is return to the natural parents, the following visitation guidelines should be considered:

1. At least one (1) visit should occur within the first week of placement;
2. Visits should occur at least every two (2) weeks.
3. As the projected date approaches for the return of the child to the natural home, extended visits should be arranged.

(b) The visitation contract may include the following items:

1. Time and place schedule;
2. Frequency of visits;
3. Transportation details:
4. Individuals other than natural parents whom the child may visit (i.e., siblings, relatives, etc.);
5. Special requests of the natural parents or foster parents;
6. Allowance of phone calls or letters between parent and child; set times for phone calls;
7. Special responsibilities of any of the parties involved in visitation.

Section 2. The department shall report to the committing court the status and planning for children who are committed to the department as dependent, neglected, or abused and placed in foster family homes by the end of one (1) month and by the end of seven (7) months of the child's placement. Included in the initial report will be the established goal for the case, a copy of the treatment plan for the child and the family, and a copy of the visitation contract. By the end of the seventh month, the results of the treatment program and decision regarding a permanent plan for the child shall be reported to the court. Permanent

plans that shall be considered for the child at the end of the treatment program include, but are not limited to, the following: the return of the child to the home of the natural parents; permanent placement with relatives; termination of parental rights for the purpose of adoption; and under demanding circumstances, permanent substitute foster care. If a definite decision regarding a permanent plan for the child had not been reached, the reasons for absence of a decision shall be reported.

CHARLES T. CAIN, Commissioner
PETER D. CONN, Secretary

ADOPTED: March 13, 1979
RECEIVED BY LRC: May 15, 1979 at 10:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of April 4, 1979 Meeting (continued)

(Subject to subcommittee approval at its next regularly scheduled meeting on May 2, 1979.)

Chairman Brinkley reconvened the April 4, 1979 meeting of the Administrative Regulation Review Subcommittee, on Wednesday, April 25, 1979 at 9 a.m., in the House Chamber, Capitol Building, Frankfort.

Chairman Brinkley stated that the subcommittee would not take action on any of the proposed clean air regulations from the Department for Natural Resources and Environmental Protection at this meeting but would hear testimony and rebuttals from anyone desiring to speak.

Present were: **Members:** Representative William T. Brinkley, Chairman; Senator Donald L. Johnson and Representative Albert Robinson.

LRC Staff: Mabel D. Robertson, Garnett Evins, Deborah Herd, Joe Hood, and Steve Armbrust.

Press: James F. Dady, Kentucky Post; Constance J. Parrish, Department of Public Information and Cecilee McBain, WTVQ-TV.

Guests: Hisham M. Saaid, Bob Yarbrough, Larry Wilson, James Miller and Marti Hall, Department for Natural Resources and Environmental Protection; Janet Linderman and Gene Barnes, League of Women Voters; A. W. Graef, Reliance Universal Inc., Paul W. Triplett and George E. Heltman, Kent Corporation; Doug Oliver and Robert Hughes, East Kentucky Power; Jim Saleh, Phelps Dodge Magnet Wire Company; T. H. Goodgame, Whirlpool Corporation; B. A. Jensen, Rohm and Haas Kentucky Inc.; Andrew Cammack and Etta Ruth Kepp, Environmental Quality Commission; Russ Coburn, Kentucky Power and A. Mason Glass, Jr., Kentucky Retail Federation.

Chairman Brinkley called upon Secretary Eugene Mooney, Department for Natural Resources and Environmental Protection for the first presentation.

Others presenting testimony before the subcommittee were: David D. Drake, Kentucky Department of Energy; Jackie Swigart, Environmental Quality Commission; Ken Surprenant, Dow Chemical Company; A. M. (Del) Twilley, Ford Motor Company; Carroll Knicely, Commissioner, Kentucky Department of Commerce; Lowell Reese, Kentucky Chamber of Commerce; S. Rayburn Watkins, Associated Industries of Kentucky; Margaret C. Loeb, Louisville Highland Woman's Club; Thomas P. Bell and William George Bowser, Kent Corporation; Herman D. Regan, Jr., Kenvirons, Inc.; James M. Crafton, Home Oil Terminal Company; Howard G. Myers, Kentucky Forest Industries Association; Larry Schneider, Kentucky Conservation Committee; Joe Simpson, Whirlpool Corporation; Fred Stokes, Jr., Stokes Oil Company; Cy Waddle, The Somerset Refinery Inc.; John P. Gabbard, The Wiser Oil Company; Tom Maxedon and Stan Lampe, Kentucky Petroleum Council; Bill K. Caylor, Kentucky Coal Association; Cathy Nixon, League of Women Voters; Carolyn Embry, Sierra Club; David S. Beck, Kentucky Farm Bureau Federation; James Crafton, Henderson Oil Company; Thomas W. Devine, Environmental Protection Agency; and Malcolm Y. Marshall, Kentucky Utilities Company.

Mr. Tom Devine, director of the hazardous waste and air quality division of the federal Environmental Protection Agency, stated that EPA has reviewed the state implementation plan proposed by Kentucky and has found that the regulations as proposed do not exceed federal guidelines.

Mr. Stan Lampe, Kentucky Petroleum Council, stated that he believed that the regulations do exceed federal guidelines and that was not the intent of the 1979 extraordinary session of the Kentucky General Assembly when it adopted Senate Resolution No. 14 to implement federal environmental legislation without imposing requirements more stringent than necessary to satisfy minimum federal requirements.

Mr. Lowell Reese, Kentucky Chamber of Commerce, said he questioned the state's authority to apply air

quality regulations statewide. He said only nine of the 120 counties in Kentucky are classified as nonattainment areas; and that counties already in compliance with the federal clean air act of 1977 do not require further air quality restrictions.

Secretary Mooney told the committee that restricting the new regulations only to nonattainment areas would impose tighter restrictions on industries seeking to locate or expand in unclassified areas.

Chairman Brinkley, on behalf of the subcommittee, expressed his appreciation to those attending the meeting for their input and stated that the proposed regulations would be on the agenda for the May 2 meeting, which will be held at 10 a.m., in Room 327 of the Capitol; and that the subcommittee would take appropriate action at that time.

The meeting adjourned at 3:45 p.m., on motion of Senator Johnson, seconded by Representative Brinkley.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of May 2, 1979 Meeting

(Subject to subcommittee approval at its next meeting on June 6, 1979.)

The Administrative Regulation Review Subcommittee held its regularly scheduled meeting on Wednesday, May 2, 1979, at 10:00 a.m., in Room 327 of the Capitol. The minutes of the April 4, 1979 meeting were approved. Present were:

Members: Representative William T. Brinkley, Chairman; Senator Donald L. Johnson and Representative Albert Robinson.

Guests: Bill Schmidt, Board of Medical Licensure; Joe Bruna, Peter W. Pfeiffer and Don McCormick, Department of Fish and Wildlife Resources; James M. Baker, Betsy Coffey, Fred A. James, Department of Justice; Ed Fossett, William C. Sanders, Jr., Department of Education; Joseph D. Hudson, Gil McCarty, Department of Insurance; Carl B. Larsen, Harness Racing Commission; Ellyn Elise Crutcher, Energy and Utility Regulatory Commissions; Eugene F. Mooney, Hisham M. Saaid, Robert J. Yarbrough, Gautam Trivedi, Larry Wilson, Stephen R. Wyatt, Marti Hall, Department for Natural Resources and Environmental Protection; Senator Kenneth Gibson, Co-Chairman of the Interim Joint Committee on Agriculture and Natural Resources; Jackie Swigart, Etta Ruth Kepp, Environmental Quality Commission; Gene Barnes, League of Women Voters; Carolyn Embry, Sierra Club; Mack Morgan, Jr., Kentucky Retail Federation; Robert Hughes, East Kentucky Power; William Bowser, Kent Corp., Sub. of Walter Kidde; Michael L. Madsen, Whirlpool Corp.; A. W. Hook, Anaconda-Aluminum Co.; Stanford H. Lampe, Kentucky Petroleum Council; Bill K. Caylor, Kentucky Coal Association; David S. Beck, Kentucky Farm Bureau; Howard G. Myers, Kentucky Forest Industries Assn.; H. L. Hedges, III, Holley Carburetor-Colt Industry; E. Clay Smith, York, Div. of Borg-Warner; Alan W. Rodgers, Larry Howard, Norton Coal Co.; Larry Schneider, Kentucky Conservation Committee.

Press: Maria Braden, Associated Press; Mike Edgerly, WHAS Radio News; Connie Parrish, Dept. of Public Information, Central Writers; and Dave White, WLEX-TV.

LRC Staff: Mabel D. Robertson, Garnett Evins, Deborah Herd, Joe Hood and Steve Armbrust.

On motion of Senator Johnson, seconded by Representative Robinson the following regulations were deferred until the June 6, 1979 meeting.

REGISTRY OF ELECTION FINANCE
Reports and Forms
801 KAR 1:007. Committees; definition, responsibilities.

OCCUPATIONS AND PROFESSIONS
Board of Auctioneers
201 KAR 3:005. Name required on advertising.
201 KAR 3:035. Real estate sales by auction.
201 KAR 3:045. Recordkeeping and accounting.
201 KAR 3:055. Apprenticeship residency requirements.

On motion of Senator Johnson, seconded by Representative Robinson the following regulations were approved and ordered filed:

OCCUPATIONS AND PROFESSIONS
Board of Medical Licensure
201 KAR 9:136. Reciprocity.

DEPARTMENT OF FISH AND WILDLIFE RESOURCES
Fish
301 KAR 1:075. Gigging, grabbling or snagging, tickling and noodling.
Game
301 KAR 2:045. Upland game birds, furbearers and small game; seasons, limits.
301 KAR 2:050. Land between the lakes hunting rules.
301 KAR 2:107. Deer season in specified counties.

DEPARTMENT OF JUSTICE
Bureau of Corrections
Programs for Inmates
501 KAR 2:010. Vocational training.

DEPARTMENT OF EDUCATION
Bureau of Instruction
Teacher Certification
704 KAR 20:020. Rank II equivalency.

DEPARTMENT FOR VOCATIONAL EDUCATION
Instructional Programs
705 KAR 4:105. Experimental senior plan.

DEPARTMENT OF INSURANCE

Health Insurance Contracts

806 KAR 17:050. Inclusion of medicaid as first payor prohibited.

Group and Blanket Health Insurance

806 KAR 18:010. Minimum standards for treatment of alcoholism. (Senator Johnson moved that Section 6(1)(a), (b) and (c) of the regulation be amended to conform with KRS 304.18-140(3)(a) by changing days of treatment to agree with minimums and maximums provided by statute; seconded by Representative Robinson. This regulation was filed as amended.)

HARNESS RACING COMMISSION

Harness Racing Rules

811 KAR 1:055. Declaration to start; drawing horses.

811 KAR 1:125. Pari-mutuel rules.

811 KAR 1:180. Personnel to be licensed; fees.

811 KAR 1:200. Administration of purses and payments.

The Chairman asked if there was anyone present that would like to speak to the proposed regulations from the Department for Natural Resources and Environmental Protection, Bureau of Environmental Protection, Division of Air Pollution.

Secretary Mooney told the subcommittee he had revised regulations that he wished to substitute for 401 KAR 50:035, 401 KAR 51:050 and 401 KAR 61:060.

Lowell Resse, Kentucky Chamber of Commerce, cited twenty-eight regulations to which the chamber has objections.

Clay Smith, Borg-Warner Corporation, appeared before the subcommittee for the first time and stated that his corporation had not seen the regulations and would like an opportunity to review them.

Others making comments were: Howard G. Myers, Kentucky Forest Industries Association; David Beck, Kentucky Farm Bureau; Bill Caylor, Kentucky Coal Association; Roy Strange, Chevron Oil Company; William Bowser, Kent Corporation; Stan Lampe, Kentucky Petroleum Council; Larry Schneider, Kentucky Conservation Committee; Jackie Swigart, Environmental Quality Commission; and Alan Rogers, West Kentucky Coal Association.

After lengthy discussion, on motion of Representative Robinson, seconded by Senator Johnson the clean air regulations were deferred until the June 6, 1979 meeting.

The meeting was adjourned at 12:30 p.m., to meet again on Wednesday, June 6, 1979, at 10 a.m., in Room 327 of the Capitol.