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NOTE: The March meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting— Wednesday, March 4, 1981, at 10 a.m., in Room A, Capitol Annex.

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.

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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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# Public Hearings Scheduled

## DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

A public hearing will be held at 10 a.m. EST April 2, 1981, in Room G1 of the Capital Plaza Tower, Frankfort, Kentucky on the following regulation:

401 KAR 50:035. Permits and compliance schedules. [7 Ky.R. 654]

## DEPARTMENT OF LIBRARY AND ARCHIVES

A public hearing will be held at 10 a.m. EST March 2, 1981, at the Department of Library and Archives Offices, Berry Hill, Frankfort, Kentucky on the following regulation:

725 KAR 2:050. Textbooks for non-public schools. [7 Ky.R. 625]

# Emergency Regulation Now In Effect

**JOHN Y. BROWN, JR., GOVERNOR**  
Executive Order 81-134  
February 11, 1981

**EMERGENCY REGULATION**  
Department for Human Resources  
Bureau for Social Insurance

WHEREAS, the Secretary of the Department is responsible for promulgating, by regulation, the policies of the Department with regard to payments for skilled nursing and intermediate care facility services; and

WHEREAS, the Secretary has found that the current budgetary deficit facing the Commonwealth and the Department should be reduced to the extent possible by prompt action; and

WHEREAS, the Secretary has promulgated a regulation showing the basis of payment for skilled nursing and intermediate care facility services; and

WHEREAS, the Secretary has found that an emergency exists, and that, therefore, such regulation should, pursuant to the provision of law, be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.085(2), do hereby acknowledge the finding of emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulation on payments for skilled nursing and intermediate care facility services and direct that said regulation shall be effective upon filing with the Legislative Research Commission as provided in Chapter 13 of Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor  
FRANCES JONES MILLS, Secretary of State

## DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:021E. Skilled nursing and intermediate care facility service payments.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 11, 1981

EXPIRES: Sine Die adjournment of 1982 regular session of the General Assembly, or upon being replaced through regular procedure.

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 skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.272 through 42 CFR 447.316. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by

efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(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.

Section 3. 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 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 for that type of facility) 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 new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other 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 for that type of facility. 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 the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. 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 patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; 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. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "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, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977 and skilled nursing facilities entering into lease/rent arrangements prior to August 1, 1979, 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 reimbursement. 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 (other than the omission of cost data) 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) 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).

(14) 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.

(15) 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 ex-

pected 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 4. 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, not including fixed or capital costs, 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 certified 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 certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The department may impose a lower occupancy rate for newly constructed or newly participating 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. The department may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(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 non-profit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(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.

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

(Effective 1-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$25.99 & below*	—	—
26.00 - 27.99	\$1.45	\$ .91
28.00 - 29.99	1.35	.79
30.00 - 31.99	1.23	.65
32.00 - 33.99	1.10	.49
34.00 - 35.99	.96	.32
36.00 - 37.99	.79	.13
38.00 - 39.99	.55	—

Maximum Payment \$78.00

\* For a basic per diem of \$25.99 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 5.0 percent, but not to exceed \$.91.

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 12-1-79)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
\$25.99 & below*	—	—
26.00 - 27.99	\$1.50	\$1.00
28.00 - 29.99	1.35	.90
30.00 - 31.99	1.22	.81
32.00 - 33.99	1.09	.73
34.00 - 35.99	.98	.66
36.00 - 37.99	.89	.59
38.00 - 39.99	.80	.47
40.00 - 41.99	.64	.37
42.00 - 44.99	.52	—

Maximum Payment \$45.00\* \*

\* For a basic per diem of \$25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed \$1.50 and the incentive amount will be equal to 5.0 percent, but not to exceed \$1.00.

\* \* The maximum payment for hospital based skilled nursing facilities is initially set at \$80.00, such amount to be adjusted as shown in Section 4(5).

(5) The prospective rate is then compared with the maximum payment. This shall be twenty-seven dollars (\$27) per patient per day for routine services for the period beginning 1/1/79 for general intermediate care facilities; 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; and forty-five dollars (\$45) per patient per day for routine services for the period beginning 12/1/79 for non-hospital based skilled nursing facilities. The maximum payment shall be eighty dollars (\$80) per patient per day for routine services for the period beginning 12/1/79 for hospital based skilled nursing facilities, the rate to be adjusted proportionately in relation to the non-hospital based skilled nursing facility maximum payment so that the rates will be identical after five (5) years. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount.

Section 5. 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 postmarked 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 6. Definitions. For purposes of Sections 1 through 6 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 the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the department; i.e., the allowable cost is "reasonable."

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

- (a) Legend and non-legend drugs, including catheters, irrigation supplies and solutions.
- (b) Physical, occupational and speech therapy.
- (c) Laboratory procedures.
- (d) X-ray.
- (e) Oxygen and other related oxygen supplies.
- (f) Psychological and psychiatric therapy (IC/MR only).

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) "Inflation factor" means the comparison of allowable prior year routine service costs, not including fixed or capital 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 by 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) "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, incontinence care and tray services.

(b) Items which are furnished routinely and relatively

uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(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, band-aids, and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or 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.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services (items excluded from reimbursement include private duty nursing services and ambulance services costs).

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: February 2, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 11, 1981 at 4 p.m.

## Amended Regulations Now In Effect

### PUBLIC PROTECTION AND REGULATION CABINET Crime Victims' Compensation Board As Amended

#### 107 KAR 1:030. Reciprocal agreement defined.

RELATES TO: KRS 346.190

PURSUANT TO: KRS 346.040(2)

EFFECTIVE: February 4, 1981

NECESSITY AND FUNCTION: KRS 346.190 provides for reciprocal agreements between Kentucky and other states which have established and funded programs for compensating crime victims. This regulation defines the term "reciprocal agreement."

Section 1. The term "reciprocal agreement" means a written agreement entered into between Kentucky and another state which has established and funded a program for compensating crime victims, *which agreement shall provide* [or a binding declaration of such other state] that the statutes of such state permit compensation of Kentucky residents who are crime victims to the same extent as though the Kentucky resident was a resident of such other state.

H. FOSTER PETTIT, Secretary

ADOPTED: January 29, 1981

RECEIVED BY LRC: February 4, 1981 at 9 a.m.

### DEPARTMENT OF FINANCE Board of Hairdressers and Cosmetologists As Amended

#### 201 KAR 12:020. Examination.

RELATES TO: KRS 317A.010, 317A.020, 317A.050, 317A.100

PURSUANT TO: KRS 317A.050

EFFECTIVE: February 4, 1981

NECESSITY AND FUNCTION: KRS 317A.050 requires all students of cosmetology to register with the board when enrolling in a school of cosmetology [and submit to examination in order to receive a license].

Section 1. No graduate of any school of cosmetology licensed by this board will be accepted for apprentice examination who has not registered with the board at least ten (10) months and two (2) weeks prior to said examination. No graduate manicurist will be accepted for examination who has not registered with the board at least thirty-seven and one-half (37½) days prior to examination.

Section 2. Out-of-state graduates must submit a certification of hours from the state board where the hours were obtained.

Section 3. No student or apprentice cosmetologist will be permitted to take the board's examination whose ap-

plication completed in full has not reached the office of the board at least ten (10) working days prior to the beginning date of examination.

Section 4. The board's examination will be given only to students who have been notified to appear for the examination and who are wearing a clean, washable uniform and who have with them a pencil for their written examination and instruments to be used by them in the giving of practical examination.

Section 5. The examination shall consist of both a written test and practical demonstration in [all] subjects *from the curriculum as specified* [relating to cosmetology]. The practical demonstration shall be performed on a live female model.

Section 6. (1) An average grade of seventy (70) percent in theory and practical will be required as a passing grade on the board's apprentice examination. No license will be issued to an applicant, not including instructors, with a grade below seventy (70) percent in any one (1) subject and applicant must submit to re-examination on subjects not successfully completed.

(2) Instructors license will not be issued to any applicant receiving a grade below *eighty (80)* [eighty-five (85)] percent *on written and eighty-five (85) percent on practical* [in any one (1) subject]. Applicant must submit to re-examination on subjects not successfully completed.

Section 7. A student who *practices cosmetology* [works] in a beauty salon prior to the apprentice examination given by the board will be considered ineligible to take the examination *pending hearing before the board*.

Section 8. A bulletin board must be provided by a school and the examination schedule must be conspicuously displayed thereon at all times.

Section 9. Applicants successfully completing the state board examinations must buy their licenses within thirty (30) days following their examination. Failure to purchase said license will require the paying of the appropriate restoration as required by KRS 317A.050.

Section 10. The fee accompanying an application will not be refunded unless the application is rejected by the board.

Section 11. Any applicant who fails the state board examinations may be rescheduled for examination during any examination period provided all qualifications are met.

Section 12. Any applicant who fails any phase of the state board examination and waits over ninety (90) days to retake the examination must file another application.

CARROLL ROBERTS, Administrator

DEPARTMENT OF FINANCE  
Board of Hairdressers and Cosmetologists  
As Amended

201 KAR 12:082. School's course of instruction.

RELATES TO: KRS 317A.060, 317A.090

PURSUANT TO: KRS 317A.050

EFFECTIVE: February 4, 1981

NECESSITY AND FUNCTION: Schools must provide a course of instruction of 1,800 hours of student training. The curriculum prepares the individual for examination for the appropriate license.

Section 1. The regular course of instruction for cosmetology students shall contain the following:

(1) Professional practices:

(a) The cosmetology profession:

1. Cosmetology vocabulary.

2. Brief history; how it began, and changes.

3. Ethics; ethics in a beauty salon; and salon conduct.

(b) Salon procedures:

1. Hygiene and good grooming; personal and public; personal characteristics; and responsibilities of the cosmetologists.

2. Professional attitudes and salesmanship; personality development; salesmanship and business management; customer relationship; and telephone personality.

3. Public relations and psychology; behavior; and proper image.

(c) Speciality services:

1. Facial treatments and makeup: facial treatment, makeup preparation; implements and supplies; procedure in giving a plain facial; purpose and effect of massage movements; facial cosmetics; special problems; eyebrow arching; and lash and brow dye.

2. Manicuring: purpose and effect; preparation; equipment; and procedures, including the following: plain manicure, oil manicure, removal of stains, repair work, hand and arm massage, buffing, application of lacquer, and application of artificial nails.

(2) Life sciences (general anatomy):

(a) Osteology: definition; and functions.

(b) Myology: definition; functions; and types.

(c) Neurology: definition; functions; types (motor and sensory) and principal nerves of the head, face and neck.

(d) Angiology: definition; composition of blood, and function of blood.

(e) Dermatology: structure of skin; functions of skin; appendages of skin; conditions of the skin, and lesions of the skin.

(f) Trichology: structure of hair, composition; blood and nerve supply; growth and regeneration; color, texture elasticity, porosity; and conditions to be recognized.

(g) Nails: structure and composition; growth and regeneration; and irregularities.

(3) Physical sciences (chemistry and treatment):

(a) Chemistry:

1. Elements, compounds, and mixtures; properties of; acid and alkali; and chemistry of water.

2. Composition and uses of cosmetics: for the body; for the skin and face; and for the scalp and hair.

3. Chemistry of hair lightening.

4. Chemistry of hair coloring.

5. Chemical hair relaxing.

6. Chemistry of makeup.

7. Chemistry of facial treatments.

8. Chemistry of rinses; soaps and shampoos; and detergents.

9. Chemistry of cold waving.

(b) Scalp and hair treatments: purpose and effects; preparation and procedure; use of cap; electricity and therapeutic ray; and safety rules.

(c) Shampoos and rinses: importance of good shampoo; purpose of effects; required materials and implements; brushing and drying; types of shampoos; rinses (not colored); and composition.

(d) Hair coloring: principal reasons for coloring; advantages of coloring; classifications of hair coloring; variation of products; procedures; and safety measures.

(e) Hair lightening: types of lighteners; implements and supplies; procedure; special problems in hair lightening; fillers and toners; removal of aniline derivative tints; and tint back to natural coloring.

(f) Cold waving: basic requirements; scalp and hair analysis; hair porosity; hair texture; hair elasticity; hair density; curling rods and chemicals; variation of permanent wave products; procedures; problems and safety measures.

(g) Sterilization and sanitation: definitions; importance; sterilization rules; and methods of sterilization.

(4) Hair designing or sculpturing:

(a) Hair shaping: fundamentals of hair shaping; correct use of tools; designing and planning the hair cut; sectioning and thinning; razor and shear shaping; wig shaping; and safety precautions.

(b) Hair styling: finger waving; pin curls; hair partings; artistry hair styling; dressing of the coiffure; special consideration in hair styling; chemical hair relaxing and styling; facial types; and hair pressing and types of hot-iron curling.

(c) Care and styling of wigs: purpose; quality; types of wigs; ordering wigs; cleaning; shaping; tinting and color rinsing; setting and safety precautions.

Section 2. Schools must teach the students of the various supplies and equipment used in the usual salon practices.

Section 3. Schools must have the following charts or *visual aids* available for students' use:

(1) Charts or *visual aids* showing anatomy of muscles of face and neck with special reference to the direction of muscle fibers and function of muscle or groups of muscles;

(2) Charts or *visual aids* showing anatomy of nails.

Section 4. All students shall receive not less than 1,800 hours in clinical class work and scientific lectures with 450 minimum lecture hours for science and theory and 1,305 minimum clinic and practice hours; and forty-five (45) hours of Kentucky statutes and regulations.

Section 5. One (1) hour per week should be devoted to the teaching and explanation of the Kentucky law as set forth in KRS Chapter 317A and the rules and regulations of the board.

Section 6. When permission of this board is given a student to enroll in a school for a special brushup course in any of the following subjects, said student will be required to have a course of training of the following number of hours in the course or courses he or she desires to take:

(1) Permanent waving, and all chemical control, 150 hours. [croquignole and spiral combination, and all wet curls, 100 hours.]

(2) Manicuring, hand and arm massage, [and bleach] 100 hours.

(3) [Marcelling and] All iron curls, 100 hours.

(4) Facials, 125 hours.

(5) Hair coloring and bleaching, 150 hours.

(6) Scalp massage, 25 hours [125 hours].

(7) Hair shaping, trimming, and thinning, 125 hours.

(8) Science, 100 hours.

(9) Hair dressing and styling, 150 hours.

Section 7. No school of cosmetology shall be granted a license to operate a school of cosmetology or annual renewal of license unless the following curriculum is maintained and taught.

(1) Curriculum for freshmen students:

(a) Theory and related theory class, 100 hours:

1. General theory, including Kentucky Cosmetology Law and rules and regulations adopted thereunder.

2. Clinical theory.

3. Lecturing theory.

(b) Clinical and related theory class (freshman practice class on students or mannequins), 200 hours:

1. Cold waves.

2. Facials and makeup.

3. Complete "S" formations or complete fingerwaves.

4. Pincurl technique.

5. Hairshaping.

6. Hairstyling techniques.

7. Lash and brow tint.

8. Eyebrow arches.

9. Manicuring.

10. Scalp treatments.

11. Shampooing.

12. Hair coloring, bleaching, and rinsing (mixing and formulas).

13. Heat permanent.

14. Safety measures.

(2) Curriculum for junior and senior students:

(a) Theory and related theory class, 500 hours.

(b) Professional practices, life sciences (general anatomy), physical sciences (chemistry and treatment), hair designing [or sculpturing], safety measures, Kentucky Cosmetology Laws and rules and regulations adopted thereunder.

(c) Clinical class, 1,000 hours:

1. Hair conditioning treatments.

2. Scalp treatments.

3. Hair shaping.

4. Shampoos.

5. Cold waves.

6. Chemical hair relaxing (permanent wave).

7. Complete "S" formation and complete fingerwaves.

8. Pincurl techniques.

9. Hairstyles.

10. Iron curling.

11. Hair coloring and toning.

12. Bleaches and frostings.

13. Facials and makeup.

14. Manicuring.

15. Lash and brow tints.

16. Eyebrow arches.

17. Color rinses (certified color).

18. Wiggery.

19. Professional ethics and good grooming.

20. Salesmanship.

21. Reception desk and telephone answering.

22. Record keeping.

[23. Federal and state tax records.]

[24. Sales tax records.]

23. [25.] Dispensary (procedures for ordering supplies and retail merchandise).

24. [26.] Personality development.

25. [27.] Salon management.

26. [28.] Public relations.

Section 8. *In addition to the regular course of instruction, cosmetology schools are permitted to have one (1) related lecture and demonstration per month.* [Schools are permitted to have one (1) lecture per month by a reputable manufacturer, or an authorized manufacturer's representative, to demonstrate their particular product.]

Section 9. Any time not utilized in theory or clinic work must be used for study periods or library work.

Section 10. Each school shall furnish reference books for student's use. Any recognized textbook relevant to the art of science of cosmetology and educational to the student is acceptable to the board.

Section 11. Students of cosmetology shall not be permitted to work on the public until they have completed 300 hours of instruction.

Section 12. Students of cosmetology will be allowed eight (8) hours per day for two (2) out-of-school activities per 1800 hours pertaining to the profession of cosmetology if reported to the board office on a standard form supplied by the board.

Section 13. Students of cosmetology will be permitted to attend two (2) educational programs within their 1,800-hour course for eight (8) hours credit per day, [exclusive of Sundays] if reported to the board office on a standard form supplied by the board.

Section 14. *Copies of the Kentucky State Board of Hairdressers and Cosmetologists' statutes and regulations shall be made available to all students.*

[Section 14. Recommended textbooks:]

[(1) "Standard Textbook of Cosmetology", 1938, revised edition, 1967, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10476.]

[(2) "Physics of Hair", Wallat, 1960, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.]

[(3) "The Van Dean Manual", 1940, revised edition, 1962, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.]

[(4) "Sullivan Beauty Manual", 1963, E. M. Sullivan, revised edition, 1967, E. M. Sullivan, Publisher, P. O. Box 823, Orange, California 92669.]

[(5) "Chemistry for Cosmetology Students", 1969, Intron, Inc., P. O. Box 477, Downey, California 90241.]

[(6) "The Principles and Practices of Beauty Culture", Florence Wall, 1941, revised edition, 1961, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.]

[(7) "Hair Structure and Chemistry", 1967, Milady Publishing Corp., 3837-3839 White Plains Road, Bronx, New York 10467.]

[(8) "Cosmetology, the Keystone Guide to Beauty Culture", 1970 edition, Keystone Publications, 1657 Broadway, New York, New York 10019.]

[(9) At least one (1) copy of a standard dictionary of the English language.]

[(10) At least one (1) copy of a standard medical dictionary.]

[(11) At least one (1) copy per student of the Kentucky State Board of Hairdressers and Cosmetologists statutes and regulations.]

[(12) At least five (5) copies of the rules of the school.]

[(13) "The Prentice-Hall Textbook of Cosmetology", 1976 by Prentice-Hall, Inc., Englewood Cliffs, New Jersey, 07632. The most recent printing of each textbook is preferred.]

[(14) "The Professional Cosmetologist", 1976, John W. Dalton, West Publishing Company.]

Section 15. Manicurist curriculum shall include the following:

(1) Science and theory; 100 hours:

(a) Equipment, sterilization, sanitation, public and personal hygiene safety measures, Kentucky Cosmetology Law and all rules and regulations adopted thereunder.

(b) Nail condition and manicure techniques.

(c) Hand and arm massage.

(d) Science pertaining to areas of hands and arms.

(e) Personality, grooming, salon management, professional ethics, and cosmetic theory laws.

(2) Clinical; 200 hours:

(a) Oil and plain manicure.

(b) Nail polish changes, moons, half-moons, and tips.

(c) Hand and arm massage.

(d) Safety measures.

(e) Care of equipment.

(f) Removal of stains.

(g) Repair work.

(h) Buffing.

(i) Application of lacquer.

(j) Application of artificial nails.

Section 16. The course of study and curriculum for an apprentice instructor shall include as minimums, with a total of 1,000 hours the following:

(1) Orientation, fifteen (15) hours.

(2) Psychology of student training, fifty (50) hours.

(3) Introduction to teaching, thirty (30) hours.

(4) Good grooming and personality development, fifty (50) hours.

(5) Course outlining and development, forty (40) hours.

(6) Lesson planning, forty-five (45) hours.

(7) Teaching techniques (methods), eighty (80) hours.

(8) Teaching aids, audio-visual techniques, eighty (80) hours.

(9) Demonstration techniques, fifty-five (55) hours.

(10) Examinations and analysis, sixty (60) hours.

(11) Classroom management, forty-five (45) hours.

(12) Record keeping, twenty-five (25) hours.

(13) Teaching observation, sixty-five (65) hours.

(14) Teacher assistant, ninety (90) hours.

(15) Pupil teaching (practice teaching), 270 hours.

[Section 17. Recommended Textbooks: (1) "Psychology in Teaching," H. P. Smith.]

[(2) "Milady Course of Study for Student Teachers."]

[(3) "325 Teaching Hints."]

Section 17. [18.] All student instructors must be under the immediate supervision and instruction of a licensed instructor at all times during the school day. No student in-



structor shall ever assume any of the duties and responsibilities of a licensed supervising instructor.

Section 18. [19.] All records of apprentice instructors' hours earned shall be recorded on a standard form supplied by the board office on or before the tenth (10th) day of each month.

CARROLL ROBERTS, Administrator

**DEPARTMENT OF FINANCE**  
**Board of Hairdressers and Cosmetologists**  
**As Amended**

**201 KAR 12:083. Educational requirements.**

RELATES TO: KRS 317A.050, 317A.060, 317A.140

PURSUANT TO: KRS 13.082

EFFECTIVE: February 4, 1981

NECESSITY AND FUNCTION: Students enrolling in a school of cosmetology must show proof of educational requirements. *Applicants for cosmetologist's license and manicurist's license must show proof of four (4) years high school or its equivalent.*

Section 1. Any person enrolling in a school of cosmetology must complete an application for [of] enrollment provided by the board. The applicant must furnish proof that he or she has completed two (2) years of high school or its equivalent. The required proof shall be any one (1) of the following:

(1) A transcript of subjects and grades showing the applicant has completed grades nine (9) and ten (10);

(2) G.E.D. test indicating a minimum grade of thirty-nine (39);

(3) A notarized statement from the high school principal, counselor, or superintendent, stating that in their opinion the applicant has an educational equivalency of completing tenth (10th) grade. Said statement must be on school stationery;

(4) If the student has graduated from high school or completed the G.E.D. test for four (4) years high school, his or her diploma may be presented.

Section 2. The student enrollment application accompanied by the applicant's proof of education, must be received by the board no later than ten (10) working days after the student date of enrollment. No student will receive credit hours beyond the ten (10) day period.

Section 3. No person shall be permitted to enroll in a school of cosmetology for a [post-graduate or] brush-up course unless the applicant holds an unexpired and unrevoked license issued by this board. Said applicant must complete an application for enrollment and provide the necessary educational requirements [of Section 1.] in effect at the time of original licensure.

Section 4. Any person previously licensed by this board having an expired license shall be permitted to enroll in a school of cosmetology for a brush-up or refresher course upon obtaining special permission of the board. Said appli-

cant must complete an application and provide the necessary educational requirements [of Section 1.] in effect at the time of original licensure.

Section 5. All schools of cosmetology must advise individuals enrolling in a school of cosmetology of the educational requirements of a tenth (10th) grade education or its equivalent to obtain an apprentice cosmetologist's license and the requirement of four (4) years high school or its equivalent to obtain a cosmetologist's license or a manicurist's license.

Section 6. The required proof of four (4) years high school shall be any of the following:

(1) A transcript of subjects and grades showing the applicant has completed twelfth (12th) grade;

(2) The passing results of a G.E.D. test or G.E.D. certificate;

(3) High school diploma.

CARROLL ROBERTS, Administrator

**DEPARTMENT OF TRANSPORTATION**  
**Bureau of Vehicle Regulation**  
**Division of Motor Carriers**  
**As Amended**

**601 KAR 1:025. Transporting hazardous materials; permit.**

RELATES TO: KRS 174.410(2), 174.430(1)

PURSUANT TO: KRS 13.082, 174.410(2), 174.430(1)

EFFECTIVE: February 4, 1981

NECESSITY AND FUNCTION: KRS 174.410(2) provides that the Secretary of the Department of Transportation, in consultation with the Secretary of the Department for Natural Resources and Environmental Protection and the Secretary of the Department for Human Resources, shall adopt by reference or in its entirety, the federal hazardous materials transportation regulations, 49 CFR (1978), as amended, to effectively carry out the intent of this Act. KRS 174.430(1) provides that the Secretary of the Department of Transportation is authorized to fix a reasonable fee, by regulation, to be paid by applicants for a general permit to transport hazardous materials through the Commonwealth, and for the renewal of such permit. This regulation implements the statutory provisions set out above.

Section 1. (1) To effectively carry out the intent of KRS 174.400 to 174.990 the department hereby adopts by reference the federal hazardous materials transportation regulation, 49 CFR (1978), as amended, in its entirety, except that the following modes of transportation and the 49 CFR parts applicable thereto are specifically excluded from this regulation in accordance with KRS 174.405(1): [The department hereby adopts in its entirety the federal hazardous materials transportation regulations, 49 CFR (1978), as amended, filed herein by reference, to effectively carry out the intent of KRS 174.460 to 174.990.]

railways (40 CFR Parts 174, 209 thru 270, 901, 903, 905, 921, 922, 931), and pipelines (49 CFR Parts 191, 192, and 195), and waterways (49 CFR Parts 176, 420 thru 424 and 450 thru 453)

(2) The applicable parts of 49 CFR, as amended, are on file for public inspection in the offices of the Legislative Research Commission, New Capitol Building, Frankfort, Kentucky 40601.

Section 2. Applicants for a general permit to transport hazardous materials through the Commonwealth, and for the renewal of such permit, shall pay to the department a fee of twenty-five dollars (\$25).

JAMES F. RUNKE, Acting Commissioner  
ADOPTED: February 4, 1981

**EDUCATION AND ARTS CABINET**  
Department of Education  
Bureau of Administration and Finance [Instruction]  
As Amended

**702 KAR 1:005. Textbook program plan.**

RELATES TO: KRS 156.400 to 156.476, 157.100 to 157.190

PURSUANT TO: KRS 13.082, 156.410, 156.437, 156.447, 156.474, 156.476, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160 [156.010(3), 156.070, 156.160]

EFFECTIVE: February 3, 1981

NECESSITY AND FUNCTION: KRS 156.400 to 156.476 sets up [require that] the Kentucky Textbook Commission and the statutory policies and procedures for the adoption, purchase, use and distribution of [select] textbooks to be utilized [for use] in the schools of the Commonwealth. KRS 157.100 to 157.190 require that the Department of Education purchase textbooks for certain grades and set up management procedures for the textbook program. This regulation establishes the standards and procedures which are necessary to carry out such [the] statutory requirements dealing [of KRS Chapters 156 and 157 that deal] with textbooks.

Section 1. The subjects included in the "Program of Studies for Kentucky Schools" shall be arranged into five (5) groups as follows: Group I—Social Studies K-12; Group II—Language Arts K-12 (except Reading K-8), Art Education K-12, and Foreign Language 3-12; Group III—Science K-12, Health and Physical Education K-12; Group IV—Mathematics K-12; and Group V—Reading K-8, Music K-12, Industrial Arts 7-12, Business Education 7-12, Vocational Education 7-12, and Trades and Industry 11-12. [Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of [for Elementary and Secondary] Education, and the Kentucky Textbook Commission under KRS 156.400 to 156.476 and 157.100 to 157.190 [Chapters 156 and 157], there is hereby adopted [devised, created,] and in-

corporated by reference the [a] Kentucky State Plan for Administering the Textbook Program, as revised July, 1980, by the Department of Education which plan shall include the standards and procedures for the management of the textbook program in relation to the selection, listing, adopting, use, distribution, and purchasing of textbooks and related media materials for grades kindergarten through twelve (12) in the schools of the Commonwealth. The Kentucky State Plan for Administering the Textbook Program shall be published by the Superintendent of Public Instruction and copies furnished to each local school district and upon request to [approved] private schools.]

Section 2. (1) The Division of Free Textbook Services shall requisition from publishers submitting bids adequate textbook samples to be used by the State Textbook Commission and by individual commission members, reviewers, and curriculum committees during the selection and adoption process. All textbook samples, program descriptions, and other pertinent information shall be provided before the bid opening. Samples and other information not available at bid opening shall be forwarded to the Division of Free Textbook Services for distribution to commission members.

(2) The State Textbook Commission shall conduct a working conference for the purpose of interviewing publisher agents and representatives before each listing.

(3) When the selection process has been completed and the individual commission members have no further need for any samples that may be in their possession, such shall be disposed of in the following manner:

(a) Reclaimed by publishers;

(b) Transferred to local school districts, institutions of higher education, or other appropriate agencies; or

(c) Sold by the State Board of Education.

All sales and transfers shall be properly receipted and filed in the Division of Free Textbook Services. Official adoption samples, however, must be disposed of in accordance with KRS 156.470.

Section 3. (1) The Kentucky State Textbook Commission has the right to inquire into and ascertain if any publisher has violated this regulation or the Kentucky Revised Statutes; or if the publisher has used undue influence or unethical tactics to secure bids or to assure local adoption. Unethical tactics shall include, but not necessarily be limited to, unsolicited contact by agents and representatives of publishers with members of the State Textbook Commission and the buying for or giving to State Textbook Commission members meals, gifts, trips, entertainment, or any other items or services of monetary value. If there is sufficient evidence that publishers are guilty of any of the aforementioned, they shall be barred from participation in the bidding and adoption process.

(2) The State Textbook Commission shall have the right to cancel a publisher contract upon discovery that said publisher does not have the ability to perform all the terms and conditions of the contract.

(3) All bidders for textbook contracts shall file with the Division of Free Textbook Services the name of a Kentucky person, firm, or corporation upon whom process may be served. The name of the process agent, together with such other information concerning said agent, shall be made available to the proper authorities for the purpose of serving process.



Section 4. (1) The "Manufacturing Standards and Specifications for Textbooks," developed and approved by the National Association of State Textbook Administrators, in consultation with the Association of American Publishers and the Book Manufacturers' Institute, as revised February, 1980, shall apply to all textbooks submitted for adoption in Kentucky. Said edition is incorporated by reference and can be obtained from the Division of Free Textbook Services.

(2) Publishers who have filed an official bid on or before July 15 may substitute the revised edition at the same price. This substitution shall be made on or before September 20, which is the date the State Textbook Commission meets to compile the State Multiple List of Textbooks. Publishers may submit a galley proof or incomplete book with the official bid; however, the book shall be complete and on file with the State Textbook Commission on or before September 20, which is the date the Textbook Commission meets to compile the State Multiple List of Textbooks. Ancillary materials, including workbooks and teacher editions, shall be completed on or before September 20.

Section 5. Defective binding, workmanship or material shall be reported as soon as detected. Publishers shall be held responsible for all defective textbooks. Textbooks that show manufacturing defects in the first or second year shall be replaced by the publisher on a one-for-one basis. After the first two (2) years, replacement agreement must be reached with the publishers.

Section 6. (1) Request to substitute revised editions of textbooks under contract shall be considered at the regular meetings of the State Textbook Commission to be held on or before May 1 and on or before September 20.

(2) Substitutions shall not be permitted for textbooks to be used the last year of a contract.

(3) The publisher shall agree to supply either the listed or the substituted textbook in accordance with local school district's request.

(4) The revised edition shall be at the same price and the content comparable for use with the old edition.

(5) The physical materials and workmanship of the revised edition shall be of equal or better quality than the older edition.

(6) Ancillary materials for a substituted textbook or program shall be available at the time the publisher submits substitution request.

(7) Publishers shall provide a sample textbook and a concise summary that describes the revised edition and compares it with the textbook and/or program presently on the State Multiple List.

Section 7. A district may implement the reading program listed in grades kindergarten through eight (8), or any combination thereof, through the adoption and purchase of textbooks from one (1), two (2), or three (3) reading programs. A reading program from one (1) publisher shall consist of a basic reading program of readiness, preprimers, primers, and readers for grades kindergarten through six (6) or kindergarten through eight (8). All textbooks in the program shall be sequential and indentifiable as one (1) series.

Section 8. (1) The wholesale and exchange prices in Kentucky shall not exceed the lowest wholesale and exchange prices at which textbooks are to be bid and sold elsewhere in the United States for the same adoption period. If reductions in prices are made elsewhere in the

United States on the same textbooks being sold in Kentucky, publishers shall lower the price in Kentucky. The retail price to be used in Kentucky shall not be more than twenty percent (20%) in excess of the publisher wholesale price.

(2) The publisher contract shall state that upon settlement, the lowest exchange price, except on consumable textbooks, is the price to be paid for textbooks by the state to publishers who during the term of the contract give in exchange an old textbook of corresponding kind and grade, and may be of a different series to that provided for in the contract.

Section 9. (1) Local school districts are hereby authorized to use up to thirty percent (30%) of the elementary school textbook funds and up to thirty percent (30%) of the high school textbook funds for the optional purchase of supplementary textbooks, print and non-print media materials and audio-visual equipment other than those selected by the State Textbook Commission. Optional textbook funds may be used to purchase textbooks and instructional materials for the following:

(a) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" for which textbooks are not listed on the State Multiple List;

(b) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" that have organizational patterns and teaching methodology that require a variety of instructional materials;

(c) Kindergarten programs;

(d) Special education classes; and

(e) Courses and programs requiring State Board of Education annual approval.

Basal textbooks for the regular program and textbooks and/or instructional materials for the aforementioned courses and programs shall be purchased before optional textbook funds are used to purchase supplementary materials.

(2) The following materials are eligible to be purchased with optional textbook funds:

(a) Pre-printed organized materials including reference books, pamphlets, magazines, weekly readers, workbooks, worktexts, textbooks not on the State Multiple List, kits, master units, programmed instructional materials, and similar qualifying materials.

(b) Pre-processed organized audio-visual materials including films, film loops, tapes, slides, filmstrips, recordings, graphic materials, transparencies, globes, maps, charts, art objects, and similar qualifying materials.

(c) Pre-printed or pre-processed programs including kits and materials being used in lieu of textbooks for particular curriculum areas.

(d) Minor audio-visual equipment needed to utilize the audio-visual materials being purchased with optional funds.

(3) The following materials are not eligible to be purchased with optional funds:

(a) Rebinding, equipment other than minor audio-visual, furniture, personnel services, teachers' guides and manuals, testing programs, supplies and materials consumed in initial use and raw and/or blank materials.

(b) Major audio-visual installations such as public address systems, sound laboratories for language, and television (including sets and related equipment).

(4) School districts with special instructional material needs may exceed the designated optional portion of their textbook funds by making written application to the Division of Free Textbook Services. Annual approval must be

obtained before funds are obligated if there is a need to exceed the designated thirty percent (30%) option. Application to exceed the thirty percent (30%) option of elementary (K-8) and secondary (9-12) textbook funds shall be filed on separate forms. The application signed by the district superintendent shall include a detailed description stating name of the program or course, rationale for the program, and percent of funds requested.

(5) After acquisition of eligible supplementary textbooks, materials, and equipment and payment of invoices, a request for reimbursement shall be submitted to the Division of Free Textbook Services on Form FT-21 before March 1. All claims submitted for the purchase of instructional materials for enrichment programs and programs not listed in the "Program of Studies for Kentucky Schools, Grades K-12" must include a copy of the State Board of Education approval of the program and the instructional materials to be used.

Section 10. (1) The school districts shall make textbook adoptions for all the subjects in the five (5) adoption groups. The number of adopted textbooks, however, shall not exceed three (3) textbooks and/or programs per subject in any one (1) grade in grades kindergarten through eight (8) and ten (10) textbooks and/or programs per subject in any one (1) grade in grades nine (9) through twelve (12).

(2) School districts shall indicate their tentative first, second and third choices in grades kindergarten through twelve (12). A summary of the choices shall be provided to the publisher for inventory purposes and shall in no way restrict purchases to any particular choice.

(3) Districts may purchase any or all adopted textbooks and/or programs in any number and combination based on identified pupil needs rather than grade level assignment.

Section 11. (1) Pupils in grades kindergarten through twelve (12) with impaired vision shall be considered eligible for the use of textbooks and materials in clear type of eighteen (18) to twenty-four (24) points upon certification by an eye specialist as follows:

(a) Pupils who cannot read more than 20/70 on a Standard Snellan Chart with the better eye after correction.

(b) Pupils with progressive eye difficulties, including those with progressive myopia, even though glasses may bring the vision nearly to normal, and pupils who suffer from noncommunicable diseases of the eye or diseases of the body that seriously affect the vision.

(2) Certification of pupils' visual impairment shall be made on forms supplied to local school districts by the Department of Education.

(3) The local board of education shall assume responsibility for the care of textbooks and return them to the Division of Free Textbook Services when no longer needed.

(4) These textbooks shall be purchased through the Department of Education and are not charged to the textbook account of the local school district.

Section 12. (1) The Division of Free Textbook Services shall prepare textbook budgets annually and allocate funds to local school districts based upon the Kentucky general assembly biennial appropriation.

(2) When allocating funds for the purchase of textbooks, the Division of Free Textbook Services shall use the pupil membership at the close of the first month of the current school year.

(3) A statement of high school funds and a statement of elementary school funds allocated to each school district shall be mailed to the superintendent after March 1. Each statement shall reflect the balances from the previous year, allotment for the ensuing year, sales and fines for the past year, and growth adjustments.

Section 13. (1) The Division of Free Textbook Services shall provide Annual Report and requisition forms to all school districts. These reports shall be made in duplicate. The original copy shall be sent to the Division of Free Textbook Services and the second copy retained by the district. The Annual Report (FT-8) and requisition (FT-9) may be filed after January 1 and shall be filed by June 30.

(2) The Division of Free Textbook Services, upon receipt and approval of a requisition for textbooks from any school district, shall issue a purchase order. A copy of the purchase order shall be sent to the publisher, four (4) copies sent to the local district and two (2) copies retained by the Division of Free Textbook Services.

(3) All adopted textbooks (grades K-12) purchased with state textbook funds shall be purchased through the office of the Division of Free Textbook Services.

(4) Publishers shall ship direct to local school districts by prepaid freight or United Parcel Service and issue invoices in triplicate to the Division of Free Textbook Services.

(5) Upon receipt of textbooks, the school district shall check items of shipment against the purchase order (receiving report) and if all textbooks were received in satisfactory condition, certify this fact by mailing three (3) copies of the purchase order (receiving report), dated and signed to the Division of Free Textbook Services.

(6) All textbooks shall be labeled as property of the Commonwealth of Kentucky. For economy in administration, the uniform label is affixed by the publishers in accordance with the "Manufacturing Standards and Specifications for Textbooks."

(7) Textbook uniform labels shall not be completed until an examination of the shipment shows that it agrees in detail with the purchase order. A textbook with label completed is classified as a used textbook.

(8) A complete record shall be kept by the school district for all free textbooks delivered to teachers or principals of the different schools. Form FT-5 or a comparable form shall be used. Form FT-5 will be furnished upon request.

(9) When textbooks are issued, a requisition card shall be filled out in duplicate for each pupil. Form FT-6 or a comparable form shall be used. Form FT-6 will be furnished upon request.

Section 14. School districts shall be compensated for textbooks lost, damaged, or destroyed by pupils. The following scale will serve as a guide for compensating the loss of textbooks: textbooks in the first year of use, 100 percent of retail price; second year of use sixty percent (60%); third year, twenty-five percent (25%); fourth year, fifteen percent (15%); and ten percent (10%) during the fifth year of use.

Section 15. Textbooks in need of rebinding shall be reported on Form FT-16 to the Division of Free Textbook Services with the Annual Report. After approval, the request is forwarded to the bindery under contract with the Commonwealth of Kentucky. The bindery shall pick up books or instruct the districts to ship the books collect. Rebound books shall be returned to the school district by the bindery with shipping charges prepaid. The bindery shall

mail the invoice to the Division of Free Textbook Services for payment. Such payments shall not be charged to the textbook account of local school districts.

Section 16. (1) District superintendents shall make an accurate count of all free textbooks which are no longer suitable for classroom instruction and report same on the Annual Report (FT-8).

(2) The Division of Free Textbook Services shall file an annual exchange report with publishers identifying the titles and number of textbooks purchased to replace textbooks no longer suitable for classroom instruction. Also, a claim requesting credit memorandums in the amount of the difference between the wholesale and exchange price for each textbook purchased shall be filed with publishers. The credit memorandums shall be used in payment of invoices for textbooks purchased from said publishers during the next purchase year. Publishers shall relinquish their claim for exchange textbooks if not claimed within a reasonable period of time after replacement.

(3) The local school superintendent shall assume responsibility for the disposal of unclaimed textbooks no longer suitable for classroom instruction in any manner that he deems practical and in the best interest of the school district and the state, with any funds accruing from the sale of such textbooks to be paid into the state treasury.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 23, 1981 at 1:30 p.m.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings and Construction**  
**As Amended**

**815 KAR 20:120. Water supply and distribution.**

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 13.082, 318.130

EFFECTIVE: January 7, 1981

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. The bacteriological and chemical quality of the water supply shall comply with the regulations of the department.

Section 2. Distribution. The water supply shall be distributed through a piping system entirely independent of any other piping system.

Section 3. Water Service. The water service piping to any building shall be not less than three fourths ( $\frac{3}{4}$ ) inch but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

The water service may be laid in the same trench with the house sewer provided the water piping is benched eighteen (18) inches above the sewer.

Section 4. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a four (4) gallon flushing capacity for a water closet and at least a two (2) gallon capacity for a urinal. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 5. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 6. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths ( $\frac{3}{4}$ ) inch. The hot and cold water piping shall extend three-fourths ( $\frac{3}{4}$ ) inch in size to the first fixture branch regardless of the kind of material used. When galvanized iron pipe is used the distribution piping shall be arranged so that no two (2) one-half ( $\frac{1}{2}$ ) inch fixture branches are supplied from any one-half ( $\frac{1}{2}$ ) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures:

Fixture Branches	Size Minimum Inches
Sill Cocks	1/2
Hot water boilers	3/4
Laundry trays	1/2
Sinks	1/2
Lavatories	3/8
Bathtubs	1/2
Water closet tanks	3/8
Water closet flush valves	1

Section 7. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, plastic pipe and fittings shall bear the NSF seal of approval.

Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M Copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polyethylene, PVC or CPVC be used below ground under any house or building.

**Section 8. Temperature and Pressure Control Devices for Shower Installations.** Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

**Section 9. Water Supply Control.** A main supply valve shall be placed inside a foundation wall. Each fixture or each group of fixtures shall be valved and each lawn sprinkler opening shall be valved.

**Section 10. Water Supply Protection.** All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

**Section 11. Temperature and Pressure Relief Devices for Water Heaters.** Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

**Section 12. Protection of a Private Water Supply or Source.** Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

[Section 13. Trap Primer Valves. Trap primer valves that conform to ASSE 1018 shall be installed on all traps connected to floor drains in all buildings except residential complexes with less than eight (8) units as well as traps that serve condensate drains for either heating or air-conditioning equipment.]

**Section 13. [14.] Water Distribution and Connections to Mobile Homes.** (1) An adequate and safe water supply

shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two (2) three-fourths (¾) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shut-off valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

NOTE: Section 13 never became effective, but was withdrawn.

JOHN R. GROVES, JR., Commissioner

#### DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance As Amended

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

RELATES TO: KRS 205.245

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 3, 1981

**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 20:030E or family care home as defined in 902 KAR 20:040E or situations in which a caretaker must be hired to provide care other than 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: not less than \$379, effective 7/1/79; not less than \$409, effective 7/1/80;

(b) Family care home: not less than \$292, effective 7/1/79; not less than \$322, effective 7/1/80;

(c) Caretaker:

1. Single individual: not less than \$246, effective 7/1/79; not less than \$276, effective 7/1/80;

2. Married couple, one (1) requiring care: not less than \$350, effective 7/1/79; not less than \$395, effective 7/1/80;

3. Married couple, both requiring care: not less than \$388, effective 7/1/79; not less than \$433, effective 7/1/80.

(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) the

payment is computed on the basis of a married couple, one (1) requiring care [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 216B.01[4]0 [216.425] to 216B.130.

**Section 6. Residency:** (1) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to applicants for or recipients of a state supplementary payment and institutionalized individuals.

(2) Supplemental payments may be made to Kentucky residents residing outside the state only when the individual has been placed in the other state by this state. In these situations, the other requirements for eligibility shown in other sections of this regulation shall be applicable, except that with regard to the requirement shown in Section 5, the licensure shall be in accordance with a similar licensure act of the other state. If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.01[4]0 to 216B.130 [, the Kentucky Health Licensure Act]. To be eligible for a supplemental payment while placed out-of-state the individual must require the level of care provided in the out-of-state placement, there must be no suitable placement available in Kentucky, and the placement must be pre-authorized by staff of the Bureau for Social Insurance.

(3) When determining residency, ability of the individual to indicate intent (to become a Kentucky resident) must be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His I.Q. is forty-nine (49) or less or he has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he is incapable of indicating intent.

(4) An individual is institutionalized if he is residing in a facility providing some services other than room and board. Personal care facilities are considered to be institutions.

(5) For any non-institutionalized individual under age twenty-one (21) whose eligibility for a supplemental payment is based on blindness or disability, his state of residence is Kentucky if he is actually residing in the state.

(6) For any non-institutionalized individual age twenty-one (21) or over, his state of residence is Kentucky if he is residing in the state and has the intention to remain permanently or for an indefinite period (or, if incapable of indicating intent, is simply residing in the state).

(7) For any institutionalized individual living in Kentucky who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence is Kentucky if:

(a) The state of residence of the individual's parents, or



his legal guardian if one has been appointed, is Kentucky; or

(b) The state of residence of the parent applying for the supplemental payment on behalf of the individual is Kentucky, when the other parent lives in another state and there is no appointed legal guardian.

(8) For any institutionalized individual living in Kentucky who became incapable of indicating intent at or after age twenty-one (21), the state of residence is Kentucky if he was living in Kentucky when he became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he was living in another state when he was first determined to be incapable of indicating intent.

(9) For individuals subject to determinations of residency pursuant to subsections (7) and (8) of this section, the state of residency is Kentucky when the individual is residing in Kentucky, and a determination of residency applying those criteria does not show the individual to be a resident of another state.

(10) For other institutionalized individuals (i.e., those individuals who are both age twenty-one (21) or over and capable of indicating intent), the state of residence is Kentucky if the individual is residing in Kentucky with the intention to remain permanently or for an indefinite period.

(11) Notwithstanding subsections (3) through (10), any individual placed by the department in an institution in another state may, with appropriate preauthorization, be considered a resident of Kentucky, and any individual placed in an institution in Kentucky by another state shall not be considered a resident of Kentucky.

(12) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky so long as he continues to reside in Kentucky. An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(13) An individual eligible for and receiving a supplemental payment in October, 1979 shall be considered a Kentucky resident through October, 1981, even if he does not meet the residency requirements specified in this section, so long as such individual continues to reside in Kentucky and his receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(14) Notwithstanding the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state shall be considered a Kentucky resident if he returns to this state and he has a guardian, parent or spouse residing in this state. Such individual shall not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he leaves this state to reside in another state except when the provisions of subsection (11) above are met. An individual leaving the state may, however, reestablish Kentucky residency by returning to the state if he has a guardian, parent or spouse residing in this state.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: December 10, 1980

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: December 11, 1980 at 4 p.m.

## DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance As Amended

904 KAR 2:040. Procedures for determining initial and continuing eligibility.

RELATES TO: KRS 205.200(2)

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: February 3, 1981

**NECESSITY AND FUNCTION:** The Department for Human Resources has responsibility under the provisions of KRS Chapter 205 to administer public assistance programs under Titles IV-A and XIX of the Social Security Act, namely Aid to Families with Dependent Children, hereinafter referred to as AFDC, and Medical Assistance, hereinafter referred to as MA. In addition the department is required by Title XVI as amended and by KRS 205.245 to provide supplementation to certain aged, blind and disabled individuals. This regulation sets forth the procedures utilized to determine initial and continuing eligibility for assistance under the above programs.

**Section 1. Eligibility Determination Process:** Each decision regarding eligibility or ineligibility for assistance shall be supported by facts recorded in the applicant's or recipient's case record. The applicant or recipient shall be the primary source of information and shall be required to furnish verification of income, resources, and technical eligibility if he can reasonably be expected to do so, and to give written consent to those contacts necessary to verify or clarify any factor pertinent to the decision of eligibility [of the applicant, and comply with procedural requirements considered necessary for completion of the determination process]. Failure of the applicant or recipient to appear for a scheduled interview, or present required information at the time requested, when informed in writing of the appointment or necessary information to be provided shall be considered a failure by the applicant or recipient to present adequate proof of eligibility.

**Section 2. Continuing Eligibility.** The recipient shall be responsible for reporting *within ten (10) days* any change in circumstances which may affect eligibility or the amount of payment. In addition, eligibility shall be reconsidered or redetermined:

(1) When a report is received or information is obtained about changes in circumstances; and

(2) At least every six (6) months for AFDC and every twelve (12) months for MA.

**Section 3. Determination of Incapacity or Permanent and Total Disability:** (1) A determination that a [the] parent with whom the needy child lives is incapacitated or that the individual requesting medical assistance due to disability is both permanently and totally disabled shall be made by a medical review team following review of both medical and social reports except as listed in subsection[s] (1) or (2) of this section.

(2) A parent shall be considered incapacitated *without a determination for the medical review team* if the parent [he] declares *physical inability* [he is physically unable] to work, the worker observes some physical or mental limitation; and the parent:

(a) [He/she] Is receiving SSI; or

(b) [He/she] Is age[d] sixty-five (65) or over; or

(c) [He/she] Has been determined to meet the definition of blindness as contained in Titles II and XVI of the Social

Security Act relating to *RSDI* [OASDI] and SSI by either the Social Security Administration or the state supervising ophthalmologist of the Bureau for Social Insurance; or

(d) [He/she] Has been determined to meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to *RSDI* [OASDI] and SSI by either the Social Security Administration or the Medical Review Team of the Bureau for Social Insurance; or

(e) [He/she] Has previously been determined to be incapacitated or permanently and totally disabled by the medical review team, hearing officer, appeal board or court of proper jurisdiction with no re-examination requested and there is no visible improvement in condition; or

(f) [He/she] Is receiving *RSDI* [OASDI], federal black lung benefits or railroad retirement benefits based on disability as evidenced by an award letter or benefit check; or

(g) [He/she] Is currently hospitalized and a statement

from the attending physician indicated that incapacity will continue for at least thirty (30) days. If application was made prior to admission, the physician is also requested to indicate if incapacity existed as of application date.

(3) *The determination that a parent is not incapacitated will not be made by the local office field staff.*

(4) [(3)] An individual shall be considered permanently and totally disabled if *the individual*:

(a) [He] Receives *RSDI* [OASDI], railroad retirement, or federal black lung benefits based on disability.

(b) [He] Previously received SSI based on disability and discontinuance was due to income or resources, not to improvement in physical condition.

Section 4. Reviews of Supplementation Cases: Aged, blind or disabled supplementation cases shall be periodically reviewed to determine that the special need for which supplementation is granted continues to exist.

W. GRADY STUMBO, Secretary

## Proposed Amendments

### EDUCATION AND HUMANITIES CABINET Commission on Human Rights (Proposed Amendment)

#### 104 KAR 1:050. Guidelines on discrimination.

RELATES TO: KRS Chapter 344

PURSUANT TO: KRS 13.082, 344.190

NECESSITY AND FUNCTION: Pursuant to KRS 344.020 which states the purpose of the chapter to provide for execution within Kentucky of the various federal civil rights acts and KRS 344.190, this regulation adopts the guidelines on religious discrimination, the guidelines on sex discrimination, and the guidelines on employment testing of the Equal Employment Opportunity Commission. This regulation is designed to give Kentucky employers and employees the benefit of consistent interpretations of law by the Kentucky Commission, EEOC, and the federal courts.

Section 1. The guidelines on religious discrimination promulgated by the United States Equal Employment Opportunity Commission as last amended on July 10, 1967, which appears in 29 CFR 1605, are adopted and incorporated by reference.

Section 2. The guidelines on sex discrimination promulgated by the United States Equal Employment Opportunity Commission as last amended on November 3, 1980, [April 4, 1972,] which appears in 29 CFR 1604.1 through 1604.11 [1604.10] excepting Section 1604.5 on job opportunities advertising which subject is already covered by 104 KAR 1:040, are adopted and incorporated by reference.

Section 3. The guidelines on employment testing issued by the United States Equal Employment Opportunity Commission, as last amended on July 21, 1970, which appears in 29 CFR 1607, are adopted and incorporated by reference.

EDMUND P. KAREM, Chairperson

ADOPTED: January 14, 1981

RECEIVED BY LRC: January 16, 1981 at 11:30 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Galen Martin, Executive Director, Kentucky Commission on Human Rights, 832 Capital Plaza Tower, Frankfort, Kentucky 40601.

### Kentucky Cancer Commission (Proposed Amendment)

#### 110 KAR 1:030. Commission procedures.

RELATES TO: KRS 214.510, 214.520

PURSUANT TO: KRS 13.082, 214.510, 214.520, 214.530

NECESSITY AND FUNCTION: KRS 214.510 establishes the Kentucky Cancer Commission and sets forth the procedures for operation of the commission. This regulation is to assure compliance with the statutes and to define specific methods of compliance.

Section 1. Regular Meetings. Regular meetings of the commission shall be held *at least quarterly* [on the second

Monday of each month]. The chairman or the director may provide any change in the time, date, and place of any meeting when deemed necessary and give a minimum of twenty-four (24) hours notice in writing of the change to the commission members and the public.

Section 2. Chairman. At the regular meeting in July of each year, the commission shall elect by majority vote one (1) member to act as chairman for a term of one (1) year. If the office of chairman is vacated because of his death or resignation, or in any other manner, before the execution of his term as chairman, the commission shall elect his successor at the next meeting who shall serve for the unexpired term.

Section 3. Vice-Chairman and Secretary-Treasurer. At the regular meeting in July of each year, the commission shall elect by majority one (1) member to act as vice-chairman for a term of one (1) year and one (1) member to act as secretary-treasurer for a term of one (1) year. If either office is vacated because of death or resignation, or in any other manner, before the complete execution of the term of office, the commission shall at its next meeting, elect a successor from the remaining commission members to serve for the unexpired term. The offices of chairman, vice-chairman, and secretary-treasurer constitute the executive committee of the commission.

Section 4. Rules of Order. Meetings of the commission shall be conducted in accordance with Robert's Rules of Order.

Section 5. Minutes. The director shall attend all meetings of the commission and provide staff to record official commission actions in the minutes. The time and place of each meeting of the commission, names of the commission members present, all official acts of the commission, the votes of each commission member except when the acts are unanimous, and when requested by a commission member's dissent with reasons for dissent, shall be recorded in the minutes. The director shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The approved minutes shall be open to public inspection.

Section 6. Reports of Director. The director shall report to the commission:

- (1) Any new requests for funds to support cancer-related activities;
- (2) Staff progress in implementing official actions taken by the commission at its last meeting; and
- (3) Progress report summaries of each funded project.

TOM GRAHAM, Executive Director  
ROBERT R. MARTIN, Chairman

ADOPTED: January 16, 1981

RECEIVED BY LRC: February 13, 1981 at 2:45 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Tom Graham, Executive Director, Kentucky Cancer Commission, 275 East Main Street, Frankfort, Kentucky 40621.

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

201 KAR 23:070. Specialty certification.

RELATES TO: KRS 335.100, 335.080, 335.090

PURSUANT TO: KRS 13.082, 335.070

NECESSITY AND FUNCTION: This regulation further clarifies descriptions of specialty certification and the functions evolving therefrom, in addition to clarifying terms used in KRS Chapter 335.

Section 1. For the purpose of the board, the private independent practice of social work is defined as the professional delivery of social work services by certified social workers offered independently of:

- (1) The auspices and supervision of federal, state, and local government agencies; or
- (2) The auspices and supervision of any nonprofit social service agency.

Section 2. Certification for Independent Practice. Certification is the process whereby the board recognizes a licensed certified social worker to have special training and/or competence to engage in autonomous and independent practice in specified areas of specialty.

Section 3. The areas of certification for private, independent practice are those of clinical social work, community social work, social work research, and social work administration and management.

Section 4. Clinical social work is defined as practice which focuses on the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual, and on helping with problems of living and activities designed to stimulate growth and development. Such practice is based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners have numerous skills including those necessary for individual, marital, family, and group psychotherapy, as well as other treatment modalities. To be certified for independent practice in clinical social work the licensee must have:

- (1) Had the required number of hours of experience in clinical social work under supervision [and consultation]. Such supervision *shall* [must] have been provided by an individual *meeting the requirement set forth in subsection (4) of this section* [certified in the clinical specialty by the board and must total at least 200 hours];
- (2) *Shall* [Must] have spent at least sixty (60) percent of the required experience in a direct client-professional relationship;
- (3) *Shall* [Must] have had direct responsibility for specific individual and/or groups of clients;
- (4) *Supervision shall be provided by one (1) of the following:*
  - (a) An individual certified in the clinical specialty by this board;
  - (b) An individual listed at the time of supervision in either the National Association of Social Workers Registry of Clinical Social Workers or the National Registry of Health Care Providers in Clinical Social Work; or
  - (c) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to those contained in paragraphs (a) and (b) of this subsection.



(5) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the clinical certificate.

(6) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members.

(7) Such supervision shall be congruent with the board's code of ethical practice.

(8) [(4)] Pass an examination developed by the board.

Section 5. Community social work is defined as practice which deals with intervention at the community level oriented at involving community institutions and solving community welfare problems. Such practice is based on knowledge of community organization and development, social planning, policy analysis and social action. Practitioners have numerous skills including those necessary for social planning, program development, evaluation, advocacy, ombudsmanship, facilitation, program budgeting, legislative activity, social organization and social mediation, among others. In order to be certified for the independent practice of community social work the licensee must have:

(1) Completed the required number of hours of supervised experience in community social work. Such supervision shall [must] have been provided by an individual meeting the qualifications set forth in subsection (3) of this section [certified by the board in community social work and must total at least 200 hours];

(2) Shall [Must] have had direct responsibility for specific projects which would require the utilization and refinement of the knowledge and skills outlined above;

(3) Supervision shall be provided by one (1) of the following:

(a) An individual certified in the community specialty by this board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(4) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the community certificate;

(5) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members;

(6) Such supervision shall be congruent with the board's code of ethical practice;

(7) [(3)] Pass an examination developed by the board.

Section 6. Social work research is defined as practice which focuses primarily on the scientific investigation of social and behavioral phenomena. Such practice is based on knowledge of statistics, research design, research methodology and basic computer methodology among other things. Practitioners have numerous skills, including those necessary for hypothesis formulation, sampling, data collection, data analysis, and interpretation of results, among others. Licensees applying for certification in this specialty will be expected to have:

(1) Completed the required number of hours of supervised experience in the practice of this specialty. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (2) of this section [certified in this specialty area by the board and must total at least 200 hours];

(2) Supervision shall be provided by one (1) of the following:

(a) An individual certified in the social research specialty by this board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(3) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for social work research;

(4) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members.

(5) Such supervision shall be congruent with the board's code of ethical practice;

(6) [(2)] Pass an examination developed by the board.

Section 7. Social work administration and management is defined as practice which focuses primarily on directing the development and/or management of social service delivery systems. Such practice is based on knowledge of policy development, program management, personnel management, fiscal management, public relations and organization development among other things. Practitioners have numerous skills including those necessary for organizing, directing, supervising, staffing, evaluating and consulting among others. Licensees applying for certification for the independent practice in this specialty shall be expected to have:

(1) Completed the required number of hours of supervised experience in the area of Administration and Management [this specialty area]. Such supervision shall have been provided by an individual meeting the qualifications set forth in subsection (6) of this section; [A minimum of 200 hours of supervision must have been acquired under a person certified in administration and management by the board;]

(2) Affirmed that sixty (60) percent of such experience has been spent in management of a recognized unit or units which has a continuing function;

(3) Organizational responsibility for at least four (4) or more professional staff with the ability to hire or dismiss, or at least make recommendations on any change of status in such staff;

(4) Demonstrated the exercise of discretion and independent judgment which involves the comparison and evaluation of possible courses of conduct and subsequent action or making a decision after the various possibilities have been considered.

(5) Have demonstrated significant responsibility for program planning and budgeting for the organizational unit which he has managed.

(6) Supervision shall be provided by one (1) of the following:

(a) An individual certified in administration and management by the board; or

(b) A social worker who has demonstrated to the board's satisfaction a level of competence equivalent to that contained in paragraph (a) of this subsection;

(7) Supervision shall be related specifically to the experience which is proffered as the qualifying experience for the administration and management certificate;

(8) Such supervision shall total a minimum of 200 hours equitably distributed throughout the qualifying period; not more than 100 hours of which may be obtained through group supervision in groups of six (6) or fewer members.

(9) *Such supervision shall be congruent with the board's code of ethical practice;*

(10) [(6)] Pass an examination offered by the board.

Section 8. Definitions. (1)(a) "Educational institution approved by the board" means graduate schools of social work accredited by the Council on Social Work Education except, that the board will evaluate credentials of foreign graduates on a case-by-case basis; and

(b) "A social work or social welfare program" not accredited by the Council on Social Work Education must demonstrate to the satisfaction of the board that they meet the Council on Social Work Education standards for accreditation of undergraduate programs.

(2) *Supervision shall be defined as an administrative and educational process involving a partnership aimed at enhancing the supervisee's professional development while also being mindful of the agency's accountability to clients and community. The ultimate goal should be the attainment of the supervisee's competency and self-reliant functioning which is both effective and satisfying.* ["Appropriate supervision" is defined as a minimum of eight (8) hours per month individual supervision or consultation. Such supervision shall be acquired under a licensee certified for independent practice of social work in the specialty in which the licensee wishes to seek a certificate of qualification.]

WILLIAM T. BURKETT, Chairman

ADOPTED: November 17, 1980

RECEIVED BY LRC: February 12, 1981 at 9:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: David Nicholas, Acting Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602.

#### DEPARTMENT FOR NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

Bureau of Environmental Protection  
Division of Air Pollution  
(Proposed Amendment)

#### 401 KAR 50:035. Permits and compliance schedules.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Department for Natural Resources and Environmental Protection to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the issuance of permits and compliance schedules.

Section 1. Prohibitions. (1) No person shall construct, reconstruct, alter, or modify a source unless a construction permit to do so has been issued by the department.

(2) No person shall use, operate, or maintain a source in contravention of any regulations of the Division of Air Pollution unless an operating permit, conditioned by an approved compliance schedule, has been issued by the department and is currently in effect.

(3) No person shall use, operate, or maintain a source, which is in compliance with all regulations of the Division of Air Pollution unless a permit to so operate has been issued by the department and is currently in effect.

Section 2. Applications. (1) Applications for permits or compliance schedules required under Section 1 shall be made on forms prepared by the department for such purpose and shall contain such information as the department shall deem necessary to determine whether the permit or compliance schedule should be issued.

(2) Applications for permits or compliance schedules shall be signed by the corporate president or by another duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator; or, in the case of political subdivisions, by the highest executive official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(3) The information submitted in the application shall, when specifically requested by the department, include an analysis of the characteristics, properties and volume of the air contaminants based upon source or stack samples of the air contaminants taken under normal operating conditions. Failure to supply information required or deemed necessary by the department to enable it to act upon the permit or compliance schedule application shall result in denial of the permit or shall result in disapproval of the compliance schedule.

(4) An application for a permit or compliance schedule may include one (1) or more affected facilities provided that all are contained within one (1) source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.

Section 3. Consideration of Applications. (1) (a) The department shall deny an application for a permit or compliance schedule if the department determines that emission standards, standards of performance, ambient air quality standards, approved control measures and the provisions of Title 401, Chapter 51, are not met or will not be met upon completion of a compliance schedule.

(b) The department shall deny an application for a permit or compliance schedule if the applicant willfully makes material misstatements in the application or amendments thereto.

(c) When required by the regulations of Title 401, Chapters 50 to 65, the department shall base the determination of compliance with ambient air quality standards and prevention of significant air quality increments upon either:

1. Air quality models in accordance with 401 KAR 50:040; or

2. Ambient air quality monitoring in accordance with 401 KAR 53:010.

(d) In cases where no emission standards have been prescribed by regulation, the department shall require the use of all available, practical and reasonable methods to prevent and control air pollution.

(2) Compliance schedules herein shall be subject to approval of the department. If for any reason, the department and the source are unable to negotiate a mutually acceptable schedule, the department will propose a compliance schedule which will be subjected to a hearing pursuant to KRS 224.083. After considering the hearing

report, the department shall issue an appropriate compliance schedule.

(3) Procedures for public participation. This subsection shall apply to the proposed *major source* construction, *major modifications as defined in Title 401, Chapter 51, or modifications to any* [reconstruction of a] *source which will cause an increase in* [whose uncontrolled emission] *the potential to emit of* [will be] 100 tons per year or more of any one (1) pollutant.

(a) [Except for applications subject to 401 KAR 51:015, within twenty (20) days after receipt of an application to construct, reconstruct, or modify, or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application. For applications subject to 401 KAR 51:015,] W[ithin thirty (30) days after receipt of an application to construct, reconstruct, or modify or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraphs (b), (e) and (f) of this subsection shall be the date on which the department makes a determination that the application is complete.

(b) Within thirty (30) days after the receipt of a complete application, the department shall:

1. Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

2. Make available in at least one (1) location in each region in which the proposed source would be constructed, reconstructed, or modified, a copy of all materials submitted by the owner or operator, a copy of the department's preliminary determination and a copy or summary of other materials, if any, considered by the department in making the preliminary determination; and

3. For sources subject to 401 KAR 51:016E [015], notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification if applicable, and of the opportunity to comment in writing and of the opportunity to request a public hearing to receive written or oral comments. The cost of such advertisement shall be borne by the applicant.

4. For all other sources subject to this subsection, notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, and of the opportunity to comment in writing. The cost of such advertisement shall be borne by the applicant.

(c) A copy of the notice required pursuant to this section shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: the Administrator of the U. S. EPA through the appropriate regional office; local air pollution control agencies; the chief executive of the city and county; any comprehensive regional land use planning agency; and any state, federal land manager or Indian governing body whose land may be affected by the emissions from the proposed source.

(d) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the department in its final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may sub-

mit a written response to any comments submitted by the public. The department shall consider the applicant's response in making its final decision. All comments shall be made available for public inspection at the same location in the region at which the department made available preconstruction information relating to the proposed source.

(e) The department shall take final action on an application subject to this subsection by notifying the applicant in writing of its approval, conditional approval, or denial of the application, and shall set forth its reasons for conditional approval or denial. Such notification shall be made available for public inspection at the location in the region at which the department made available preconstruction information relating to the proposed source or modification. *The public shall be notified of the department's final action on an application subject to this subsection by prominent advertisement in newspapers of general circulation in each region in which the proposed source or modification would be situated. The cost of such advertisement shall be borne by the applicant.*

1. For sources subject to 401 KAR 51:016E [015] and for which a public hearing has been requested and held, the department shall take final action within 150 days after receipt of a complete application.

2. For all other sources subject to this subsection, the department shall take final action within ninety (90) days after receipt of a complete application.

(f) The department may extend each of the time periods specified in paragraphs (b), (d) or (e) of this subsection by no more than thirty (30) days or such other period as agreed to by the applicant and the department deems necessary. In accordance with Federal Regulation 40 CFR 52.21(r), the department shall in no case exceed one (1) year from the date of receipt of a complete application for taking final action on an application subject to 401 KAR 51:016E [015].

(4) This subsection shall apply to the proposed construction, modification, alteration or reconstruction of *any source that is not subject to subsection (3) of this section.* [a source whose uncontrolled emission potential will be less than 100 tons per year of all pollutants considered separately.]

(a) Within *thirty (30)* [ten (10)] days after receipt of an application to construct, reconstruct, modify, or alter, or any addition to such application, the department shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) of this subsection shall be the date on which the department makes a determination that the application is complete.

(b) Within thirty (30) days after receipt of a complete application the department shall notify the applicant, in writing of its approval, conditional approval, or denial of the application, and shall set forth its reasons for conditional approval or denial.

(c) The department may extend the time period specified in paragraph (b) of this subsection by no more than thirty (30) days or such other period as the department deems necessary.

Section 4. Permits and Compliance Schedules. (1) Permits and compliance schedules issued hereunder shall be subject to such terms and conditions set forth and embodied in the permit or compliance schedule as the department shall deem necessary to insure compliance with its standards. Such terms and conditions may include

maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic source or stack sampling of the affected facilities.

(2) In the case of transfer of ownership of a source, the new owner shall abide by any current compliance schedule or permit issued to the previous owner by the department. The new owner shall notify the department of the change in ownership within ten (10) days of the change in ownership.

Section 5. Exemptions. The provisions of this regulation shall not apply to the following affected facilities:

(1) Those affected facilities to which no standard is applicable or which emit an air pollutant to which no standard applies.

(2) Incinerator with a charging rate of less than 500 pounds per hour.

(3) Internal combustion engines whether fixed or mobile, and vehicles used for transport of passenger or freight.

(4) Direct fired sources used for heating and ventilating.

(5) Those sources as set forth in 401 KAR 63:005.

(6) Indirect heat exchangers at a source with a total capacity of less than fifty (50) million BTU per hour input which use natural gas, liquid petroleum gas, or distillate fuel oil as a main fuel or combinations of these as main and standby fuel.

(7) Publicly owned roads.

(8) Feed grain mill with a rated capacity of less than ten (10) tons per hour.

Section 6. Source Obligation. (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who commences construction after *June 6, 1979* [the effective date of these regulations] without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action as provided under KRS 224.994.

(2) Approval to construct shall become invalid if construction is not commenced within twelve (12) months after receipt of such approval, if construction is discontinued for a period of six (6) months or more, or if construction is not completed within a reasonable time. The department may extend the twelve (12) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within twelve (12) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the requirements of the department and any other requirements under local, state, or federal law.

JACKIE SWIGART, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3:30 p.m.

PUBLIC HEARING: A public hearing will be held on this proposed regulation on Thursday, April 2, 1981, 10 a.m. (EST) in Room G-1 of the Capitol Plaza Tower, Frankfort, Kentucky. Written comments on this proposed regulation are due before the close of business on April 2,

1981 in the Division's Frankfort Office. Address comments to Mr. Larry Wilson, Division of Air Pollution Control, West Frankfort Office Complex, 1050 U.S. 127 ByPass South, Frankfort, Kentucky 40601. For additional information contact Mr. Edward Brenda, Education and Information Section, phone (502) 564-3382.

# DEPARTMENT OF JUSTICE Kentucky Law Enforcement Council (Proposed Amendment)

503 KAR 1:020. School's certification.

RELATES TO: KRS 15.330

PURSUANT TO: KRS 15A.160, 15.330

NECESSITY AND FUNCTION: KRS 15.330 provides that the Kentucky Law Enforcement Council shall prescribe standards for approval and continuation of approval of schools at which law enforcement training courses are conducted. This regulation is to insure that schools certified by KLEC possess basic minimum requirements.

Section 1. Definitions: (1) "Applicant" means an individual applying or having already been selected to attend a course of study approved by KLEC.

(2) "Approved school" means a police training facility approved and certified by KLEC to conduct police training courses.

(3) "Certification" means a written document attesting to the qualification of an approved school or instructor; or to the successful completion by a trainee of a recognized police training course conducted by an approved school.

(4) "Instructor" means an individual certified by KLEC to conduct instruction.

(5) "KLEC" means the Kentucky Law Enforcement Council.

(6) "Subject" means a specific course of instruction within a curriculum approved by KLEC.

(7) "Trainee" means an individual undergoing training at an approved school.

(8) "Certification committee" means the committee appointed by KLEC for certification of schools, instructors, and trainees.

(9) "Law Enforcement Foundation" ["Office of Law Enforcement Programming"] means [Office of] Law Enforcement Foundation [Programming], Kentucky Department of Justice.

(10) "Certification and Standards Section" means that section within the Kentucky [Office of] Law Enforcement Council [Programming], Kentucky Department of Justice, which is responsible [to the KLEC] for the certification of schools, instructors and trainees.

(11) "Bureau of Training" means Bureau of Training, Kentucky Department of Justice.

Section 2. Any lawfully organized police unit or force of state, county, or city government, that is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, or combination of lawfully organized police units within the Commonwealth of Kentucky desiring to establish an approved school offering basic police training shall make written application to the Certification and Standards Section of the KLEC in-

dicating this desire and setting forth all pertinent facts concerning the curricula to be taught, instructors to be used, and equipment and facilities available. Applications for certification may be obtained from the Certification and Standards Section of the KLEC.

Section 3. When the Certification and Standards Section receives a properly completed application for certification for a school, the application shall be referred to the Certification Committee for review and inspection. The Certification Committee or a designated KLEC staff supervisor shall conduct an on-site inspection of the facilities and equipment to be used for the training and shall carefully examine the curricula and instructors of the applying school.

Section 4. The Certification Committee shall in the course of its inspection determine whether the applying school offers a curriculum equal at least to the length and subject matter contained in the basic training course conducted by the Bureau of Training at the time the application is submitted. The Certification Committee shall also determine whether the applicant's personnel and facilities including instructional staff, classrooms, firing range and training aids are adequate to conduct an approved basic training course. Schools found lacking in curricula, qualified personnel or facilities shall not be certified.

Section 5. Upon completion of its evaluation of an applying school, the Certification Committee shall report its findings to KLEC at the first regular meeting occurring after the evaluation is completed.

Section 6. Based upon the evaluation report and recommendations of the Certification Committee, KLEC shall vote whether to certify or not to certify the applying school.

Section 7. As soon as possible following the vote of the council the applying school shall be notified as to whether it has been certified. Notification of certification shall be in the form of a certificate issued by KLEC naming the applying school.

Section 8. Any police training school certified by KLEC is subject to inspection by council members, or a KLEC staff supervisor, for the purpose of determining whether the school is maintaining those standards deemed necessary for certification.

Section 9. Certification may be revoked by KLEC whenever a school is deemed inadequate. In such event, the school shall be notified of the revocation by KLEC. KLEC may recertify any school when it deems the deficiencies have been corrected.

Section 10. Each approved school shall offer a basic training course with a curriculum at least equal and comparable to that specified by KLEC.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: John W. Hiten, Staff Supervisor, Kentucky Law Enforcement Council, State Office Building Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF JUSTICE  
Kentucky Law Enforcement Council  
(Proposed Amendment)

503 KAR 1:040. Basic training certification.

RELATES TO: KRS 15.330

PURSUANT TO: KRS 15A.160, 15.330

NECESSITY AND FUNCTION: KRS 15.330 requires the Kentucky Law Enforcement Council to approve and issue certificates of approval to law enforcement officers having met the requirements for participation in law enforcement training programs. This regulation establishes the requirements for determination of completion of the basic training curriculum of those programs.

Section 1. The KLEC may certify a graduate of a certified school for basic training.

Section 2. Each applicant for basic training at a certified basic training academy must submit an application for training (Form KLEC-29) which provides the appropriate training information. Each applicant must also submit a properly endorsed medical examination form (Form KLEC-30) at the time of application. The applicant must have received a medical examination within the ninety (90) day period preceding the date on which the respective basic training course begins. A request for an extension of the ninety (90) day requirement must be submitted in writing to the Director of Law Enforcement Training specifying the reason(s) for this request, identifying each applicant for whom the request is made, and providing a properly endorsed medical examination form for each trainee. These requests will be evaluated on an individual basis and the Director of Law Enforcement Training shall retain the authority for approving or denying each of these requests. At no time will an indefinite waiver be issued to any agency concerning this requirement. The Director of Law Enforcement Training shall retain the authority to require any applicant covered by such an extension to again complete any portion or all of the medical examination should the director feel the candidate's physical condition is not commensurate with that required for the training program.

Section 3. In order to be certified, a graduate of a certified school for basic training must be a member of a lawfully organized police unit or force of state, county, or city government, that is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state.

Section 4. In order to successfully complete a Bureau of Training basic course, the cadets must have achieved a minimum score of seventy (70) percent on each of ten (10) weekly written examinations. Failure to achieve seventy (70) percent on the weekly examination will require that the police cadet retake a different examination covering the same material and pass the second (2nd) examination with seventy (70) percent success. Failure to pass the second (2nd) examination will require the cadet to repeat the entire week of instruction and retake the examination for that week. Failure to achieve seventy (70) percent on that examination will require the cadet to retake a different examination covering the same material and pass the fourth (4th) examination with seventy (70) percent. Failure to successfully complete the fourth (4th) examination will disqualify the trainee from participating in the basic training



program for a period of one (1) year from the date of that failure. In addition, the police cadet must satisfactorily complete a research paper and participate actively in all assigned projects. The ten (10) weekly examinations plus the research projects and other assignments will weigh fifty (50) percent of the overall score. A minimum overall score of seventy (70) percent shall constitute a passing grade for the academic portion of the basic training course. Oral testing shall not be permitted in the basic training program.

Section 5. The graduate of a certified basic course must demonstrate safety and proficiency in the use of firearms in a combat firearms course, proficiency in first aid, proficiency in physical agility, and proficiency in mechanics of arrest, restraint and control. If the cadet fails to successfully complete the test in any of these areas, he shall be entitled to repeat that test. Failure to successfully complete the retest will disqualify the trainee from participating in the basic training program for a period of one (1) year from the date of that failure.

Section 6. Any agency which elects to enroll in the basic training program an applicant who has previously failed this training shall assume all costs for retraining this individual. Arrangements for payment of this obligation shall be completed with the training agency prior to the trainee's enrollment.

Section 7. The graduate of any certified school other than the Bureau of Training, who requests certification without attending the complete basic training course, must attain a grade of seventy (70) percent on the Bureau of Training final examination, as well as a score of seventy (70) percent on all other training which may be required.

Section 8. The graduate of a Bureau of Training basic course must participate in a total of 400 hours training. Absences must be made up through additional training assignments.

Section 9. A KLEC staff supervisor will conduct final examinations at all approved schools for all applicants for certification on subjects required in the basic training curriculum except at the Bureau of Training whose staff members will conduct their final examinations.

Section 10. In a certified school other than a Bureau of Training basic course an applicant who fails to make the minimum standing of seventy (70) percent on the Bureau of Training final examination may, by written appeal authorized and countersigned by a duly responsible member of the department of the certified school, request a make-up examination. This appeal must be submitted within thirty (30) days of the time that the applicant was notified of his failure.

Section 11. The time and location of the make-up examination of all certified schools shall be at the sole discretion of the Bureau of Training. Any make-up examination must be conducted within the thirty (30) day period immediately following the date of the initial examination.

Section 12. The second failure of an applicant to meet the minimum examination requirements shall necessitate his repeating the required basic training curriculum.

Section 13. The graduate must have complied with all rules and regulations of the KLEC and the certified school.

Section 14. Each approved school shall, at the conclusion of each basic training course, complete in triplicate an application for training (Form KLEC-29) for each student who has attended the course and this form shall be sent to the Bureau of Training. After certification by the supervisor of the Certification and Standards Section, one (1) copy of the form shall be sent to the [Office of] Law Enforcement Foundation [Programming], one (1) copy shall be sent to the department head of the trainee's agency and one (1) copy shall be maintained by the Bureau of Training.

Section 15. When any approved school trains an officer from a department other than its own, the Bureau of Training shall send a copy of the completed application for training to the commanding officer of the trainee's department.

Section 16. All required records shall be maintained and retained by the approved school and shall be available to KLEC or KLEC staff members for inspection.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: John W. Hiten, Staff Supervisor, Kentucky Law Enforcement Council, State Office Building Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF JUSTICE  
Kentucky Law Enforcement Council  
(Proposed Amendment)

503 KAR 1:050. In-service schools; certified graduates.

RELATES TO: KRS 15.330

PURSUANT TO: KRS 15A.160, 15.330

NECESSITY AND FUNCTION: KRS 15.330 provides that the Kentucky Law Enforcement Council shall prescribe standards for certified schools which may also include minimum standards for curriculum conducted at certified schools. This regulation establishes the minimum standard for participation as a certified school to conduct in-service training and the requirements for completion of in-service training.

Section 1. KLEC may certify a school to conduct in-service training programs provided that:

(1) The proposed in-service training program curriculum is presented in writing to the council for approval at least thirty (30) days prior to the start of the training program.

(2) Subject matter must be appropriate to the officer's rank, responsibility, and the size and location of his department as determined by the KLEC Certification Committee.

(3) The curriculum must be relevant to the criminal justice system as determined by the KLEC.

(4) Instruction must be provided by KLEC certified or approved instructors.

(5) A total of forty (40) hours training shall be completed within fourteen (14) consecutive days of the first hour taught in the training program.

(6) In departments of cities of the first and second class or county departments of counties containing cities of the first and second class training for the rank of sergeant and all ranks above sergeant or their equivalent as determined by the KLEC shall not consist totally of officers from any one department but shall substantially reflect representation from several departments.

(7) Bureau of Training shall conduct or require to be conducted by the directors of approved in-service training programs appropriate examination of all courses of instruction to enable the council to properly certify the successful completion of the training courses approved by the council.

(8) Written examinations will be given on textbook and lecture portions of instruction. Certification of satisfactory performance is required for firearms and driving courses.

(9) Certified schools desiring to conduct their own examinations shall so advise the council in writing at the time the curriculum is submitted to the council for approval. Upon completion of the training course the Bureau of Training shall be furnished a list of all officers who attended the course and the grade each made on the examination. The KLEC or KLEC staff supervisors may conduct or monitor any examinations given under this program. Examination papers must be retained by the school administering them for a one (1) year period and made available to the KLEC on request. If inadequate testing procedures are found to exist in any in-service training programs, the council may suspend the right of the local unit to conduct its own testing until satisfactory testing procedures are approved.

Section 2. KLEC may certify a graduate of a certified in-service training program provided that:

(1) The graduate is a member of a lawfully organized police department of county or city government who is responsible for the enforcement of the general criminal laws of the state.

(2) The trainee must participate actively for a total of forty (40) hours of training.

(3) The trainee must score a minimum of seventy (70) percent on any evaluation or examination required during the course.

(4) If a trainee fails to attain a minimum of seventy (70) percent on the final examination, he may request a second examination. The second examination may be administered orally provided:

(a) The officer makes his request in writing certifying that he lacks sufficient reading perception to understand written questions;

(b) The request is endorsed by the head of his department. The request for the second examination must be made within seven (7) calendar days from the date the officer received notification of his failure in person or by certified mail.

(5) The second examination must contain a completely different set of questions from the first examination and it must be administered within twenty-one (21) days from the date of the request.

(6) An oral examination must be administered personally by the director of the in-service program and a written transcript of the questions and answers furnished to the Supervisor of the Certification and Standards Program.

(7) The time and location of the second examination, either written or oral, shall be at the sole discretion of the director of the in-service program.

(8) A second failure of an officer to meet the minimum

examination requirements shall necessitate the officer repeating or taking another in-service course.

Section 3. Each approved school shall, at the conclusion of each in-service course, complete in triplicate an application for training (Form KLEC-29) for each student who has attended the course and this form shall be sent to the Bureau of Training. After certification by the supervisor of the Certification and Standards Section, one (1) copy of the form shall be sent to the [Office of] Law Enforcement *Foundation* [Programming], one (1) copy shall be sent to the department head of the trainee's agency and one (1) copy shall be maintained by the Bureau of Training.

Section 4. Roll Call, or on-the-job, training will not meet the requirement for certification.

Section 5. (1) Decisions and approvals required by this regulation may be granted by the Program Supervisor for Certification and Standards [endorsed by the Administrator of the Office of Law Enforcement Programming].

(2) Any decision made by the staff of the KLEC may be appealed to the council through the executive committee of the council.

Section 6. Training courses and/or schools such as the F.B.I. National Academy, Southern Police Institute, Northwestern Traffic Institute, or seminars or classes conducted by institutions of higher education may be certified as in-service training courses and successful graduates certified for completion of in-service training at the discretion of the Certification Committee or KLEC staff supervisor designated by the Certification Committee.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: John W. Hiten, Staff Supervisor, Kentucky Law Enforcement Council, State Office Building Annex, Frankfort, Kentucky 40601.

#### DEPARTMENT OF JUSTICE Kentucky Law Enforcement Foundation Program Fund (Proposed Amendment)

503 KAR 5:020. Participation requirements.

RELATES TO: KRS 15.440

PURSUANT TO: KRS 15A.160, 15.450

NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.440 sets forth statutory requirements for participation in the fund. This regulation establishes general administrative participation requirements in the fund in compliance with KRS 15.440.

Section 1. Eligibility to participate in the fund is limited to local units of government meeting the qualifications as provided by law. The local unit shall apply for participation in the fund on forms provided by the *department* [Executive Office of Staff Services]. The application shall be postmarked on or before April 30 preceding the fiscal year in which the local unit desires to participate. Provided, however, the secretary may extend the filing deadline when such extension is based upon reasonable administrative need.

Section 2. The local unit shall employ one (1) or more police officers.

Section 3. The local unit shall pay every police officer a minimum base salary of not less than \$4,350 per annum for a standard work year.

[Section 4. The local unit shall maintain a high school degree or its equivalent as determined by the council as the minimum educational requirement for employment of police officers after initial participation in the fund.]

[Section 5. Training Requirements. (1) Local units which are participating in the fund shall require all police officers employed by the local unit on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours duration within one (1) year of the date of employment at a school certified or recognized by the council.]

[(2) Except as provided in Section 3, dealing with basic training and in-service training, local units which have not previously participated in the fund shall require all police officers employed by the local unit on the date of initial participation to complete a basic training course of at least 400 hours duration within one (1) year of the date of initial participation at a school certified or recognized by the council. All police officers employed after the date of initial participation shall complete the basic training within one (1) year of the date of employment as required for participating local units.]

[(3) The local unit shall require all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and size and location of his department, of at least forty (40) hours duration at a school certified or recognized by the council.]

Section 4. [6.] The local unit shall comply with all provisions of law applicable to local police and shall file all reports as required by laws or pursuant to this regulation.

Section 5. [7.] [In compliance with the special condition of funding by the Law Enforcement Assistance Administration,] Each local unit employing forty (40) or more police officers shall establish crime prevention teams.

Section 6. [8.] To be eligible for participation in the fund, the local unit shall enact or amend an appropriate ordinance or resolution incorporating compliance by the local unit and its police officers with the provisions of KRS 15.410 to 15.510 and this regulation. A certified copy of the ordinance or resolution shall be submitted by the local unit to the *department* [Executive Office of Staff Services] with the local unit's application for participation in the fund.

Section 7. [9.] Each local unit employing forty (40) or

more police officers shall provide to the *department* [Executive Office of Staff Services] a semiannual report on police manpower allocation. The local unit's report shall demonstrate how each police agency's patrol allocation has taken into consideration and given priority to major crime areas.

Section 8. [10.] The *department* [Administrator, Executive Office of Staff Services] may withhold or terminate incentive fund payments to any local unit that does not comply with the provisions of KRS 15.410 to 15.510 or this regulation.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: W. Thom Rogers, Administrator, Kentucky Law Enforcement Foundation Program Fund, State Office Building Annex, Frankfort, Kentucky 40601.

#### DEPARTMENT OF JUSTICE

##### Kentucky Law Enforcement Foundation Program Fund (Proposed Amendment)

503 KAR 5:030. Training and educational eligibility requirements.

RELATES TO: KRS 15.440

PURSUANT TO: KRS 15.450, 15A.160

NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.440 requires police officers participating in the fund to complete a specific number of hours of basic training and in-service training. This regulation establishes general basic training and in-service training requirements for participating police officers and local units of government.

*Section 1. Training Requirements. (1) Local units which are participating in the fund shall require all police officers employed by the local unit on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours duration within one (1) year of the date of employment at a school certified or recognized by the council.*

*(2) Except as provided in Sections 3 and 14, dealing with basic training and in-service training, local units which have not previously participated in the fund shall require all police officers employed by the local unit on the date of initial participation to complete a basic training course of at least 400 hours duration within one (1) year of the date of initial participation at a school certified or recognized by the council. All police officers employed after the date of initial participation shall complete the basic training within one (1) year of the date of employment as required for participating local units.*

*(3) The local unit shall require all police officers to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and size and location of his department, of at least forty (40) hours duration at a school certified or recognized by the council.*



Section 2. [1.] The *council* [bureau] shall review the qualifications of police officers employed by local units after the effective date of this regulation, to determine the basic training, if any, which the police officer may be required to successfully complete prior to being eligible to participate in the fund.

Section 3. [2.] Any police officer employed prior to July 1, 1972, shall be deemed to have met the basic training requirements.

Section 4. Any police officer employed by a participating local unit who does not possess training equivalent to the basic training requirements established by the council must attend those sections of the basic training course recommended by the *council* [bureau] and successfully complete the basic training final examination.

Section 5. A police officer shall not be eligible to participate in the fund until such time as he successfully completes the basic training course or successfully passes the basic training final examination pursuant to these regulations.

Section 6. [8.] Any police officer who successfully completes the basic training course during any calendar year shall be considered as having fulfilled the in-service training requirements for that year.

Section 7. [6.] Any police officer who attends the basic training course and fails to successfully complete the course shall not be allowed to repeat that course for a period of at least twelve (12) calendar months following the date of that failure. Provided, however, that the failure to successfully complete the course or failure to successfully pass the basic training final examination under circumstances beyond the police officer's control, such as injury or serious illness, shall not disqualify the police officer's participation in the fund if the department is notified of these circumstances and those requirements are satisfactorily completed within a reasonable period of time.

Section 8. [12.] Any police officer who does not possess training equivalent to the basic training requirements established by the council and who has been deemed eligible to participate in the fund pursuant to KRS 15.440(4) and who terminates police service forfeits such eligibility and must meet the minimum training requirement to re-participate in the fund.

Section 9. [14.] After having successfully completed a certified basic training course, if a police officer transfers from one participating local unit to another, he shall not be eligible to receive payments from the fund for a period of one (1) year from the date on which the respective basic training course was completed.

Section 10. [9.] The local unit must provide at least five (5) days training leave with pay not chargeable to the police officer's annual leave record for each police officer receiving in-service training.

[Section 10. Each Local unit employing forty (40) or more police officers shall establish a crime prevention team.]

Section 11. [7.] Any police officer who attends a certified or recognized in-service training course and fails to successfully complete the course shall not be allowed to participate in the fund for the twelve (12) calendar months following the date of that failure and until such time as the officer successfully completes a certified or recognized in-service training program. Provided, however, that the failure to successfully complete the course under circumstances beyond the police officer's control, such as injury or serious illness, shall not disqualify the police officer's participation in the fund if the department is notified of these circumstances, and those requirements are satisfactorily completed within a reasonable period of time.

Section 12. *The local unit shall maintain a high school degree or its equivalent as determined by the council as the minimum educational requirement for employment of police officers after initial participation in the fund.*

Section 13. A copy of the high school diploma or GED certificate for each officer where required must be maintained by the local unit and must be available for review by appropriate departmental personnel.

Section 14. [11.] Any police officer who does not possess a high school degree or its equivalent and who has been deemed eligible to participate in the fund pursuant to KRS 15.440(3) who terminates police service forfeits such eligibility and must meet the minimum educational requirement to re-participate in the fund.

Section 15. [3.] Any police officer employed by a participating local unit who possesses a high school degree or its equivalent and training equivalent to the basic training requirements established by the council may be eligible to participate in the fund by successfully passing the basic training final examination.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: W. Thom Rogers, Administrator, Kentucky Law Enforcement Foundation Program Fund, State Office Building Annex, Frankfort, Kentucky 40601.

**DEPARTMENT OF JUSTICE**  
**Kentucky Law Enforcement Foundation Program Fund**  
**(Proposed Amendment)**

**503 KAR 5:040. Educational incentive plan.**

**RELATES TO: KRS 15.460**

**PURSUANT TO: KRS 15A.160, 15.450, 15.500**

**NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.460 provides that local units of government participating in the fund shall file an educational incentive plan consistent with guidelines and standards established**

by the department. This regulation establishes the department guidelines and standards for educational incentive plans.

Section 1. The local unit shall file an educational incentive plan to be eligible for educational incentive benefits under the fund. The plan shall be filed with the *department* [Executive Office of Staff Services].

Section 2. The plan shall include the following information: (1) The names of all police officers expected to participate, their social security number, payment status, and number of college semester hours each police officer has successfully completed.

(2) A list of acceptable areas of study which will qualify the police officer for educational incentive funds.

(3) A budget for the allocation of local educational incentive funds and state educational incentive funds.

(4) The local unit's program for assisting police officers in qualifying for educational incentive funds.

(5) The local unit's commitment that the plan shall guarantee all police officers an equal opportunity to participate in the educational incentive fund up to the maximum benefits provided by law.

Section 3. Educational incentive benefits shall be based solely on college credits attained by police officers. To be eligible, the police officer must successfully complete at least six (6) college semester hours.

Section 4. In order for a police officer to be eligible to receive educational incentive funds, his official transcript must be mailed directly by the college or university to the *department* [Executive Office of Staff Services] not later than thirty (30) days prior to the beginning of the month for which educational incentive funds are requested.

Section 5. (1) No college credit earned as a result of participating in a basic or in-service training program may qualify a police officer for educational incentive funds except to the extent that said training exceeds minimum standards for basic or in-service training.

(2) Only successfully completed college hours which are accepted by the accredited university or college where the police officer is currently enrolled, most recently enrolled, or earned his degree may be used to qualify the police officer for educational incentive funds. If a police officer has attended more than one (1) college or university, only those successfully completed college hours which are accepted by the accredited college or university where the police officer is or was most recently classified as a matriculated student shall be used to qualify the police officer for educational incentive funds.

(3) All credit hours mentioned herein are semester credit hours. Participants earning credit at a college or university using a system other than the semester credit hour system shall cause that institution to provide sufficient information to the *department* [Executive Office of Staff Services] so that the participant's credits may be recomputed on a semester credit hour basis using the equivalencies officially established by that college or university.

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: W. Thom Rogers, Administrator, Kentucky Law Enforcement Foundation Program Fund, State Office Building Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF JUSTICE  
Kentucky Law Enforcement Foundation Program Fund  
(Proposed Amendment)

503 KAR 5:050. Salary provisions.

RELATES TO: KRS 15.460, 15.470, 15.490

PURSUANT TO: KRS 15.450, 15A.160

NECESSITY AND FUNCTION: KRS 15.450 and 15A.160 provide that the Secretary of the Department of Justice may adopt such regulations as are necessary to properly administer the law enforcement foundation program fund. KRS 15.470 and 15.490 set forth the purposes for which foundation program funds may be used and the reporting procedures for accounting for those funds. This regulation establishes the salary provisions and reporting procedures authorized by KRS 15.470 and 15.490.

Section 1. (1) Incentive funds shall be used only as a cash supplement to compensate police officers who meet the qualifications established by law and this regulation.

(2) Each police officer shall be entitled to receive the state incentive fund supplement which his qualifications brought to the local unit.

(3) Incentive funds shall not be used to supplant existing salaries or as a substitute for normal salary increases under the fund which would violate any federal or state law or regulation regarding wage guidelines.

(4) The local unit shall not be required to award normal salary increases under the fund which would violate any federal or state law or regulation regarding wage guidelines.

Section 2. Upon acceptance for participation in the fund, the local unit shall be eligible to receive a *percentage* [fifteen (15) percent] of each qualified police officer's salary from the fund to be paid to each officer in addition to his base salary. The award to the local unit shall be based upon the total base salaries to all qualified full-time, sworn police officers employed by the local unit.

Section 3. Upon acceptance for participation in the fund, the local unit shall be eligible to receive fifty (50) percent of any salary increase paid to police officers solely because of college credits attained not to exceed \$500 per year for any one (1) police officer. Payment shall be based upon the following schedule:

Number of Hours Attained	Amount of Annual Incentive Payment	
	Max. Temp. Payment *	Max. Perm. Payment **
6 or more hours but less than 30	\$200	\$ 0
30 or more hours but less than 60	350	200
Associate Degree	400	250
60 or more hours but less than 90	450	350
90 or more hours but less than 120	500	450
120 or more hours but no degree	500	450
Bachelor's Degree or more	500	500

\* Temporary payments can only be made to police officers who successfully complete at least twelve (12) semester hours, or the equivalent thereof each fiscal year. Eligibility must be verified on or before the close of the respective fiscal year by submission of a current, official transcript.

\*\* Permanent payments may be made whether or not the officer successfully completes twelve (12) semester hours per year.

Section 4. Pursuant to 503 KAR 5:010, a police officer's base salary shall be calculated by utilizing the most appropriate of the following formulas:

(1) The annual base salary for salaried supervisory personnel who utilize at least eighty (80) percent of their work time performing supervisory law enforcement activities will be equal to the total annual salary provided to them by local ordinance or resolution.

(2) A police officer who devotes more than twenty (20) percent of his time to non-supervisory law enforcement activities shall calculate his annual base salary as 2,080 hours multiplied by his respective hourly wage rate.

Section 5. (1) Request for funds by the local unit shall be submitted to the department not later than thirty (30) days prior to the beginning of the month in which the funds are to be expended.

(2) The department shall mail fund checks by the first day of each month to all local units which have filed timely requests for funds.

(3) The local unit shall acknowledge receipt of funds to the department on forms provided for that purpose.

Section 6. (1) The local unit shall include the additional compensation paid to each police officer from the fund as a part of the officer's salary in determining all payroll deductions.

(2) The local unit shall provide each police officer with a check stub or separate receipt upon which the gross sum of incentive funds paid to the police officer is identified.

(3) The local unit shall disburse incentive funds during the month for which the funds are requested.

Section 7. The local unit shall maintain a separate account for all incentive funds which it receives pursuant to KRS 15.410 to 15.510 and these regulations.

Section 8. The local unit shall maintain records to document that each police officer devotes sufficient hours performing police duties to qualify him for incentive funds consistent with his base salary.

Section 9. (1) Each participating local unit shall submit quarterly reports to the department within fifteen (15) days of the close of the quarter falling on March 31, June 30, September 30, and December 31 of each year. There shall be a separate quarterly report for police training incentive funds and educational incentive funds.

(2) The quarterly reports shall include the name, rank, social security number, date of employment, annual base salary, and the amount of incentive funds received for each police officer and any other information specifically requested on the respective quarterly report form.

Section 10. (1) The local unit may be audited by the department [or the Law Enforcement Assistance Administration] pursuant to established audit procedures.

(2) For audit purposes, the local unit shall maintain accurate financial records. Such records shall include, but are not limited to, books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and any related document and record.

(3) These records shall be retained by the local unit until

destruction is authorized by the department [or the Law Enforcement Assistance Administration].

NEIL J. WELCH, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: W. Thom Rogers, Administrator, Kentucky Law Enforcement Foundation Program Fund, State Office Building Annex, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Administration and Finance**  
**(Proposed Amendment)**

**702 KAR 5:080. Bus drivers' qualifications; responsibilities.**

RELATES TO: KRS 156.160, 189.540

PURSUANT TO: KRS 13.082, 156.070, [156.130] 156.160

NECESSITY AND FUNCTION: To set out the qualifications and responsibilities of the school bus driver in order to assist in carrying out the responsibilities of this important function in pupil transportation.

Section 1. No person shall drive a school bus unless he or she is physically or mentally able to operate a school bus safely and satisfactorily. If there is limitation of motion in joints, neck, back, arms, legs, etc., due to injury or disease that would limit the driver's ability to safely perform the task of safely driving a school bus, the driver shall be rejected. Any driver taking medication either by prescription or without prescription, shall not be permitted to drive if that medication would affect, in any way, the driver's ability to safely drive a school bus.

Section 2. (1) No person shall drive a school bus unless he or she has:

(a) Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses;

(b) Form field vision of not less than a total of 140 degrees;

(c) The ability to recognize the colors of traffic signals and devices showing standard red, green, and amber.

(2) Drivers requiring correction by glasses shall wear properly prescribed glasses at all times while driving.

Section 3. No person shall drive a school bus whose hearing is less than 7/15 in the better ear, or hearing loss is greater than forty (40) decibels if audiogram is used, for conversational tones, with or without a hearing aid. Drivers requiring a hearing aid shall wear such properly operating aids at all times while driving.

Section 4. The driver of any school bus, whether board owned or contractor owned, shall satisfactorily pass at least an annual physical examination by a physician or physicians designated by the district board of education. The board, at its discretion, may require a school bus driver to pass a routine physical examination or a special

type physical examination more often than annually. The school bus driver shall have a current physical fitness certificate on file in the district superintendent's office.

Section 5. Drivers of school buses shall be between eighteen (18) and *seventy* (70) [sixty-five (65)] years of age. [A driver shall not start driving a school bus until the eighteenth birthday. A driver whose sixty-fifth birthday occurs during the second half of the school year may continue to drive to the end of the school year.]

Section 6. The school bus driver shall have a current driver's license that is valid in Kentucky.

Section 7. Substitute school bus drivers shall meet the same requirements as regular school bus drivers.

Section 8. In case of an emergency that would make it necessary for the driver to leave the bus while pupils are on board, the driver shall stop the motor, shift the bus to low gear, set the parking brake, remove the ignition key, and place one (1) of the older responsible pupils in charge during the driver's absence.

Section 9. The driver shall operate the school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances.

Section 10. The driver shall supervise the seating of the pupils on the bus. The driver shall make certain the seating capability of the bus has been fully utilized before any pupil is permitted to stand in the bus aisle.

Section 11. The driver shall not, at any time, permit pupils to stand in the stepwell or landing area or where the pupil would likely fall out of the bus if the rear emergency door was opened, or where the driver's view directly in front of the bus or to either side of the front of the bus would be obscured.

Section 12. The driver shall report to the superintendent any overcrowded conditions on the bus.

Section 13. The driver shall transport only those pupils officially assigned to a particular bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or his designate. The driver shall not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves the bus unless a written permit signed by the school principal or his designate is presented to the driver.

Section 14. The driver shall not transport adult employees of the board or any person not employed by the board unless he receives written permission of the district superintendent to do so.

Section 15. The driver shall not permit any firearms or weapons, either operative or ceremonial, to be transported on the bus. The driver shall not permit any fireworks of any type to be transported.

Section 16. The driver shall not permit any live animals, fowls, or reptiles to be transported on the bus. The driver shall not permit any preserved specimen to be transported that would likely frighten any pupil or cause a commotion on the bus.

Section 17. The driver shall not permit the transportation of any object that would likely block the bus aisle or exits in case of a collision.

Section 18. The driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.

Section 19. The driver shall not open the entrance door to permit pupils to enter the bus or leave the bus until both following and meeting traffic has stopped as required by law.

Section 20. The driver shall signal pupils that must cross the roadway to board the bus or when leaving the bus when it appears to be safe for the pupils to cross the road.

Section 21. The driver shall activate the flashing stop warning lights and/or the stop signal arm a sufficient distance from a bus stop that would permit any prudent motorist to stop short of striking or passing the stopped bus.

Section 22. For safety reasons, the driver shall not permit gasoline to be put into the bus gasoline tank while pupils are on board the bus.

Section 23. If a pupil's conduct on the bus is such that it endangers the lives and morals of the other people on the bus and makes it unsafe for the bus to continue on its route, and when requested by the driver to desist from such conduct and the pupil does not comply, it shall be the duty of the driver to order the pupil to leave the bus, and if this order is refused, to eject the pupil from the bus or send for assistance, whichever the circumstances dictate. Ejecting a pupil from the bus shall be done only in the most extreme circumstances. When ejection from the bus is required, the driver shall notify the principal of the school where the pupil attends, the district superintendent or some other school authority of the action taken as soon as it is possible to do so.

Section 24. In the interest of safety, the driver shall stop the bus at all places where the roadway crosses a railroad track or tracks at the grade level. The driver shall open the bus entrance door, listen, and look for the approach of a train from both directions. When the driver has ascertained that it is safe for the bus to cross the railroad tracks, he shall close the bus entrance door, shift the bus gears into the range that will provide adequate power and proceed immediately to cross the railroad tracks. In cases of severe weather or restricted visibility, the driver shall request assistance from the oldest pupils on the bus in determining whether or not it is safe for the bus to cross the railroad tracks. Under these circumstances, the stop signal arm and flashing warning lights shall be used only if these pupils get off the bus before it is driven across the tracks and board the bus after it has crossed the tracks.

Section 25. The driver shall have the authority to assign a pupil to a specific seat on the school bus.

Section 26. The driver shall make a pre-trip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

Section 27. The school bus driver shall not operate the school bus at a speed in excess of the current posted truck

speed on the sections of highways over which the bus travels, nor at any time in excess of fifty-five (55) miles per hour. The driver shall not drive the school bus on any roadway at any time at a speed where the conditions of the roadway, weather conditions, or other extenuating circumstances would likely make it unsafe for the bus to travel at that speed.

Section 28. The driver shall wear the driver's seat belt at all times that the bus is being used to transport pupils.

Section 29. The stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

(2) The Superintendent of Public Instruction shall evaluate each proposed curriculum in terms of the Kentucky Standards [State Plan] for the [Approval of] Preparation- [Programs for the] Certification of Professional School Personnel.

(3) [The Superintendent of Public Instruction shall recommend each acceptable curriculum to the State Board for Elementary and Secondary Education for approval.] Upon approval by the Superintendent of Public Instruction [State Board for Elementary and Secondary Education] the teacher preparation curriculum shall become the basis for the institutional recommendation to the State Department of Education for the issuance of the teacher certification corresponding to that curriculum.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 15:020. Curricula; evaluation and approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. [KRS 161.025 and 161.030 establish the processes for prescribing teacher preparation curricula.] This regulation establishes the process for insuring that the curricula offered by the teacher education institutions meet the requirements as prescribed by the Kentucky Council on Teacher Education and Certification and adopted by the State Board of [for Elementary and Secondary] Education.

Section 1. (1) Each college or university desiring approval for preparing teachers and other [accredited by the State Board for Elementary and Secondary Education for the preparation of] professional school personnel shall submit each proposed teacher preparation curriculum on forms prepared by the Superintendent of Public Instruction.

#### EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:005. Kentucky plan for preparation program approval.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities [in compliance with the requirements of KRS 161.020, 161.025, and 161.030].

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of [for Elementary and Secondary] Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference the Kentucky Stan-

dards for the Preparation-Certification of Professional School Personnel, which shall include the standards and procedures for the approval of college and university curricula for the preparation programs.

Section 2. The Kentucky Standards for the Preparation-Certification of Professional School Personnel is amended by the selective revision of certain standards, the deletion of certain standards, and by the addition of other new standards, and the amended document is hereby incorporated by reference and identified as the Kentucky Standards for the Preparation-Certification of Professional School Personnel, [R]evised January, 1981 [November, 1979].

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:010. Ranking procedures; general.

RELATES TO: KRS 157.390

PURSUANT TO: KRS 13.082, 156.030, 156.070, 157.390 [156.130, 156.160]

NECESSITY AND FUNCTION: KRS 157.390 directs the *Superintendent of Public Instruction* [State Department of Education] to classify *certified teachers in five (5) ranks under regulations of the State Board of Education*. This regulation establishes the *criteria for approval of the preparation programs for various ranks and the procedures for [responsibility of individual] teachers to file appropriate [supply the] credentials [necessary] for evaluation [making these ranking classifications]*.

Section 1. (1) It shall be the responsibility of the individual teacher to place on file with the State Department of Education and with the local school superintendent all official transcripts of approved college credits that affect qualifications for ranking purposes under the foundation law.

(2) The State Department of Education shall maintain and evaluate transcripts of college credits for ranking purposes. Transcripts submitted for emergency certification for substitute teaching shall be evaluated and recorded and thereafter may be returned to the employing school district.

Section 2. (1) *Preparation programs for either a Rank II or Rank I classification under the Foundation Law shall be planned in advance by the candidate and the graduate advisor in terms of one (1) or more of the following purposes:*

(a) *To improve the professional competency for the position covered by the initial teaching certificate;*

(b) *To extend the scope of professional competency to some certification area not covered by the initial certificate;*

(c) *To obtain preparation-certification required for professional advancement to a higher position.*

(2) *Programs for a Rank II or Rank I classification shall be planned in advance by the candidate and the graduate advisor utilizing a curriculum contract form on which is clearly indicated the following information:*

(a) *The purpose or combination of purposes to be satisfied by the program;*

(b) *The titles of any additional teacher certification being sought and the specific courses required;*

(c) *A guiding statement relating to the selection of the additional courses; and*

(d) *Other specific requirements of the teacher education institution, including, but not limited to, total number of hours, time deadlines, and time in residence.*

(3) *For advancement from a Rank III to a Rank II classification, three (3) plans are provided in 704 KAR 20:020. For advancement from Rank II to a Rank I classification two (2) plans are described in 704 KAR 20:015.*

RAYMOND BARBER

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

704 KAR 20:015. Rank I classification.

RELATES TO: KRS 157.390 [161.030]

PURSUANT TO: KRS 13.082, 156.030, 156.070, 157.390 [156.130, 156.160]

NECESSITY AND FUNCTION: KRS 157.390 authorizes the State Board of Education to *adopt regulations to determine the salary ranks of certified teachers and to determine equivalent qualifications for the salary ranks*. This regulation defines approved graduate work for the Rank I classification and defines an equivalent program for Rank I.

Section 1. (1) *The preparation program for a Rank I classification shall be planned as outlined in 704 KAR 20:010 and shall require the completion of either:*

(a) *Thirty (30) semester hours approved graduate level credit in addition to the requirements for a Rank II classification, or*

(b) *Sixty (60) semester hours approved graduate level credit including a master's degree.*



(2) The appropriate official designated by the teacher education institution shall certify to the State Department of Education when the curriculum requirements have been completed for the Rank I program at the institution.

(3) Of the thirty (30) semester hour program, at least fifteen (15) semester hours shall be taken at the college making the recommendation. The remaining fifteen (15) semester hours credit may be taken at the same institution or, upon approval of the college adviser, at other institutions.

RAYMOND BARBER

Superintendent of Public Instruction

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TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Instruction  
(Proposed Amendment)

### 704 KAR 20:020. Rank II equivalency.

RELATES TO: KRS 157.390[, 161.020, 161.025, 161.030]

PURSUANT TO: KRS 13.082, 156.030, 156.070, 157.390[156.160]

NECESSITY AND FUNCTION: KRS 157.390 authorizes the State Board of [for Elementary and Secondary] Education to *adopt regulations to determine the salary ranks of certified teachers and to determine equivalent qualifications for the salary ranks.* This regulation defines an equivalency for the Rank II salary classification.

Section 1. The Planned Fifth Year Program required for the renewal of provisional teaching certificates *shall be planned as outlined in 704 KAR 20:010 and 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 sections.*

Section 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. The Plan II fifth year program shall consist of a program completed in accordance with the following guidelines.

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

(5) 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 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. For purposes of the Plan III fifth year program two (2) 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 minimum of ten (10) contact clock hours of participation for each unit. For purposes of the Plan III fifth year program two (2) 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.

(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 of [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.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Vocational Education**  
**(Proposed Amendment)**

**705 KAR 5:040. Steering committee.**

RELATES TO: KRS 156.112, 163.020 [156.070], 163.030

PURSUANT TO: KRS 13.082, 156.112, 163.030

NECESSITY AND FUNCTION: *KRS 156.112 gives the State Board of Education the function and authority to develop and adopt policies and regulations by which the Department for Occupational Education is to be governed in planning, coordinating, administering, supervising, operating, and evaluating occupational education programs, services, and activities; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes. This regulation establishes [To establish] responsibilities of steering committees for area vocational education centers.*

Section 1. Each area vocational education center that is operated by the State Department of Education, Bureau of

Vocational Education, shall have an official steering committee appointed by the Superintendent of Public Instruction [upon recommendation of the Assistant Superintendent for Vocational Education]. It shall provide systematic contact with and participation by responsible leaders in the cooperating local school districts. The center steering committee shall be composed of the following:

(1) The superintendent of each cooperating school[s] district;

(2) A board [one (1)] member from each cooperating school district [of the local board of education];

(3) One [the] principal from each [of a] cooperating [secondary] school district;

(4) A [and one (1)] lay citizen from each cooperating [participating local] school district; and

(5) A member of the Regional Advisory Committee on Vocational Education.

Section 2. The center steering committee shall be authorized to consult, counsel, and advise with the coordinator of the area vocational education center, the regional director of vocational education and [his] staff, and the *Superintendent of Public Instruction* [director of the Division of Program Management in the Bureau of Vocational Education, State Department of Education], on all matters pertaining to the operation of the center.

Section 3. The steering committee shall consult, counsel, and advise with the administrators responsible for the operation of the center on such things as:

(1) Annual and long-range program planning for the center; [and]

(2) Procedures to be followed in implementing the program plans; and

(3) Management procedures in handling the details pertaining to program operations.

Section 4. The management procedures referred to in the preceding section of this regulation include such areas as determining the programs to be offered, curriculum development, employment of personnel, in-service training of personnel, enrollment quotas for secondary school students from the different participating local school districts, discipline of students, class and school schedules, transportation of students, equipping and maintaining the facilities, program evaluation, student counseling and guidance, records and reports, and other areas of concern pertaining to the operation of the center.

Section 5. The center steering committee shall be used to provide for active exchange of information, views, problem identification, and future requirements for program improvements. It shall serve as a forum for the resolution of issues, identification of needs, and the development of common understandings and approaches, and serve as a catalyst for cooperative support and assistance. The committee shall supplement and assist, but not supplant, administrative and program responsibilities assigned to the *Superintendent of Public Instruction* [Assistant Superintendent for Vocational Education and his staff].

Section 6. The center steering committee shall have a minimum of two (2) [four (4)] regularly scheduled meetings per school year and called meetings as needed.

Section 7. The chairperson shall develop and distribute



a well-planned agenda to each member of the center steering committee prior to each meeting.

RAYMOND BARBER

Superintendent of Public Instruction

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

## EDUCATION AND ARTS CABINET

Department of Education

Bureau of Vocational Education

(Proposed Amendment)

### 705 KAR 6:010. Vocational teacher education.

RELATES TO: KRS 156.035 [156.070], 163.020, 163.030

PURSUANT TO: KRS 13.082, 156.035, 163.030

NECESSITY AND FUNCTION: KRS 156.035 authorizes the State Board of Education, for the benefit of programs under its control, to implement the provisions of any act of Congress appropriating and apportioning funds to the state and to provide for proper disbursement of such funds in accordance with federal law; and KRS 163.020 and 163.030 mandate a state vocational education program with certain purposes. This regulation establishes criteria to be met by institutions approved to provide vocational teacher education and providing programs qualified under federal law to receive federal funds and requesting such support. It also provides for periodic evaluation of all approved vocational teacher education programs receiving federal assistance. [To establish standards for vocational teacher education programs in Kentucky and to set forth guidelines for the administration of funds made available to enrich vocational teacher education programs.]

[Section 1. Programs of vocational teacher education shall meet the following requirements: The Assistant Superintendent for Vocational Education shall recommend to the Superintendent of Public Instruction for his approval and recommendation to the State Board of Education a comprehensive program of teacher education for all programs of vocational, technical, and adult basic education which are the responsibility of the State Board of Education.]

Section 1. [2.] An institution approved to provide teacher education in vocational education and qualified for and requesting financial support with federal funds administered by [from] the Bureau of Vocational Education shall have and maintain the following standards:

(1) The curriculum shall meet the certification standards for teaching the vocational subject for which the program is intended [and as spelled out in state board regulations relating to certification. The curriculum shall provide for both technical and professional education as required].

(2) Teacher educators shall hold a master's degree or higher in the vocational area for which they are preparing

teachers and a minimum of two (2) years teaching experience in vocational education. There shall be sufficient staff to offer a comprehensive teacher education program including the technical and professional training.

(3) Student teaching centers shall be selected by the vocational teacher educators in the institution providing the teacher education program [and shall be approved by the Assistant Superintendent for Vocational Education or his designated representative]. Student teaching centers shall meet the following criteria:

(a) The vocational curriculum for which the center is to be used to provide student teaching shall be *competency based* [comprehensive and of outstanding quality. Centers used for agriculture and home economics shall have a planned instructional program for adults]. *Planned instructional experiences for adults shall be provided.* [With the exception of health occupations,] V [v]ocational student organizations shall be an integral part of the instructional program.

(b) Supervising teachers shall have demonstrated competencies in use of effective teaching techniques, have a minimum of two (2) years teaching experience in the vocational area for which they are supervising student teachers, have had instruction in supervising the student teaching experience, and have a *master's degree in the appropriate vocational area.* [the following additional qualifications:]

[1. Agribusiness: Master's Degree in Agriculture Education.]

[2. Business and Office: Master's Degree in Business Education.]

[3. Marketing and Distribution: Bachelor of Science Degree.]

[4. Home Economics: Master's Degree in Home Economics Education.]

[5. Health: Bachelor of Science Degree and ten (10) year Teaching Certificate.]

[6. Industrial: Ten (10) year Teaching Certificate.]

(c) Time is provided for supervising teachers to work with student teachers.

(d) Facilities, equipment, teaching materials, and libraries shall meet the minimum qualifications as established by the Bureau of Vocational Education.

(e) The supervision of the student teaching shall be the responsibility of the supervising teacher and the teacher educator in the vocational subject area for which student teaching is to be provided. [The teacher educator providing supervision shall be a member of the vocational education staff of the institution providing the teacher education program.]

(4) Institutions providing teacher education programs shall maintain libraries, facilities, and equipment necessary to support an up-to-date, quality program in the vocational area for which they are providing teacher education.

Section 2. [3. (1)] The *Superintendent of Public Instruction* [Assistant Superintendent for Vocational Education] shall approve federal vocational funds to enrich the vocational teacher education program. Federal funds shall not be used to replace or supplant funds for teacher education allotted to the institution. *Other support services that are provided shall be over and above the regular teacher education offered in the program areas.* [Funds approved by the Assistant Superintendent for Vocational Education shall be used for:]

[(a) Follow-up of first year teachers;]

[(b) Travel, beyond that normally supported by the institution of higher education, as necessary to provide a more effective vocational teacher education program. This

may include travel of student teachers to supervise experience programs;]

[(c) Research which contributes to the research program as established by the Bureau of Vocational Education;]

[(d) Curriculum development which contributes to the curriculum development program as established by the Bureau of Vocational Education;]

[(e) In-service education as requested and approved by the Assistant Superintendent of Vocational Education;]

[(f) Off-campus student teaching cost as salaries of supervising teachers; and]

[(g) Other support services that are over and above the regular teacher education offered in other program areas at the institution and as approved by the Assistant Superintendent for Vocational Education.]

[(2) Colleges and universities shall submit an annual and five (5) year plan for vocational teacher education on forms and in a format recommended by the Bureau of Vocational Education. The plan shall be in sufficient detail to show evidence of supporting the vocational education program in Kentucky and shall include a budget. In no case shall colleges and universities be reimbursed for more than fifty (50) percent of the cost of the vocational teacher education program.]

Section 3. [4.] Teacher education programs *receiving federal funds* shall be evaluated periodically by the staff members of the institution, representatives of the Bureau of Vocational Education and the Division of Teacher Education and Certification of the Department of Education. This evaluation shall be structured so as to determine how well the institution is meeting the objective of preparing teachers of vocational education and to determine if the institution is conforming to the regulations of the State Board of Education as they pertain to preparing teachers of vocational education.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

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SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Office Tower, Frankfort, Kentucky 40601.

#### EDUCATION AND ARTS CABINET

Department of Education  
Bureau of Rehabilitation Services  
(Proposed Amendment)

706 KAR 1:010. Interim three-year plan for vocational rehabilitation services.

RELATES TO: KRS 163.110, 163.120, 163.130, 163.140, 163.160, 163.170, 163.180

PURSUANT TO: KRS 13.082, 156.112, 156.116, 156.118

NECESSITY AND FUNCTION: Section 101, Title I P.L. 93-112, as amended, requires the submission of an Interim Three-Year State Plan for Vocational Rehabilitation Services, to the Secretary, Department of Health, Educa-

tion, and Welfare. The plan must be approved in order for a state to be eligible for grants from the allotments of funds under Title I, P.L. 93-112, as amended by P.L. 93-516 and P.L. 95-602.

Section 1. Pursuant to the authority vested in the Kentucky State Board of [for Occupational] Education by KRS 156.112 the Kentucky State Plan for Vocational Rehabilitation Services incorporated in P.L. 93-112, as amended, for the period October 1, 1979 through September 30, 1982, *said plan having been amended January 20, 1981*, is presented herewith for filing with Legislative Research Commission, and incorporated by reference.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: February 12, 1981 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

#### PUBLIC PROTECTION AND REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)

810 KAR 1:012. Horses.

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for horses entered to be raced.

Section 1. Registration required. No horse may be entered or raced in this state unless duly registered and named in the registry office of the Jockey Club in New York and unless the registration certificate or racing permit issued by the Jockey Club for such horse is on file with the racing secretary; except, however, the stewards may for good cause, in their discretion, waive this requirement if the horse is otherwise correctly identified to the stewards' satisfaction.

(1) In order to establish the true ownership of all thoroughbred horses, that race, each starter which does not remain the property of its breeder shall have a certificate of ownership, issued by the commission in behalf of the Jockey Club, a copy of which shall be attached to the horse's foal certificate, and in the event that ownership of a horse is transferred, either by private treaty or by claiming, the new owner shall obtain a new certificate of ownership issued by the commission in behalf of the Jockey Club, a copy of which shall be attached to the foal certificate. No horse shall be permitted to start in a race unless there has been compliance with these requirements; except, however, the stewards may for good cause, in their discretion, waive this requirement if the horse is otherwise correctly identified to the stewards' satisfaction.

(2) The certificate of ownership shall bear the proper names of all persons owning an interest in the horse, and in each instance the accuracy of this information shall be attested to by the signature of one of the owners or his agent.

(3) Failure by the signator to accurately identify the ownership of a horse on the certificate of ownership may be punishable by revocation of the signator's license or by such other penalty as the stewards or the racing commission may deem appropriate.

Section 2. Ringers prohibited. (1) No horse may be entered or raced in this state designated by a name other than the name under which such horse is currently registered with the Jockey Club in New York. In the event a horse's name is changed by the Jockey Club, such horse's former name shall be shown parenthetically in the daily race program the first three (3) times such horse races after such name change.

(2) No person shall at any time cause or permit the correct identity of a horse to be concealed or altered, nor shall any person refuse to reveal the correct identity of a horse he owns, or which is in his care, to a racing official or member of the regular news media.

(3) No horse shall race in this state without a legible lip tattoo number applied by agents of the Thoroughbred Racing and Protective Bureau; except, however, the stewards may for good cause, in their discretion, waive this requirement if the horse is otherwise correctly identified to the stewards' satisfaction. The stewards shall require that a horse without a lip tattoo number be lip tattooed within a reasonably practical time.

(4) No horse may be entered or raced in this state if previously involved in a "ringer" case to the extent that: a person having control of such horse knowingly entered or raced such horse while designated by a name other than the name under which such horse was registered with the Jockey Club; or such person having control of such horse participated in or assisted in the entry or racing of some other horse under the name registered as belonging to such horse in question.

Section 3. Denerving. (1) Any horse on which a neurectomy has been performed shall have such fact designated on its registration certificate or racing permit. It shall be the joint responsibility of the practicing veterinarian who performed the operation and the trainer of such denerved horse to insure that such fact is designated on the registration certificate or racing permit.

(2) Any horse whose ulnar, radial, or median nerve has been either blocked or removed (known as high nerved), or whose volar or plantar nerve has been blocked or removed bilaterally, shall not be entered or raced in this state.

(3) Any horse whose volar or plantar nerve has been removed unilaterally or which has had a posterior digital neurectomy (known as low nerved), may be permitted to race provided such denerving has been reported by the trainer to the stewards, and such horse has been approved for racing by the commission veterinarian prior to being entered for a race.

(4) In the event a horse races in violation of this rule and participates in the purse distribution, then no protest thereon will be considered unless submitted in writing to the stewards within forty-eight (48) hours after such race.

(5) In the event a horse races in violation of this rule and is claimed, then no protest thereon will be considered unless the successful claimant submits such protest in writing forty-eight (48) hours requesting the claim be voided. Should the claim be voided, the horse shall be returned

to the owner who started such horse in such race, and the claim price shall be returned to the claimant.

(6) A list of all denerved horses shall be posted in the racing secretary's office. No person shall report a horse as having a neurectomy when in fact such horse has not.

Section 4. Bleeders. Any horse known to have bled from its nostrils during a race or workout may not be entered or raced without prior approval for racing by the commission veterinarian. In the event a horse bleeds a second time, such horse shall be placed on the veterinarian's list and prohibited from racing for a minimum of six (6) months; in the event a horse bleeds a third time, such horse shall be thereafter prohibited from racing in this state.

Section 5. Health certificate required. No horse may be stabled on association grounds unless, within ten (10) days of arrival on association grounds, such horse has been examined by an accredited practicing veterinarian who certifies as to the identity of such horse, temperature at time of examination, and that to the best of his knowledge and belief such horse is free from any infectious or contagious disease or exposure thereto and observable ectoparasites, and further certifies as to such other matters as may be required from time to time by the Kentucky State Veterinarian in Frankfort. Notice of this requirement shall accompany stall applications and be included in the condition book.

Section 6. Workouts. No horse may be schooled in the paddock, or taken onto a track on association grounds for training or workout, other than during normal training hours posted by the association, without special permission of the stewards.

[Section 7. Removal from association grounds. No horse may be removed from association grounds without prior approval of the stewards and unless released by the racing secretary. No dead or sick horse may be removed from association grounds without prior approval of the commission veterinarian.]

Section 7. [8.] Age restrictions. No maiden *six* (6) [five (5)] years of age or older which has made five (5) life time starts on the flat may be entered or start.

Section 8. [9.] Fillies and mares bred. Any filly or mare that has been covered by a stallion shall be so reported to the racing secretary prior to being entered in a race. A list of all fillies and mares so reported, showing the names of stallions to which they have been bred, shall be posted in the racing secretary's office. No filly or mare that has been covered by a stallion may be entered in a claiming race unless a written release from the stallion owner is attached to such filly or mare's registration certificate indicating that the stallion service fee has been paid or satisfied.

Section 9. [10.] Serviceable for racing. No horse may be entered or raced that: (1) Is not in serviceable, sound racing condition. The stewards may at any time cause a horse on association grounds to be examined by a qualified person.

(2) Is posted on a veterinarian's list, or stewards' list, or starter's list, or is suspended, in any racing jurisdiction.

(3) Has been administered any drug in violation of 810 KAR 1:018.

(4) Is blind or has seriously impaired vision in both eyes.

(5) Is not correctly identified to the satisfaction of the stewards.

(6) Is owned wholly or in part by, or is trained by, an ineligible person.

**Section 10. [11.] Equipment.** (1) Whips and blinkers must be used consistently on a horse. Permission to change use of any equipment used on a horse in its last previous start must be obtained from the stewards. A horse's tongue may be tied down during a race with a clean bandage or gauze. A horse's bridle may weigh no more than two (2) pounds; war bridles are prohibited. No horse may race in ordinary training shoes; bar shoes may be used for racing only with permission of the stewards.

(2) Use on a horse either in a race or workout of any goading device, or chain, or spurs, or electrical or mechanical device, or appliance other than the ordinary whip which could be used to alter the speed of such horse, is prohibited.

(3) No whip shall be used that weighs more than one (1) pound or is longer than thirty (30) inches with one (1) popper. No stingers or projections extending through the hole of a popper or any metal part on a whip shall be permitted. Indiscriminate or brutal use on a horse of an ordinary whip, as determined by the stewards in their sole discretion, is prohibited.

**Section 11. [12.] Sex alteration.** Any alteration in the sex of a horse must be reported by such horse's trainer to the racing secretary promptly, and the racing secretary shall note same on such horse's registration certificate.

**Section 12. [13.] Post-mortem examination.** Each horse which suffers a breakdown on the race track, in training, or in competition, and is destroyed, and/or each horse which expires while stabled on a race track under jurisdiction of the Racing Commission, shall undergo a post-mortem examination at the University of Kentucky at the discretion of the commission steward and/or the commission veterinarian.

EDNA-FRENCH LOOK JOHNSTONE, Secretary  
ADOPTED: September 24, 1980

APPROVED: H. FOSTER PETTIT, Secretary  
RECEIVED BY LRC: February 13, 1981 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Kentucky State Racing Commission**  
**(Proposed Amendment)**

**810 KAR 1:018. Medication; testing procedures.**

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13.082

**NECESSITY AND FUNCTION:** To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation relates to the use of medication on the horses and requirements and controls thereof.

**Section 1.** It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs and medications or substances foreign to the horse.

(1) No horse participating in a race shall carry in its body any quantity of drugs.

(2) No drug shall be administered by injection, oral administration, rectal infusion or suppository, or by inhalation to a horse entered to race within twenty-four (24) hours prior to the scheduled post time for the race in which the horse is entered.

(3) No person other than a veterinarian shall have in his/her possession any equipment for hypodermic administration, any substance for hypodermic administration, or any drug, which can be administered internally to a horse, by any route, except for an existing condition and as prescribed by a veterinarian.

(4) Notwithstanding the provisions of subsection (3) of this section any person may have in his possession within a race track enclosure any chemical or biological substance for use on his own person, provided that, if such chemical substance is prohibited from being dispensed by any federal law or law of Kentucky without a prescription, he is in possession of documentary evidence that a valid prescription for such chemical or biological substance has been issued to him.

(5) Notwithstanding the provisions of subsection (3) of this section, any person may have in his possession within any race track enclosure any hypodermic syringe or needle for the purpose of administering a chemical or biological substance to himself, provided that he has notified the state steward:

(a) Of his possession of such device;

(b) Of the size of such device;

(c) Of the chemical substance to be administered by such device; and

(d) Has obtained written permission for possession and use from the state steward.

**Section 2.** The terms and words used in these rules are defined as:

(1) "Hypodermic injection" shall mean any injection into or under the skin or mucosa, including intradermal injection, subcutaneous injection, submucosal injection, intramuscular injection, intravenous injection, intra-articular injection, intrabursal injection, intraocular (intraconjunctival) injection.

(2) "Drug" shall mean:

(a) Articles recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and/or

(b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and/or

(c) Articles (other than food) intended to affect structure or any function of the body of man or other animals; and/or

(d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories.

(3) "Veterinarian" shall mean a veterinary practitioner authorized to practice on the race track.

(4) "Horse" includes all horses registered for racing under the jurisdiction of the commission, and for the pur-

poses of this regulation shall mean stallion, colt, gelding, ridgling, filly or mare.

(5) "Chemist" shall mean any official racing chemist designated by the commission.

(6) "Test sample" shall mean any body substance including but not limited to blood or urine taken from a horse under the supervision of the commission veterinarian and in such manner as prescribed by the commission for the purpose of analysis.

(7) "Test level" shall mean the concentration of a foreign substance found in the test sample.

**Section 3.** No horse participating in a race shall carry in its body any drug. Any finding by the chemist that a drug is present in the test sample shall be prima facie evidence that such drug was administered and carried in the body of the horse while participating in a race. The licensed trainer of a horse found to have administered a drug in violation of these rules shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and, failing to prove such freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.

[Section 1. Use of medication. Full use of modern therapeutic measures and medication calculated to improve or protect the health of a horse may be administered to a horse in training, under the direction of a licensed veterinarian. In the interest of protecting the racing public, health of the horse, safety of the participants in a race, nurturing formful racing, and improvement of the breed of thoroughbreds:]

[(1) No horse while participating in a race shall carry in its body any medication, or drug, or substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, or which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby effecting its speed.]

[(2) Also prohibited are any drugs which might mask or screen the presence of the aforementioned prohibited drugs, or prevent or delay testing procedures.]

[(3) Proof of detection by the commission chemist of a medication, or drug, or substance, or metabolic derivative thereof, prohibited by subsection (1) of this section, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse promptly after running in a race, shall be prima facie evidence that such horse was administered and carried such prohibited medication, drug, or substance, in its body while running in such race in violation of this rule.]

[Section 2. When administration prohibited. No person other than a licensed veterinarian shall administer, or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered for racing of any medication, drug, or substance on the day of a race for which such horse is entered and prior to such race.]

[Section 3. Responsibility for prohibited administration. (1) Any person found to have administered a medication, drug, or substance which caused or could have caused a violation of Section 1 or 2, or caused, or participated, or attempted to participate in any way in such administration, shall be subject to disciplinary action.]

[(2) The licensed trainer of a horse found to have been

administered a medication, drug, or substance in violation of Sections 1 or 2 shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and failing to prove such freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.]

[(3) The assistant trainer, groom, stable watchman, or any other person having the immediate care and custody of a horse found to have been administered a medication, drug, or substance in violation of Sections 1 or 2, if found negligent in guarding or protecting such horse from tampering shall be subject to disciplinary action.]

**Section 4.** Record of administration. Daily reports of any treatment of any horse registered for racing with any medication, drug, or substance shall be submitted by the licensed veterinarian administering or prescribing such treatment to the commission veterinarian. Detection of any unreported medication, drug, or substance by the commission chemist in a pre-race or post-race test may be grounds for disciplinary action:

(1) Such daily reports shall accurately reflect the identity of the horse treated, [diagnosis,] time of treatment, type and dosage of medication, drug, or substance, and method of administration.

(2) Such daily reports shall remain confidential except that the commission veterinarian may compile general data therefrom to assist the commission in formulating policies or rules, and the stewards may review same in investigating a possible violation of these rules.

**Section 5.** Commission veterinarian list. As a guide to owners, trainers, and veterinarians, the commission veterinarian may from time to time publish a list of medications, shown by brand and generic names, specifically prohibited for racing. Such list shall not be considered exclusive and medications shown thereon shall be considered only as among those, along with others not so listed, prohibited by general classification under Section 1.

**Section 6.** Detention area. Each licensed association shall provide and maintain on association grounds a fenced enclosure sufficient in size and facilities to accommodate stabling of horses temporarily detained for the taking of sample specimens for chemical testing, and such detention area shall be under the supervision and control of the commission veterinarian.

**Section 7.** Horses to be tested. The stewards may at any time order the taking of a blood, urine, or other [saliva] specimen from any horse entered to be tested. Any owner or trainer may at any time request that a specimen be taken from a horse he owns or trains by the commission veterinarian and tested by the commission chemist, provided the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the commission veterinarian shall take specimens from, and the commission chemist shall test, [same] all horses which: finish first in any race; finish first or second in any quinella or exacta race; finish first or second or third in any stakes; and any horse whose performance in a race, in the opinion of the stewards, may have been altered by a prohibited substance.

**Section 8.** Procedure for taking specimens. (1) All horses from which specimens are to be drawn are to be



taken to the detention area at the prescribed time and remain there until released by the commission veterinarian. No person other than the owner, trainer, groom, or hot-walker, of a horse to be tested, and no lead pony, shall be admitted to the detention area without permission of the commission veterinarian.

(2) Stable equipment other than necessary for washing and cooling out a horse are prohibited in the detention area; buckets and water will be furnished by the commission veterinarian. If a body brace is to be used, it shall be supplied by the responsible trainer and administered only with the permission and in the presence of the commission veterinarian. A licensed veterinarian may attend a horse in the detention area only in the presence of the commission veterinarian.

(3) During the taking of specimens from a horse, the owner, or responsible trainer (who, in the case of a claimed horse shall be the person in whose name such horse raced), or a stable representative designated by such owner or trainer, shall be present and witness the taking of such specimen and so signify in writing.

(4) All containers previously used for specimens shall be thoroughly cleaned in the commission chemist laboratory and shall be sealed with the laboratory stamp which shall not be broken except in the presence of the witness as provided by subsection (3) of this section. [Only distilled water, with or without acetic acid, shall be used to moisten gauze used in collection of saliva.] Instruments and utensils used in the taking of samples shall be sterilized after each use.

(5) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a double identification tag. One (1) portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the witness as provided by subsection (3) of this section, the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portions of identification tags shall be placed in a sealed envelope by the commission veterinarian for delivery only to the stewards. The commission veterinarian shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identity of the horse from which a specimen was taken prior to the completion of all testing thereon.

(a) If after a horse remains a reasonable time in the detention area and a specimen may not be taken from such horse, the commission veterinarian may permit such horse to be returned to its barn and usual surroundings for the taking of a specimen under the supervision of the commission veterinarian.

[(b) With the consent of the trainer or attendant the commission veterinarian may administer to the horse a diuretic to facilitate urination. Quantity, identity and time of administration shall be noted on both portions of the specimen identification tag by the commission veterinarian.]

(b) [(c)] The commission veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause such specimens to be delivered only to the commission chemist as soon as possible after sealing, but in such order or in such manner as not to reveal the identity of any horse from which each sample was taken.

chemist shall be responsible for safeguarding and testing each specimen delivered to his laboratory by the commission veterinarian. Each specimen shall be divided into portions so that one (1) portion shall be used for initial testing for unknown substances, and another portion used for confirmation tests. If a sufficient quantity of the specimen is available, a third portion shall be preserved for further testing as the commission may direct.

(2) The commission chemist shall conduct individual tests on each specimen capable of screening same for prohibited substances, and such other tests as to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission veterinarian.

(3) Upon the finding of a test negative for prohibited substances, the remaining portions of such specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, such tests shall be reconfirmed, and the remaining portions, if available, of such specimen preserved and protected until such time as the stewards rule it may be discarded.

(4) The commission chemist shall submit to the state steward a written report as to each specimen tested, indicating thereon by specimen tag identification number, whether such a specimen was tested negative or positive for prohibited substances. [Such report shall be submitted within twenty-four (24) hours after the conclusion of the last race of the preceding day, dark days excluded.] The commission chemist shall report test findings to no person other than the state steward or his designated representative.

(a) In the event the commission chemist should find a specimen suspicious for a prohibited medication, he may request additional time for test analysis and confirmation.

(b) The racing association shall not make distribution of any purses until given clearance of chemical tests by the stewards.

(5) The commission chemist will make a further report to the state steward on any substance his tests showed, which are not normal in a horse. These reports shall be confidential and are not evidence for disciplinary action. They can be used as a warning to the trainer or veterinarian, by the stewards, by the commission veterinarian to improve his surveillance and by the Equine Research Program at the University of Kentucky. The residue of specimen material from such test will be preserved by the commission chemist until released by the racing commission.

(6) In reporting to the stewards a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of such professional opinion as to such positive finding.

EDNA-FRENCH LOOK JOHNSTONE, Secretary

ADOPTED: January 13, 1981

APPROVED:

H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 13, 1981 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Keene Daingerfield, Senior State Steward, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

Section 9. Procedure for testing. (1) The commission



**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings and Construction**  
**(Proposed Amendment)**

**815 KAR 7:010. Administration and enforcement.**

**RELATES TO: KRS Chapter 198B**

**PURSUANT TO: KRS 198B.040(7), 198B.050**

**NECESSITY AND FUNCTION:** The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for construction of all buildings in the state. This regulation establishes the administration and enforcement sections of the Kentucky Building Code.

**Section 1. Definitions used in Title 815, Chapter 7:**

(1) "Board of Housing" or "Board" means the Kentucky Board of Housing, Buildings and Construction.

(2) "Building" means any combination of materials, whether portable or fixed, which comprises a structure affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used herein as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products.

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

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

(5) "Industrialized building system" or "building system" means a structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at a building site in Kentucky. "Industrialized building system" includes: a building of any size or for any use all or any component part of which is of closed construction made from precast concrete panels, or precast wood sections fabricated to individual specifications in an off-site manufacturing facility and assembled in accordance with the manufacturer's instructions.

(6) "KBC" means the Kentucky Building Code as established in this chapter.

(7) "Major structural change" means alterations or repairs made within any period of twelve (12) months, costing in excess of fifty (50) percent of the physical value of the structure, as determined by a comparison of the BOCA chart of construction costs and the value of the structure as established by the tax records of the county in which the property is located.

(8) "Person" means a person, partnership, corporation or other legal entity.

(9) "Single family dwelling" means one (1) unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(10) "Trade or brand name house" means any single structure made of precast or prefabricated panels, sections or individual pieces that are sold or prefabricated under a name that identifies both the manufacturer and a particular type of structure he makes, and that are assembled on a permanent foundation by conventional homebuilding and electrical and plumbing installation techniques.

(11) "Fire official" means the chief of the fire department or of the fire prevention bureau, or if there is not a jurisdiction fire department or fire prevention bureau, such officer as shall be designated by the appointing authority of the jurisdiction, or his duly appointed representative, to enforce the provisions of KRS 227.300 and 815 KAR 10:020.

**Section 2. Scope:** This regulation shall supersede any and all other conflicting administration and enforcement provisions which may be incorporated by reference within the KBC.

(1) The KBC shall control all matters concerning the construction, alteration, addition, remodeling, use and occupancy classifications of all buildings in the state.

(2) Trade or brand name houses shall be constructed in accordance with the applicable provisions of the KBC.

(3) The provisions of the KBC relating to single family dwellings, that are not trade or brand name houses or industrialized building systems, shall be mandatory only after a local government, by ordinance, extends the application of the KBC to those units. However, the state plumbing code and the national electrical code shall be applicable to these units, whether or not the local government passes an ordinance. A local government may not enforce any building code other than the KBC on such units.

(4) Unless otherwise specifically provided within the KBC, all references to article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such article, section or provision of the KBC.

(5) Nothing in the KBC shall require historic buildings listed on the state or federal register to conform to new building requirements because of their restoration.

(6) The KBC shall be construed to secure its expressed intent which is to secure public safety, health and welfare insofar as they are affected by building construction quality, electrical systems, plumbing, energy, boiler safety, handicapped accessibility, life safety from hazards of fire and explosion and other disasters. It is the further expressed intent of this code to avoid duplicative plan review and inspection of new construction and to gather together in one (1) set of regulations all the requirements relating to the construction of buildings in the state to enable builders, owners and building officials to be adequately informed.

**Section 3. Applicability:** (1) The provisions of the KBC shall cover all matters affecting or relating to buildings, and structures, as set forth in Section 2 above.

(2) No person shall construct a building or structure, extend, repair, remove or alter in violation of these provisions, except for ordinary repairs as defined in Section 4, and except further that the raising, lowering or moving of a building or structure as a unit necessitated by a change in legal grade or widening of a street shall be permitted provided the building or structure is not otherwise altered or its use or occupancy changed.

(3) Any requirement essential for structural, fire or sanitary safety of a building essential for the safety of the occupants thereof, and which is not specifically covered by

this code, shall be determined by other regulations of the department or other applicable law.

(4) Any person who violates any provision of the article or any other provision of the Kentucky Building Code shall be subject to the penalties provided in Section 19.

**Section 4. Ordinary Repairs:** Ordinary repairs to structures may be made without application or notice to the building official; but such repairs shall not include the cutting away of any wall, partition or portion thereof, or the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement or relocation of any standpipe, water supply, sewer or drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or other work affecting public health and general safety.

**Section 5. Installation of Service Equipment:** When the installation, extension, alteration or repair of an elevator, moving stairway, mechanical equipment, refrigeration, air conditioning or ventilating apparatus, plumbing, gas piping, electrical wiring, heating system or other equipment is specifically controlled by the provisions of this code, it shall be unlawful to use such equipment until a certificate of approval has been issued therefor by the building official or other agency having jurisdiction.

**Section 6. Existing Structures:** (1) The legal use and occupancy of any structure existing on the effective day of this code or for which it had been heretofore approved, may be continued without change, except as may be specified in this regulation.

(2) Existing structures, when altered or repaired, as specified in this section, shall be made to conform with the requirements of the KBC for new structure, only to the extent provided herein.

(3) Alterations: All alterations, repairs, and additions except those "ordinary repairs" as defined in Section 4, shall be made in accordance with the terms of the KBC for new structure.

(4) Remodeling: Any major structural change, or a change to a more restrictive use group shall cause the entire building to be brought into conformity with the KBC requirements for new structures.

(5) Increase in size: If the building is increased in floor area or number of stories, the entire structure shall be made to conform with the requirements of the KBC in respect to life safety.

(6) Part change in use: If a portion of the structure is changed to a new more restrictive use group, and that portion is separated from the remainder of the structure with the required vertical and horizontal fire separation assemblies it shall be made to conform to the requirements for the new use and occupancy and the existing portion shall not be subjected to the requirements of the KBC relating to new structures.

**Section 7. Departments of Building Inspection:** (1) Each local government singularly or by association with other local governments shall employ a building official or inspector and other code enforcement personnel as necessary to enforce this code within its jurisdiction. The department shall be responsible for the enforcement of this code as it pertains to the buildings assigned by law to it.

(2) All building officials shall be appointed by the chief appointing authority for the respective jurisdictions and

shall meet the qualifications for the position which may be established by the appointing authority.

(3) Official records shall be kept of all business and activities of the various local building departments or state building departments specified in provisions of the KBC, and all such records shall be open to the public inspection at all appropriate times under the terms and conditions of KRS Chapter 61.

**Section 8. Duties and Powers of the Building Official:** The local governments shall designate the persons to be charged with the responsibility of enforcing the KBC within its community and it shall neither adopt nor enforce any ordinance regulating buildings which conflicts with the KBC. The local building official shall be responsible for the examination and approval of plans and specifications for the following buildings:

(1) All buildings classified as storage, residential, miscellaneous or temporary occupancies so long as they do not exceed three (3) stories in height or 20,000 square feet of floor area.

(2) All buildings classified as business or mercantile occupancies having a capacity which does not exceed 100 persons, including buildings used for assembly type purposes but having a capacity of less than fifty (50).

(3) All buildings classified as factory or industrial occupancies having a capacity which does not exceed 100 persons.

**Section 9. Duties and Powers of the Department.** (1) It shall be the responsibility of the department to review plans and specifications, issue permits and to determine compliance with the KBC for the following buildings:

(a) All buildings classified as assembly occupancies;

(b) All buildings classified as educational occupancies;

(c) All buildings classified as institutional occupancies;

(d) All buildings classified as business and mercantile occupancies having a capacity in excess of 100 persons;

(e) All buildings classified as industrial and factory occupancies having a capacity in excess of 100 persons;

(f) All frozen food locker plants;

(g) All buildings classified as high hazard occupancies;

(h) All other buildings containing in excess of three (3) stories or 20,000 square feet of floor area;

(i) All industrialized building systems regardless of occupancy classification.

(2) Any local government may petition to the department for additional plan review responsibility. Such petition shall include the evidence of the local governments capability to perform those functions, as required by regulations of the board. Denials of such petitions are appealable to the board.

(3) The appropriate official shall make all the required inspections, or he may accept reports of inspection by authoritative and recognized services or individuals; and all reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual.

(4) The building official or his authorized representative should carry proper credentials of his respective office for the purpose of inspecting buildings and premises and the performance of his duty under this code.

(5) The board shall have the powers as may be necessary in the interest of public safety, health and general welfare, to adopt and promulgate amendments to the code and other rules and regulations which are necessary to implement this code and by means of the appeals board pro-

cedures to issue interpretations which shall be binding upon the appellee and the building officials. The building official shall implement the provisions of this code to secure the intent thereof.

(6) In the absence of provisions not specifically contained in this code or approved rules and orders, the regulation, specifications and standards listed in Appendix B, "Accepted Engineering Practice," and Appendix C, "Accredited Materials Standards" of the 1978 Edition of BOCA, Inc., filed herein by reference, shall be deemed to represent accepted engineering practice with respect of materials, equipment, system or method construction therein specified, and shall therefore be acceptable.

Section 10. New Materials and Modifications: (1) It is the purpose of the KBC to set forth performance objections so as to facilitate new technologies, techniques and materials; therefore, alternate materials and equipment may be used provided such an alternative has been tested and listed by nationally recognized testing and research laboratories approved by the board.

(2) The building official may accept supporting data to assist him in his determinations: duly authenticated research reports from BOCA, Inc., or from other approved authenticated sources for all materials or assemblies proposed for use which are not specifically provided for in the KBC.

(3) Used materials, equipment and devices may be used provided they have been retested and placed in good and proper working condition and approved by the building official.

(4) When there are practical difficulties involved in carrying out structural or mechanical provisions of this code or of an approved rule, the building official having plan review responsibility may vary or modify such provision upon application of the owner or his representative only if the spirit and intent of the law shall be observed and equivalent safeguards provided. The application for modification and the final decision of the building official shall be in writing. When a modification is granted by a local building official, a copy of the application and the decision shall be forwarded to the department *and the local fire official*.

(5) The board may withdraw authority for plan review from a local building department where it finds, upon petition of the department, that the local inspection agency is not adequately performing any portion of its program and, thereafter, allow the department to preempt that portion of a local program.

Section 11. Inspections: (1) Before issuing a permit the appropriate building officials may examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit required by this code. No construction shall begin on buildings covered by this regulation until a local building official has issued a permit for such construction and an official representing the department has issued a permit (if it has plan review responsibility).

(2) After issuing a building permit for a building over which he has plan review responsibility the building official shall conduct inspections from time to time during and upon completion of work and he shall maintain a record of all such examinations and inspections and of all violations of the KBC.

(3) The building official may accept reports of approved inspection services which satisfy the requirements of the appropriate governmental entity.

(4) Inspections for KBC compliance of trade or brand name homes shall be the responsibility of the local building official.

(5) In-plant inspections in production and manufacturing facilities for industrialized building systems as well as on-site inspection shall be conducted by the department or its authorized agent pursuant to 815 KAR 7:020. The local building official shall be responsible to inspect such system only for location under applicable local ordinances.

(6) Upon completion of the building, the owner or agent of the facility shall request a final inspection; the building official shall set a time for said inspection and notify the owner or agent. If compliance with the approved plans and permit has been achieved, a certificate of occupancy shall be issued, as described in Section 17. If compliance has not been achieved, any violations shall be noted and immediately communicated to the owner or agent *and the fire official*.

(7) *The building official shall cooperate with the fire official by allowing the fire official to inspect all buildings during construction. Any recommendations made by the fire official relating to fire safety in construction of a building shall be considered by the building official and if a certificate of occupancy is issued contrary to said written recommendations the building official shall give written notification of his decision to the fire official and the department at once.*

Section 12. Right of Entry: Applicants for building permits shall be deemed to consent to inspection during construction and upon completion of construction for the purpose of determining that such building is constructed in compliance with the Kentucky Building Code, and the inspector may enter upon the premises during any reasonable hour.

Section 13. Application for Permit Required: (1) It shall be unlawful to construct, enlarge, or alter a structure; or change the type of occupancy of a building requiring greater strength, exiting or sanitary provisions; or to change to another use; or to install or alter any equipment for which provision is made or the installation of which is required by KBC, without first filing an application with the appropriate building officials in writing and obtaining the required permit therefor; except that ordinary repairs, as defined in Section 4, which do not involve any violation of KBC shall be exempt from this provision.

(2) The application for a permit shall be submitted in writing and in such form as the department may prescribe and shall be accompanied by the required fee.

(3) The application shall contain a general description of the proposed work, its location, the use and occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, and such additional information as may be required by the building official.

(4) Application for permit shall be made by the owner or lessee of the building or structure, or agent of either, or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(5) The application for the permit shall be accompanied by not less than two (2) copies of specifications and of plans drawn to scale, with sufficient clarity and detail dimensions to show the nature and character of the work to be performed. When quality of materials is essential for conformity to the KBC, specific information shall be given to establish such quality; and the KBC shall not be cited, or the term "legal" or its equivalent be used, as a substitute for specific information. The building official may waive the requirement for filing plans when the work involved is of a minor nature.

(6) Site plan: There shall also be a site plan showing to scale the size and location of all the new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey.

(7) Engineering details: The building official may require adequate details of structural, mechanical and electrical work including computations, stress diagrams and other essential technical data to be filed. All engineering plans and computations shall bear the signature of the responsible design professional. Plans for buildings more than two (2) stories in height shall indicate how required structural and fire resistance rating integrity will be maintained, and where a penetration will be made for electrical, mechanical, plumbing and communication conduits, pipes and systems.

(8) An application for permit for any proposed work should be deemed to have been abandoned six (6) months after date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that for reasonable cause, the building official may grant one (1) or more extensions of time for additional periods not exceeding ninety (90) days each.

(9) Subject to the limitations of Section 13, amendments to a plan, application or other records accompanying the same may be filed at any time before completion of the work for which the permit is sought or issued; and such amendments shall be deemed a part of the original application and shall be filed therewith.

(10) The building official may revoke a permit or approval issued under the KBC in case of any false statements or misrepresentation in the application or on the plans.

**Section 14. Permits Required:** (1) The building official shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, he shall reject such application in writing, stating the reasons therefor. If he finds that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, he shall issue a permit therefor as soon as practicable.

(2) Any permit issued shall become invalid if the authorized work is not commenced within one (1) year after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing the work.

(3) The KBC shall not require changes in the plans, construction or designated use of a building for which a lawful permit has been theretofore issued or otherwise lawfully authorized by approved plans, so long as the substantial construction on the project has commenced within one (1) year from the date the permit was issued.

(4) The building official shall attach his signature to

every permit, or he may authorize a subordinate to affix such signature thereto.

(5) The building official shall record and communicate to the owner or agent, the terms and conditions related to his approval to commence construction.

(6) The building official may issue a permit for the construction of foundations or any other part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. The holder of such permit for the foundations or other part of a building or structure shall proceed at his own risk with the building operation and without assurance that a permit for the entire structure will be granted.

(7) Approved plans: The building official shall stamp or endorse in writing both sets of corrected plans approved, and one (1) set of such approved plans shall be retained by him and the other set shall be available at the building site, open to inspection of the building official or his authorized representative at all reasonable times.

(8) A true copy of the building permit shall be available on the site of operation open to public inspection during the entire time of prosecution of the work and until the completion of the same.

**Section 15. Conditions of Permit.** (1) A permit shall not be issued until the fees prescribed by the department or the local government have been paid. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of the KBC, except as specifically stipulated by modification or legally granted variation as described in the permit.

(2) All work shall conform to the appropriate application and plans for which the permit has been issued and any approved amendments thereto and shall be located strictly in accordance with the approved plot plan and any local ordinances governing the location of the building.

(3) A lot shall not be changed, increased or diminished in area from that shown on the official plot site plan, unless a revised plan showing such changes accompanied by the necessary affidavit of owner or applicant shall have been filed and approved, except that such revised plan will not be required if the change is caused by reason of an official street opening, street widening or other public improvement.

**Section 16. Fees:** (1) A permit to begin work for new construction, alteration, removal, or other building operations shall not be issued until the fees prescribed by law shall have been paid to the department or local building department, nor shall an amendment to a permit necessitating an additional fee because of an increase in the estimated cost of the work involved be approved until the additional fee shall have been paid.

(2) The payment of the fee for construction, alteration, and for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of use and occupancy or other privileges or re-

quirements, both within and without the jurisdiction of building inspection.

(3) The fee for building permits and other functions performed pursuant to KRS Chapter 198B may be designed to fully cover the cost of the service performed; and the department and each local government is authorized to establish by approved rules or ordinances a schedule of unit rates for buildings and structures of all use groups and type of construction as classified and defined in the KBC.

**Section 17. Certificate of Use and Occupancy.** (1) No building on which site preparation and assembly were begun, after the Kentucky Building Code becomes effective as to that building, shall be occupied until the appropriate building official issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Kentucky Building Code, or assembled or installed in conformance with applicable instructions; except that:

(a) A building for which a permit was legally granted prior to the effective date of the KBC may be constructed and occupied under the provisions of relevant regulations in force at the time the permit was issued provided that substantial construction has commenced within one (1) year from the date the permit was issued.

(b) A building for which plans were prepared at least three (3) months prior to the effective date of the KBC and upon which construction was begun prior to the effective date of the KBC in a locality not then requiring a building permit may be completed and occupied without a building permit.

(2) A building or structure hereafter enlarged, extended or altered to change from one (1) use group to another or to a different use within the same use group, in whole or part, and a building or structure hereafter altered for which a certificate of use and occupancy has not been heretofore issued, shall not be occupied or used until the certificate shall have been issued by the building official, certifying that the work has been completed in accordance with the provisions of the approved permit; except that any use or occupancy, which was not discontinued during the work alteration, shall be discontinued within thirty (30) days after the completion of the alteration unless the required certificate is secured from the building official.

(3) After a change of use has been made in a building or structure, the reestablishment of a prior use that would not have been legal in a new building of the same type of construction is prohibited unless the building complies with all applicable provisions of this code. A change from one (1) prohibited use, for which a permit has been granted to another prohibited use shall be deemed a violation of this code.

(4) Upon the request of the holder of a permit, the building official may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be occupied safely prior to full completion of the building or structure without endangering life or public welfare.

(5) When a building or structure is entitled thereto, the building official shall issue a certificate of use and occupancy within ten (10) days after written application. The certificate shall certify compliance with the provisions of this code and the purpose for which the building may be used in its several parts. The certificate of use and occupancy shall specify the following information from the 1978 edition of the BOCA Basic Building Code: the use

group, in accordance with the provisions of Article 2; the fire grading as defined in Article 2 and Table 902; the maximum live load on all floors as prescribed in Article 7; the occupancy load in the building and all parts thereof as defined in Article 2 and Article 6; and any special stipulations and conditions of the building permit.

**Section 18. Posting Structures.** (1) Every building and structure and part thereof designed for business, factory and industrial, high hazard, mercantile, or storage use (use groups B, F, H, M, and S) as defined by the KBC shall be posted on all floors by the owner with a suitably designed placard in a form designated by the department, which shall be securely fastened to the structure in a readily visible place, stating: the use group, the fire grading, the live load and the occupancy load.

(2) Every room constituting a place of assembly shall have the occupancy load of the room posted in a conspicuous place, near the main exit from the room. Approved signs shall be maintained in a legible manner by the owner or his authorized agent. Signs shall be durable and shall indicate the number of occupants permitted for each room use.

(3) All posting signs shall be furnished by the owner and shall be of permanent design; they shall not be removed, or defaced and, if lost, removed or defaced, shall be immediately replaced.

**Section 19. Violations and Remedies.** (1) It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, use or occupy any building or structure or equipment regulated by the KBC, or cause same to be done, contrary to or in conflict with or in violation of any of the provisions of this code.

(2) The building official shall serve a notice of violation or order on the person responsible for erection, construction, alteration, extension, repair, removal, demolition, use or occupancy of a building or structure in violation of this code or in violation of a detail statement or a plan approval thereunder, or in violation of a permit or certificate issued under the provisions of this code; and such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

(3) If the notice of violation is not complied with promptly, the building official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or of the order or direction made pursuant thereto.

(4) Violation of penalties: Any person who shall violate a provision of the KBC or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or proper direction of the building official, or of a permit or certificate issued under the provisions of the KBC, shall be subject to such penalties as may be provided by KRS 198B.990 and other applicable law.

(5) Injunctive relief: The department or any local agency enforcing the uniform state building code may obtain injunctive relief from any court of competent jurisdiction to enjoin the offering for sale, delivery, use, occupancy or construction of any building on which construction was begun after the effective date of said code, upon an affidavit of the department or the local government agency specifying the manner in which the construction, or if a building existing prior to the effective date of said code,



the reconstruction, alteration, repair or conversion does not conform to the requirements of the KBC.

(6) No person shall hinder an inspector enforcing any of the provisions of this code in the performance of his lawful duties under this chapter.

Section 20. Notice to Owner: (1) Upon notice from the building official that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop-work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the conditions under which work may be resumed.

(2) Unlawful continuance: Any person who shall continue any work in or about the structure after having been served with a stop-work order, except such work as he is directed to perform to remove a violation or unsafe conditions, shall be liable to the restraints provided in Section 19.

Section 21. Authority for Existing Buildings. (1) Upon the issuance of a final approval of a facility and the issuance of a lawful certificate of occupancy with respect to a particular facility, the building official's authority and responsibility as to that facility is ended so far as the KBC is concerned, unless the facility later becomes subjected to the KBC by virtue of Section 6.

(2) Other local or state law must be consulted to determine the existence of other powers given to the building official, such as those related to demolition or authority over unsafe structures, which are not specifically awarded him or her in the KBC.

(3) The State Fire Marshal's Office and the local fire official designated by the local government shall continue to be the persons responsible for enforcement of the standards of safety for existing buildings and shall also inspect for fire safety maintenance after a building has been given a final certificate by the building official, under KRS Chapter 227, and 815 KAR 10:015.

Section 22. Local Board of Appeals. (1) The mayor, chairman of the board of trustees, or county judge executive of a local government which is enforcing the Kentucky Building Code, may, upon approval of the local legislative body, appoint a local appeals board, consisting of at least three (3) technically qualified persons with professional experience related to the building industry, to hear appeals of the decisions of the local building official.

(2) Local governments which are enforcing the Kentucky Building Code may cooperate with each other and provide a local appeals board and shall adhere to the provision of KRS Chapter 65 when entering into such cooperative agreements.

(3) No local building official or employee of a local inspection department may sit on a local appeals board if such board is hearing an appeal to a decision rendered by his department. No member of a local appeals board shall hear an appeal in a case in which he has financial interest.

(4) Any party to a decision by the local building official may appeal that decision to the local appeals board. Upon receipt of an appeal from a qualified party, the local appeals board shall convene a hearing to consider the appeal within fifteen (15) days of receipt.

(5) All parties to the appeal shall be notified of the time

and place of the hearing by letter mailed by registered mail no later than ten (10) days prior to the date of the hearing.

(6) The local appeals board shall render a decision within five (5) working days after the hearing. The board may uphold, amend or reverse the decision of a local building official, and there shall be no appeal from the decision of the local appeals board other than by appeal to the board.

Section 23. Appeals Procedures. (1) Where a local appeals board exists, a party *including the local fire official* must first appeal to the local board when aggrieved by a decision of the local building official.

(2) A party aggrieved by a decision of a local building official where no local appeals board exists may appeal directly to the board. The board shall further hear appeals directly from a party aggrieved by the decision of an agent of the department *or the State Fire Marshal*.

(3) Application for appeal may be made when it is claimed in writing that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better form of construction can be used, or that the building official has refused to grant a modification to the provisions of this code covering the manner of construction of materials to be used in the erection, alteration or repair of a building or structure.

(4) The board may appoint five (5) or more of its members, excluding the chairman of the board, to consider the recommendations of the commissioner or to conduct hearings, and those appointed shall act in all matters concerning the appeal for the entire board.

(5) The board may adopt such rules, regulations and by-laws as are necessary to conduct said appeals; and no member of the board or committee may vote on any matter which will result in his direct or indirect financial gain.

(6) Appeals to the board shall be in writing and shall be addressed to the Commissioner of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601; Attention: Appeals Board. Such appeals shall include citations of those provisions of the Kentucky Building Code which are at issue, an explanation as stated in subsection (3) of why the decision of the state building official or local building official relative to those provisions is being contested and a copy of the decision rendered by the local appeals board, if any.

(7) The commissioner shall immediately notify the board when an appeal is received. The commissioner or a designated employee of the department shall then investigate the evidence pertaining to such an appeal, based upon the results of such investigation, make recommendations to the board or committee on the disposition of the case in question.

(8) No employee of the department shall investigate or make recommendation on an appeal to his own decision, but shall defer in such cases to employees who are not party to the decision which lead to the appeals.

(9) In conducting such investigation, the commissioner or the designated representatives, acting for the department shall have the authority to administer oaths and affirmations, issue subpoenas authorized by law, rule upon offers of proof and receive relevant evidence, take or cause disposition to be taken, regulate the course of any hearings they may schedule, and hold conferences for the settlement or simplification of the issue by consent of the parties.

(10) The commissioner shall cause such investigation to be completed and forwarded with written recommenda-



tions to the board within thirty (30) days after receiving such an appeal.

Section 24. Action of the Board. (1) Upon receiving the written recommendations of the commissioner, the board may decide to accept such recommendations, or it may decide to convene a hearing to consider the question further. Upon receipt of the recommendations of the commissioner, the board shall render a decision on each appeal at its regularly scheduled meeting but no later than thirty (30) days after receipt of such recommendations.

(2) If the board has authorized an appeals committee to hear an appeal, the committee shall act for the board in all matters related to the appeal.

(3) Should the board's decision be to schedule a hearing on the appeal, such hearing shall occur within thirty (30) days of such decision, and all parties to such hearing shall be immediately notified in writing of the time and place of such hearing by the commissioner. The board may further exercise the same powers of investigation as granted to the commissioner in Section 23. The board shall render a decision within ten (10) days of any appeals hearing it may conduct.

(4) The board may uphold, amend or reverse the decision of a local appeals board, a local building official or the state building official; and the decision of the board or the appeals committee shall be final.

(5) The chairman of the board shall notify the appropriate building official and he or she shall take immediate action in accordance with the decision of the board.

(6) There shall be no appeal from the board's decision except to the circuit court within whose jurisdiction the property in question is located. Application for review shall be made to the proper court within thirty (30) days following that decision.

#### Section 25. Construction Control and Responsibilities:

(1) The provisions of this section shall define the responsibility of the building official in relation to design professionals and the circumstances under which the department or the local building official shall be authorized to accept design professionals affirmation in their plans and specifications as to compliance with various provisions of this code.

(2) All new, alteration, repair, expansion, addition or modification work involving the practice of professional architecture and engineering as defined by KRS Chapters 322 and 323 shall be prepared by registered professional architects or engineers as certified by the state; and all plans, computations and specifications required for a building permit application for such work must be prepared by or under the direct supervision of the registered architect or engineer and bear his seal and signature in accordance with those statutes.

Section 26. Validity. (1) In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

(2) Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

(3) The invalidity of any provision in any section of the

KBC as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

Section 27. Effective Dates for KBC Application. (1) Any building required by Section 9(1) to be submitted to the Department of Housing, Buildings and Construction and which has not been submitted and accepted for construction prior to February 15, 1980, must be constructed in compliance with the applicable provisions of the KBC.

(2) Any building required by Section 8 to be submitted to a local government for plan review and which has not been lawfully approved for construction prior to the following timetables shall be constructed in compliance with the applicable provisions of the KBC:

(a) In all local governments in a county containing a first or second class city or urban county government, no later than February 15, 1980.

(b) In all local governments in a county where the largest city is of the third or fourth class, no later than August 15, 1981.

(c) In all local governments in a county containing no city larger than fifth or sixth class, no later than August 15, 1982.

(3) Any local government may adopt the KBC voluntarily before the mandatory date stated in subsection (2) of this section.

Section 28. Whenever the department has entered into a contractual obligation requiring enforcement of applicable federally approved codes, the department shall approve plans and make inspections; using those federal codes as an alternative to other applicable provisions of the KBC, so long as equivalent safety is maintained.

Section 29. Day Care Centers. Family child day care homes, group day care homes and child day care centers which comply with the provisions of the Life Safety Code, N.F.P.A. Pamphlet #101, shall be deemed to have satisfied all the life safety requirements of the Kentucky Building Code.

JOHN R. GROVES, JR., Commissioner

ADOPTED: February 13, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Judith G. Walden, Office of General Counsel,  
Department of Housing, Buildings and Construction, U.S.  
127 South, Frankfort, Kentucky 40601.

#### PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings and Construction (Proposed Amendment)

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by

KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1981 [1978] Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts 02210. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA Basic Building Code/1978," Seventh Edition, published by and copies available from Building Officials and Code Administrators International, 17926 South Halsted Street, Homewood, Illinois 60430. That code, including all standards listed in Appendices A through N are hereby adopted by reference with the following additions, exceptions and deletions:

(1) Delete Article 1 in its entirety.

(2) Change subsection 201.3 to include the following additional definitions:

(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."

(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."

(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."

(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."

(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."

(f) "Stabilization: The process of applying measures designed to re-establish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."

(3) Change subsection 201.3 definitions to read as follows:

(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation."

(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 209.5 to read as follows: "209.5 groups R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One- and Two-Family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 7) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission."

(5) Change subsection 304.1.1 to read as follows: "304.1.1 Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Section 6 of 815 KAR 7:010 provided an unlawful change of use is not involved."

(6) Delete Sections 315.1 through 315.11 and substitute the following: "315.1 Requirements for accessibility of the handicapped: Please see 815 KAR 40:010 for construction requirements providing accessibility to the handicapped in public buildings and public accommodations."

(7) Change subsection 316.1 to read as follows: "316.1 Approval: The provisions of this code relating to the reconstruction, restoration, stabilization, rehabilitation, and moving of buildings or structures shall not be mandatory for existing buildings or structures, identified and classified on the National Register of Historic Places or otherwise classified as historic by the Kentucky Heritage Commission or the department when such buildings or structures are judged by the department to be safe and in the public interest of health, safety and welfare. The department may require submission of architectural and engineering plans and specifications prior to a determination."

(8) Change subsection 403.2 to read as follows: "403.2 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire officials to insure maintenance of good housekeeping conditions."

(9) Change Section 413.1 to read as follows: "Private garages located beneath a one- and two-family dwelling shall have walls, partitions, floors and ceilings separating the garage space from the dwelling constructed of not less than one (1) hour fire resistance rating. Private garages attached to a one- and two-family dwelling shall be completely separated from the dwelling and its attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side. In lieu of the required one and three quarter (1 3/4) inch solid core door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic smoke detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 505 and Section 604 in their entirety.

(11) Change Section 700.0 by creating a new subsection which shall read as follows: "700.2 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 904.3.2, 904.3.3, 904.3.4 in their entirety.

(13) Change subsection 1100.2 to read as follows: "1100.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and

inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two new subsections to Section 1100.0 which shall read as follows:

(a) "1100.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1977 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "1100.4 Mechanical Code: All mechanical equipment and systems not covered by 1100.2 or 1100.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix B, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1978 including all applicable standards listed within Appendices B through E."

(15) Delete Article Fourteen (14) in its entirety.

(16) Delete subsections 1500.1 through 1506.5 and substitute the following:

(a) "1500.1 Installations and Repairs. All electrical wiring and equipment shall be installed in conformity with the National Electrical Code incorporated by reference in the Kentucky Building Code.

(b) "1500.2 Electrical Inspections. Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:010.

(c) "1500.3 Certificate of Approval:"

1. After the Kentucky Building Code becomes effective pursuant to KRS 198B.110 and after a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government.

2. Nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(d) "Section 1500.4 Temporary use and Permission: The building official may in his discretion give temporary permission for a reasonable time to supply and use current in part of an electrical installation before such installation has been fully completed and the final certificate of approval has been issued; provided, that the part covered by the temporary certificate complies with all the requirements specified for lighting, heat or power in the National Electrical Code."

(17) Delete subsections 1700.1 through 1705.43 in their entirety and substitute the following: "1700.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

*Section 3. Elevator Installation and Maintenance. The following subsections of Article 16 of the Kentucky Building Code shall be changed to read:*

(1) "1601.3 Identification of equipment: In buildings containing more than one (1) elevator or device and where such devices are subject to annual inspections, each such elevator or device shall be identified by a serial number attached to or painted, stenciled or otherwise registered on

the crosshead of the elevator car and on the motor or machine; and on devices other than elevators on the motor or machine. After such devices have been so designated, their numbers shall not be changed except by permission of the building official and all correspondence in regard to such device shall refer to said number."

(2) "1602.4.1 Annual inspections. Annual inspections shall hereinafter be made for all passenger elevators, manlifts and moving stairways."

(3) "1603.2 Final certificate of compliance: The building official shall issue a final certificate of compliance for each unit of equipment which has satisfactorily met all the inspections and tests required by this article. Such final certificate shall bear the name of the person who made the inspections, the date of the inspections, the rated load and speed, and the signature of the chief elevator inspector and the Commissioner of Housing, Buildings and Construction."

*Section 4. Elevators. Appendix B, on page 483 of the Kentucky Building Code under "Elevators, Escalators and Moving Walks," shall be changed to read as follows:*

(1) Change the standard citation for "Practice for the Inspection of" by deleting "ANSI A17.2-73" and substituting "ANSI A17.2-1979 and 1980 Supplement ANSI A17.2a-1980."

(2) Delete all citations relating to the "Safety Code for" and substitute as follows:

(a) "ANSI 17.1.1978."

(b) "1979 Supplement—ANSI A17.1-1979."

(c) "1980 Supplement—ANSI A17.1-1980."

*Section 5. Fire Ducts. A new subsection of Article 9 of the Kentucky Building Code is hereby added to read as follows: "912.1" Exception: "In R-2 occupancy buildings, non-combustible ducts not exceeding thirty-five (35) square inches each shall be permitted to penetrate up to three (3) floors without the use of fire dampers. These ducts shall not serve more than any one (1) unit and shall not join except above the top level for the purpose of utilizing a single roof penetration. These ducts shall be restricted to the following uses: Provide exhaust for kitchen and bathrooms and combustion supply and relief and flue for gas heating equipment."*

*Section 6. A new subsection of Article 2 of the Kentucky Building Code is hereby added to read as follows: "210.5 Tobacco auction warehouses: Warehouses, construction, may be constructed without a sprinkler system when all the following requirements have been met:*

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of non-combustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1217.0 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained

*between the warehouse and the lot line and the warehouse and the nearest building."*

JOHN R. GROVES, JR., Commissioner

ADOPTED: February 13, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 13, 1981 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Judith G. Walden, Office of General Counsel,  
Department of Housing, Buildings and Construction. U.S.  
127 South, Frankfort, Kentucky 40601.

**PUBLIC PROTECTION AND REGULATION CABINET**  
**Department of Housing, Buildings and Construction**  
**(Proposed Amendment)**

**815 KAR 25:020. Recreational vehicles.**

RELATES TO: KRS 227.570

PURSUANT TO: KRS 13.082, 227.590

NECESSITY AND FUNCTION: KRS 227.590 requires the Recreational Vehicle Certification and Licensure Board to establish rules and regulations governing the standards for manufacture, sale, and alteration of recreational vehicles. These regulations are intended to assure safety for owners and occupiers of recreational vehicles.

Section 1. Authorization: (1) These rules are authorized by KRS 227.590 and established pursuant to the rule making procedures set forth in KRS Chapter 13, in order to implement, interpret, and carry out the provisions of Laws of 1974 as amended in 1976, KRS Chapter 227, relating to mobile homes and recreational vehicles. In the event that these regulations conflict with the codes promulgated by the National Fire Protection Association NFPA 501(C), the codes shall govern in all cases.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations, the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice acquired by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation, or modification, amendment or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

Section 2. Enforcement: Subject to the provisions of applicable law, the Office of the State Fire Marshall shall administer and enforce all the provisions of the Mobile Home and Recreational Vehicle Act. Any officer, agent, or employee of the State Fire Marshal's Office is authorized to enter any premises in order to inspect any recreational vehicle for which the office has issued a seal of approval, or to inspect such recreational vehicle's equipment and/or

its installations to insure compliance with the Act, the code, and these regulations. Upon complaint and request, a privately owned recreational vehicle bearing a seal may be entered to determine compliance with these regulations. When it becomes necessary to determine compliance, he may require that a portion or portions of such recreational vehicles be removed or exposed in order that a compliance inspection can be made.

Section 3. Definitions: In addition to the definitions contained herein, the definitions of NFPA 501(C) by the National Fire Protection Association shall apply:

(1) Act: The Mobile Home and Recreational Vehicle Act, KRS 227.550 to 227.660.

(2) Agency, testing: An outside organization which is:

(a) Primarily interested in testing and evaluating equipment and installations;

(b) Qualified and equipped for, or to observe experimental testing to approved standards;

(c) Not under the jurisdiction or control of any manufacturer or supplier of any industry;

(d) Makes available a published report in which the specific information is included stating that the equipment and installations listed or labeled have been tested and found safe for use in a specific manner; and

(e) Approved by the board.

(3) Alteration or conversion: The replacement, addition, modification, or removal of any equipment or installations which may effect the plumbing, heat-producing, electrical, and fire and life safety systems or the functioning thereof of recreational vehicles subject to these rules is an alteration or conversion unless excluded by these rules. The above equipment must be installed in accordance with manufacturer's specifications.

(4) Board: Recreational Vehicle Certification and Licensure Board.

(5) Certificate of acceptability: The certificate provided to the manufacturer signifying the manufacturer's ability to manufacture, import, or sell recreational vehicles within the state.

(6) Class "A" seal: A device or insignia issued by the office to indicate compliance with the standards, established by the office or rules and regulations established by the board for recreational vehicles manufactured after the effective date of the Act.

(7) Class "B" seal: A device or insignia issued by the office to indicate compliance with the standards established by the office, rules and regulations established by the board for used recreational vehicles without a class "A" seal, or for new recreational vehicles manufactured prior to the effective date of the Act.

(8) Dealer: Any person, other than a manufacturer, as defined herein, who sells or offers for sale three (3) or more recreational vehicles in any consecutive twelve (12) month period.

(9) Established place of business: A fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a recreational vehicle dealer, which shall include the books, records, files, and equipment necessary to properly conduct such business or building having sufficient space therein to properly show and display the recreational vehicles being sold and in which the functional duties of a recreational vehicle dealer may be performed. The place of business shall not consist of residence, tent, temporary

stand, or open lot. It shall display a suitable sign identifying the dealer and his business.

(10) Hard surfaced lot: An area open to the public during business hours with a surface of concrete, asphalt/macadam, compacted gravel and/or stone, or other material of similar characteristics.

(11) Manufacturer: Any person who manufactures recreational vehicles and sells to dealers.

(12) NFPA 501(C): That section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for recreational vehicles.

(13) Office: The Office of the State Fire Marshal.

(14) Person: This means a person, partnership, corporation or other legal entity.

(15) Recreational vehicle: For purposes of the scope of the Act and regulations, this is a vehicular type unit designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(16) Suitable sign: A sign with the dealership name and type of dealership in letters of a minimum height of six (6) inches and a minimum width of one and one-half (1 1/2) inches.

Section 4. Scope and Purpose of the Act and Regulations: (1) Except to the extent otherwise stated in the Act and these regulations and in other laws of the Commonwealth which are not inconsistent with or superseded by the Act and these regulations, these regulations govern the design, manufacture, storage, and sale of recreational vehicles which are manufactured, sold, leased, or transported for use within or outside of the Commonwealth. These regulations apply to recreational vehicles manufactured in manufacturing facilities located within or outside the Commonwealth. Recreational vehicles brought into this state for exhibition use only and which will not be sold in this state may be excluded from the coverage of this Act and regulations if inspections reveal no condition hazardous to health or safety.

(2) The legislature has enacted the Mobile Home and Recreational Vehicle Act to protect the health and safety of the owner, occupiers, and all other persons from malmanufactured recreational vehicles. The office has been given the authority to carry out the purpose of the Act. The Act sets out the minimum standards for design and manufacture. Dealers are encouraged to maintain ethical business standards beyond non-fraudulent minimums.

Section 5. Standards for Vehicles in Manufacturers' or Dealers' Possession: (1) The office shall enforce such standards and requirements for the installation of plumbing, heating, electrical, and fire and life safety systems in recreational vehicles as it determines are reasonably necessary to protect the health and safety of the occupants and the public.

(2) On all recreational vehicles manufactured for sale within the Commonwealth of Kentucky, said standards shall be NFPA 501(C), 1977 edition, herein adopted by reference.

(3) On all used recreational vehicles without a seal or any recreational vehicle manufactured prior to July 15, 1975, said standards shall be that the dealer shall certify that the electric, heating, plumbing, and fire and life safety systems have been checked, and repaired if necessary, and found to be in safe working condition and thus be in conformity

with the intent of the Act to protect the health and safety of the occupants and general public.

(4) All recreational vehicles taken in trade must be reinspected and certified. The existing class "A" or class "B" seal may be removed or a new seal may be applied over the existing seal. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public.

(5) All new recreational vehicles purchased outside the Commonwealth of Kentucky not bearing a class "A" seal of approval and all used recreational vehicles purchased outside the Commonwealth of Kentucky, regardless of the type seal affixed, shall be delivered to a certified Kentucky dealer for inspection according to the following criteria:

(a) Inspection of the plumbing and waste systems;

(b) Inspection of the heating unit to determine adequacy of the system;

(c) Inspection of the electrical systems including the main circuit box and all outlets/switches to detect any damaged coverings, lost screws, or improper installations;

(d) Inspection of fire/life safety (fire extinguishers and second means of egress).

(6) Any licensed Kentucky recreational vehicle dealer that maintains the capability to perform minor maintenance of plumbing, heating, and electrical systems of recreational vehicles shall be permitted to inspect and certify those recreational vehicles purchased in another state for use within the Commonwealth of Kentucky. Any dealer desiring to perform this service shall make application to the Department of Housing, Buildings and Construction, State Fire Marshal's Office for appropriate certification.

(7) Any unit found to be in non-compliance with the requirements of Section 5(5) of this regulation shall be corrected prior to the dealer certifying the unit. All units requiring repairs or corrections prior to unit certification shall be reported to the office specifying the repairs required to correct the deficiencies. Appropriate reporting forms shall be made available to qualified dealers performing inspection.

(8) The fee for the inspection of recreational vehicles shall be *twenty dollars (\$20)* [fifteen dollars (\$15)] per hour plus mileage as required and a *twenty-five dollar (\$25)* [twenty dollar (\$20)] seal fee.

Section 6. Applicability and Interpretation of Code and Regulation Provisions: (1) Any questions regarding the applicability or interpretation of any provisions of code or regulation adopted shall be submitted in writing by any interested person to the office for resolution. It is the policy of the office that with respect to questions regarding NFPA 501(C), any such questions shall whenever feasible be submitted to the NFPA in accordance with the established procedures of the organization. The decision of the office shall be in writing.

Section 7. Certificate of Acceptability: (1) No manufacturer may manufacture, import, or sell any recreational vehicle in this state after the effective date of this Act, unless he has procured a certificate of acceptability from the board. Compliance shall be enforced through KRS 227.992. Recreational vehicles manufactured in this state and designed for delivery to and for sale in a state that has a code that is inconsistent with NFPA 501(C) need not comply with this provision.

(2) Requirements for issuance:

(a) The manufacturer must submit and the office must approve in-plant quality control systems;



(b) An affidavit certifying compliance with the applicable standards must be attached to the application;

(c) A \$400 fee must accompany the application. The fee shall be paid by check or money order and shall be made payable to: Kentucky State Treasurer; [Said fee shall be prorated on a calendar year basis if it is a new license;]

(d) The manufacturer must furnish and maintain with the office proof of general liability insurance to include lot and completed operations insurance in the minimum amount of \$100,000 bodily injury or death for each person, \$300,000 bodily injury or death for each accident, and \$50,000 property damage.

(3) To obtain in-plant quality control approval, a manufacturer shall submit a system for in-plant control pursuant to paragraph (b) of this subsection and submit to inspection by the office for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain the following:

(a) A certified copy of the plans and specifications of a model or model-group for electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half inches by eleven inches (8½" x 11") and the maximum possible size of which is twenty-four inches by thirty inches (24" x 30"). The manufacturer shall certify that the aforementioned systems comply with NFPA 501(C).

(b) Also a copy of the procedure which will direct the manufacturer to construct recreational vehicles in accordance with the plans, specifying:

1. Scope and purpose.
2. Receiving and inspection procedure for basic materials.
3. Material storage and stock rotation procedure.
4. Types and frequency of product inspection.
5. Sample of inspection control form used.
6. Responsibility for quality control programs, indicating personnel, their assignments, experience and qualifications.
7. Test equipment.
8. Control of drawings and material specifications.
9. Test procedures.

(4) A unit certification format certifying compliance with the Act and regulations shall be submitted to the office no later than the end of the first week of each month. The unit certification format shall contain the information in the format of Appendix A.

(5) No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

(6) If the manufacturer is also a dealer, he must also comply with dealer licensing provisions.

(7) Should the applicant not conform with these regulations, the applicant shall be so notified in writing by the office within ten (10) working days of the date received. Should the applicant fail to submit a corrected application in accordance with the information supplied on the application correction notice, the application will be deemed abandoned and twenty percent (20%) of fees due will be forfeited to the office. Any additional submission shall be processed as new application.

(8) Manufacturers shall notify the office in writing within thirty (30) days of any of the following occurrences:

- (a) The corporate name is changed;
- (b) The main address of the company is changed;
- (c) There is a change in twenty-five percent (25%) or more of the ownership interest of the company within a twelve (12) month period;

(d) The location of any manufacturing facility is changed;

(e) A new manufacturing facility is established; or

(f) There are changes in the principal officers of the firm.

(9) Any information relating to building systems or in-plant quality control systems which the manufacturer considers proprietary shall be so designated by him at the time of its submission, and shall be so held by the office, and by the inspection, evaluation, and local enforcement agencies unless the board determines in each case that disclosure is necessary to carry out the purposes of the Act.

(10) The office may determine that the standards for recreational vehicles established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to NFPA 501(C)). If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such recreational vehicles.

(11) A certificate of acceptability may be denied, suspended, or revoked on the following grounds:

- (a) Evidence of insolvency;
- (b) Material misstatement in application for certificate of acceptability;
- (c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;
- (d) Willfully defrauding any buyer;
- (e) Willful failure to perform any written agreement with any buyer or dealer;
- (f) Failure to furnish or maintain the required liability insurance;
- (g) A fraudulent sale, transaction, or repossession;
- (h) Violation of any law relating to the sale or financing of recreational vehicles.

(12) If a certificate holder is a firm or corporation, it shall be sufficient cause for denial, suspension, or revocation of a certificate that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a certificate to such party as an individual. Each certificate holder shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within the scope of his authority.

(13) Procedure for denial, revocation or suspension:

(a) The office may deny the application for a certificate of acceptability by written notice to the applicant, stating the grounds for such denial.

(b) No certificate of acceptability shall be suspended or revoked by the office except after a hearing thereon. The office shall give the certificate holder at least thirty (30) days notice of the time and place of the hearing and of the charges to be heard.

(c) Any manufacturer who violates or fails to comply with this Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within twenty (20) [sixty (60)] days. Should the manufacturer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any certificate of acceptability if it finds that:

1. The manufacturer has failed to pay the fees authorized by the Act;
2. The manufacturer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully



made pursuant to and within the authority of that Act; or that

3. The manufacturer has shipped or imported into this state a recreational vehicle to any person other than to a duly licensed dealer.

(14) Any person aggrieved by any ruling of the office denying a certificate of acceptability within fifteen (15) days after any such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that [n] any applicant is not qualified to receive a certificate of acceptability, no certificate shall be granted. If the board shall determine that the certificate holder was willfully or through gross negligence has been guilty of a violation of any of the provisions of the Act, his certificate may be suspended or revoked.

(15) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS 281.780 and 281.785.

(16) Under proceedings for the suspension of a certificate of acceptability for any of the violations enumerated in the Act, the holder of a certificate of acceptability may have the alternative subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day.

**Section 8. Serial Numbers, Model Numbers, Date Manufactured:** A clearly designated serial number, model number, and date manufactured shall be stamped into the tongue, or front cross member of the frame at the lower left hand side (while facing the unit), and if there is no such tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

**Section 9. Dealer License:** (1) No dealer of recreational vehicles shall engage in business as such in this state without a license issued by the office upon application.

(2) Application must contain the following information:

(a) Name and address of the chief managing officer;

(b) Location of each and every established place of business;

(c) Social security number and date of birth of chief managing officer;

[(d) Previous year's units sold, new and used;]

(d) [(e)] Affidavit certifying compliance with the Act and regulations;

(e) [(f)] Names of officers if dealership in corporate form;

(f) [(g)] Names of partners if dealership in partnership form; and

(g) [(h)] Any other information the office deems commensurate with safeguarding of the public interest in the locality of the proposed business.

(3) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(4) The license fee shall be fifty dollars (\$50). The fee shall be paid by check or money order and shall be made payable to Kentucky State Treasurer.

(5) The license must be conspicuously displayed at the established place of business. In case such location be changed, the office shall endorse the change of location on

the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(6) The dealer must furnish and maintain with the office proof of liability insurance in the minimum amount of \$50,000 bodily injury or death for each person, \$100,000 bodily injury or death for each accident, and \$25,000 property damage.

(7) Periodic reports:

(a) A unit compliance format certifying compliance with the Act and regulations shall be submitted to the *field inspector on a monthly basis for "all" units sold* [office no later than the end of the first week of each month]. The unit certification format shall contain the information in Appendix B.

(b) Notification of a change in the application information must be made within thirty (30) days of any of the following occurrences:

1. Dealership name is changed;

2. Established place of business is changed;

3. There is a change in twenty-five percent (25%) or more of the ownership interest of the dealership within a twelve (12) month period; or

4. There are changes in the principal officers of the firm.

(8) A license may be denied, suspended or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application;

(c) Willful failure to comply with any provision of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willful failure to perform any written agreement with the buyer;

(e) Willfully defrauding any buyer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required liability insurance;

(h) Making a fraudulent sale, transaction or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure of a dealer to put the title to a recreational vehicle in his name after said dealer has acquired ownership of the recreational vehicle by trade or otherwise; or

(k) Violation of any law relating to the sale or financing of recreational vehicles.

(9) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act of omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within this scope of his authority.

(10) Upon proceedings for the suspension of a license for any of the violations enumerated in the Act, the licensee may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars (\$50) per day.

(11) Procedure for denial, revocation, or suspension:

(a) The office may deny the application for a license

within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(b) No license shall be suspended or revoked by the office except after a hearing thereon. The office shall give the licensee at least thirty (30) days notice of the time and place of hearing and of the charges to be heard.

(c) Any dealer who violates or fails to comply with the Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation, and instructed to correct the violation within twenty (20) [sixty (60)] days. Should the dealer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any license if it finds that:

1. The dealer has failed to pay the fees authorized by the Act; or that

2. The dealer either knowingly or without the exercise of due care to prevent the same, has violated any provision of the Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

(12) Any person aggrieved by any ruling of the office denying, suspending or revoking a license, within fifteen (15) days after such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine that the licensee has willfully or through gross negligence been guilty of a violation of any of the provisions of the Act, his license may be suspended or revoked.

(13) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

Section 10. Temporary Licenses. (1) Any dealer other than one duly licensed in Kentucky, wishing to show and offer recreational vehicles within the Commonwealth of Kentucky for the express purpose of retailing said units to the general public, shall be required to purchase from the Office of the State Fire Marshal a temporary license. Said license shall not exceed fifteen (15) days duration and the license fee shall be fifteen dollars (\$15) [twelve dollars and fifty cents (\$12.50)] for each authorized event.

(2) Applicant shall meet the following requirements before a temporary license is granted:

(a) Be a duly licensed dealer in a state other than Kentucky;

(b) Must furnish to the office proof of liability insurance in the minimum amount of \$50,000 bodily injury or death for each person, \$100,000 bodily injury or death for each accident, and \$25,000 property damage;

(c) Provide satisfactory assurance to the office by way of a physical inspection by an authorized representative of the office, that each new unit the dealer displays, shows or offers for sale, bears a Kentucky class "A" seal of approval. Used units are not permitted to be displayed, shown or offered for sale within the Commonwealth of Kentucky by non-resident dealers; [that all new units sold to Kentucky consumers bear the Kentucky class "A" seal affixed on the unit by the manufacturer;]

(d) Provide all other information as may be required by the office.

(3) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business.

(4) Temporary licenses shall not be required for those dealers attending a recreational vehicle show within the

Commonwealth of Kentucky provided they do not sell or offer for sale to the general public recreational vehicles.

Section 11. (1) No manufacturer who has received a certificate of acceptability from the office shall sell or offer for sale to Kentucky dealers in this state recreational vehicles unless they bear a class "A" seal of approval issued by and purchased from the office. The provision shall not apply to vehicles sold or offered for sale for shipment out of state.

(2) No dealer who has received a license from the office shall sell a recreational vehicle unless it has a seal. Any dealer who has acquired a used recreational vehicle without a seal [or a recreational vehicle manufactured prior to July 15, 1975,] shall apply to the office for a class "B" seal by submitting an affidavit certifying either that all electrical, heating, plumbing, and fire and life safety equipment has been checked, and if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(a) Acquisition of seals:

1. Any manufacturer, except one altering a new recreational vehicle bearing a seal, may qualify for acquisition of a class "A" seal by obtaining a certificate of acceptability pursuant to KRS 227.580 and Section 7 of this regulation.

2. Any dealer, except one altering a recreational vehicle bearing a seal, may qualify for acquisition for a class "B" seal by giving an affidavit certifying either that all electrical, heating, plumbing, and fire and life safety equipment has been checked, if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(b) Application for seals:

1. Any person who has met the applicable requirements of Section 7 or Section 9 of this regulation shall apply for seals in the form prescribed by the office. The application shall be accompanied by the seal fee of twenty dollars (\$20) for each class "A" seal or twenty dollars (\$20) for each class "B" seal.

2. If the applicant has qualified to apply for seals pursuant to the in-plant quality control approval method, the seal application shall include the certificate of acceptability number.

(c) Alteration or conversion of a unit bearing a seal:

1. Any alteration of the plumbing, heat-producing equipment, electrical equipment or installations, or fire and life safety in a recreational vehicle which bears a seal, shall void such approval and the seal shall be returned to the office.

2. The following shall not constitute an alteration or conversion:

- a. Repairs with approved component parts;
- b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;
- c. Adjustment and maintenance of equipment;
- d. Replacement of equipment in kind;
- e. Any change that does not affect those areas covered by NFPA 501 (C).

3. Any dealer proposing an alteration to a recreational vehicle bearing a seal shall make application to the office. Such application shall include:

- a. Make and model of recreational vehicle;
- b. Serial number;
- c. State seal number;
- d. A complete description of the work to be performed together with plans and specifications when required; and
- e. Location of the recreational vehicle where work is to be performed.

4. Upon completion of the alteration, the applicant shall request the office to make an inspection.

5. The applicant may purchase a replacement seal, based on inspection of the alteration for a fee of two dollars (\$2).

(d) Denial and repossession of seals: Should inspection reveal that a manufacturer is not constructing recreational vehicles according to NFPA 501(C) and such manufacturer, after having been served with a notice setting forth in what respect the provisions of these rules and the code have been violated, continues to manufacture recreational vehicles in violation of these rules and the code, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated and credit given. Upon satisfactory proof of compliance such manufacturer may resubmit an application for seal.

(e) Seal removal: In the event that any recreational vehicle bearing the seal is found to be in violation of these rules, the office shall attach to the vehicle a notice of non-compliance and furnish the manufacturer or dealer a copy of same. The office, dealer or manufacturer shall not remove the non-compliance tag until corrections have been made, and the owner or his agent has requested an inspection in writing to the office or given an affidavit certifying compliance.

(f) Placement of seals:

1. Each seal shall be assigned and affixed to a specific recreational vehicle. Assigned seals are not transferable

and are void when not affixed as assigned, and all such seals shall be returned to or may be confiscated by the office. The seal shall remain the property of the office and may be seized by the office in the event of violation of the Act or regulation.

2. The seal shall be securely affixed by the door on the handle side at approximately handle height.

3. No other seal, stamp, cover, or other marking may be placed within two (2) inches of the seal.

(g) Lost or damaged seals:

1. When a seal becomes lost or damaged, the office shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the recreational vehicle serial number, and when possible, the seal number.

2. All damaged seals shall be promptly returned. Damaged and lost seals shall be replaced by the office with a replacement seal on payment of the replacement seal fee of two dollars (\$2).

JOHN R. GROVES, Commissioner

ADOPTED: January 13, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: January 29, 1981 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Chandler Robinson, Chief, Manufactured Housing,  
Department of Housing, Buildings and Construction, U.S.  
127 South, Frankfort, Kentucky 40601.

(See Appendix A and Appendix B for 815 KAR 25:020 on following pages.)

## ADMINISTRATIVE REGISTER

## APPENDIX - A

## UNIT CERTIFICATION FORMAT

Name of Manufacturer		
Mailing Address	County	
City	State	Zip Code

I hereby certify that the recreational vehicles as described hereon have been constructed in compliance with NFPA 501 C, 1977 Edition.

NO.	Serial #	KY Seal #	Date Mfg.	Model	Size	Dealer
1						
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This form must be used in reporting units to the Office of the State Fire Marshal. The form should be completed in duplicate with the original to be sent to the Office of the State Fire Marshal, and the copy retained by the manufacturer. This form should be mailed to the Office of the State Fire Marshal when the last entry has been filled or not later than the first week of each month.

_____ Date	BY _____ PERSON AUTHORIZED TO CERTIFY THESE UNITS
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## APPENDIX - B

Name of Dealer

Mailing Address

County

City

State

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Zip Code

I hereby certify that the used units described hereon have been inspected and are in compliance with the standards as required by KRS 227.550 thru KRS 227.660 and regulations thereto and that the new recreational vehicles described hereon have the Kentucky Class A seal affixed.

[illegible][illegible]

This form must be used in reporting units to the field inspector.

DATE \_\_\_\_\_

SIGNATURE

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

**904 KAR 1:031. Payments for home health 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 home health agency services.

**Section 1. Payments to Home Health Agencies:** The department shall reimburse participating home health agencies on the basis of [the interim rates established under Title XVIII] *interim rates set by the department using available Medicare data and methodology as applied to Medicaid covered services. Payments made at the interim rate will be settled back to actual cost at the end of the facilities' fiscal year. The Medicaid final rates may not exceed federally established upper limits for Medicare.*

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: February 13, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 13, 1981 at 2:10 p.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**  
**(Proposed Amendment)**

**904 KAR 3:020. Eligibility requirements.**

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

**NECESSITY AND FUNCTION:** The Department for Human Resources has responsibility to administer a food stamp program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the department in the administration of the food stamp program.

**Section 1. Eligibility Requirements.** In accordance with regulations promulgated by the Food and Nutrition Service, of the United State Department of Agriculture, national uniform standards of eligibility for the food stamp program, composed of both financial and non-financial

criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Non-financial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) non-farm income poverty guidelines.

**Section 2. Countable Income.** The following, when received by any household member, shall be considered as income:

(1) All wages and salaries of an employee.

(2) The gross income of a self-employment enterprise, including the total gain from the sale of any capital goods or equipment related to the business, excluding the cost of doing business.

(3) Training allowance from vocational and rehabilitative programs recognized by federal, state or local governments, to the extent that they are not reimbursements.

(4) Assistance payments from federal or federally aided public assistance such as supplemental security income (SSI) or aid to families with dependent children (AFDC); general assistance (GA) programs, or other assistance programs based on need.

(5) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

(6) Support or alimony payments made directly to the household from non-household members.

(7) Scholarships, educational grants, fellowships, deferred payment loans for education, veterans educational benefits and the like in excess of amounts excluded.

(8) Payments from government sponsored programs, dividends, interest, royalties, and all other direct money payments from any source which can be construed to be a gain or benefit.

(9) *Withdrawals from trust funds.*

**Section 3. Income Exclusions.** The following payments shall not be considered as income;

(1) Money withheld from an assistance payment, earned income or other income source, or moneys received from any income source which are voluntarily or involuntarily returned, to repay a prior overpayment received from that income source.

(2) Child support payments received by AFDC recipients which must be transferred to the division administering Title IV-D of the Social Security Act, as amended, to maintain AFDC eligibility.

(3) Any gain or benefit which is not in the form of money payable directly to the household.

(4) Money payments that are not payable directly to a household, but are paid to a third party for a household expense are excludable as a vendor payment.

(5) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, but not in excess of thirty dollars (\$30) in a quarter.

(6) Educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational



benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of higher education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped.

(7) All loans, including loans from private individuals as well as commercial institutions, other than educational loans on which repayment is deferred.

(8) Reimbursements for past or future expenses to the extent they do not exceed actual expenses, and do not represent a gain or benefit to the household.

(9) Money received and used for the care and maintenance of a third party beneficiary who is not a household member.

(10) The earned income of children who are members of the household, who are students at least half-time and who have not obtained their eighteenth (18th) birthday.

(11) Money received in the form of a non-recurring lump-sum payment.

(12) The cost of producing self-employment income.

(13) Any income specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the food stamp program.

**Section 4. Income Deductions.** The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be adjusted by FNS each [July 1 and] January 1 to the nearest five dollars (\$5) to reflect changes in the consumer price index for items other than food for the twelve (12) [six (6)] months ending the preceding September 30 [and March 31, respectively].

(2) Twenty (20) percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent. This deduction shall not exceed the standard established by FNS.

(4) Monthly shelter cost in excess of fifty (50) percent of the household's income after all other allowable deductions have been made. The shelter deduction alone or in combination with the dependent care deduction in subsection three (3) above shall not exceed a fixed monthly amount established by FNS. This fixed monthly amount shall be adjusted each January [July 1] to the nearest five dollars (\$5). The adjustment shall reflect changes in the shelter, fuel, and utility components of the consumer price index for the eighteen (18) [twelve (12)] month period ending the preceding September 30 [March 31]. Allowable monthly shelter expenses shall be those expenses outlined in 7 CFR Part 273.9(d). The department shall develop a standard utility allowance for use in calculating shelter cost for those households which incur utility cost separate and apart from their rent or mortgage payments. If the household is not entitled to the standard or does not choose to use the standard, it may claim actual utility expenses for any utility which it does pay separately. The standard utility allowance shall be adjusted at least annually to reflect changes in the cost of utilities.

**Section 5. Resources.** Uniform national resource standards of eligibility shall apply to applicant households. Eligibility shall be denied or terminated if the total value of the liquid and non-liquid household's resources exceed:

(1) \$3000: for all households with two (2) or more members, when at least one (1) member is sixty (60) years or older; or

(2) \$1500 [\$1750]: for all other households.

**Section 6. Exempt Resources.** The following resources shall not be considered in determining eligibility:

(1) The home and surrounding property which is not separated from the home by intervening property owned by others.

(2) Household goods, personnel effects and the cash value of life insurance policies and pension funds.

(3) Licensed vehicles as specified in 7 CFR Part 273.8(h).

(4) Property which annually produces income consistent with its fair market value, even if only used on a seasonal basis.

(5) Property which is essential to the employment or self-employment of a household member.

(6) Installment contracts for the sale of land or buildings if the contract or agreement is producing income consistent with its fair market value.

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by expressed provision of federal statute.

**Section 7. Transfer of Resources.** Households which have transferred resources knowingly for the purpose of qualifying or attempting to qualify for food stamps shall be disqualified from participation in the program for up to one (1) year from the date of the discovery of the transfer.

**Section 8. Non-financial Criteria.** Non-financial eligibility standards apply equally to all households and consist of:

(1) Residency: A household must live in the county in which they make application;

(2) Citizenship or eligible alien status: A program participation shall be limited to either a citizen of the United States or eligible alien as outlined in 7 CFR Part 273.4;

(3) Tax dependency: A student age eighteen (18) or older is ineligible for program participation if he is properly claimed or could be properly claimed for the current tax year as a dependent child for federal income tax purposes by a tax payer who is not a member of an eligible food stamp household;

(4) Work registration: All household members between the ages of eighteen (18) and sixty (60), except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: January 28, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 2, 1981 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary for Human Resources, DHR Building, 275  
East Main Street, Frankfort, Kentucky 40621.

# Proposed Regulations

## PUBLIC PROTECTION AND REGULATION CABINET Board of Claims

### 108 KAR 1:020. Hearings.

RELATES TO: KRS 44.086(3)

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: KRS 44.086(3) provides that in the case of a contested claim under \$500, the Board of Claims may decide the claim without a hearing unless one is requested. This regulation outlines board procedures when a hearing is requested.

Section 1. If a claim whose value is under \$500 is contested and the claimant requests a hearing the board shall either:

- (1) Order a hearing if the claim is \$100 or greater; or
- (2) Deny a hearing and decide the claim on the basis of the record before it if the claim is under \$100.

ADDIE D. STOKLEY, Executive Director

ADOPTED: January 28, 1981

APPROVED: H. FOSTER PETTIT, Secretary

RECEIVED BY LRC: February 4, 1981 at 9 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Addie D. Stokley, Executive Director, Board of Claims,  
113 E. Third Street, Frankfort, Kentucky 40601.

## DEPARTMENT OF FINANCE

### 200 KAR 6:035. Leased properties.

RELATES TO: KRS Chapter 56

PURSUANT TO: KRS 56.811

NECESSITY AND FUNCTION: This regulation complies with KRS 56.811. It provides for the calculation of compensation to persons leasing real property to the Commonwealth and for the negotiation of modifications or changes in the conditions of leases.

Section 1. Space Request, Advertising, Bidding: (1) Upon review and approval of the agency space request by the Department of Finance, advertisements will be placed soliciting written proposals.

(2) Lease proposals shall be submitted at or prior to the time and place designated in the advertisement for proposals. All proposals shall be opened and publicly read.

(3) The Division of Real Properties shall notify in writing all persons submitting a lease proposal of the selected property intended to be leased. Mere notice of award of a lease shall not constitute a contract binding against the Commonwealth.

(4) Whenever it is anticipated that lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form, Form B217-5, any such deviations or variations shall be noted in the advertisement. If any person submitting a pro-

posal in response to an advertisement proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be advantageous to, and in the Commonwealth's best interest to accept, but no mention has been made in the advertisement of the acceptability thereof, then all other persons submitting proposals on the basis of such advertisement shall be advised in writing of such terms and conditions and allowed to conform their proposals in accordance therewith for purposes of establishing more competitive positions upon which lease negotiations may be based.

Section 2. Calculation of Rent: (1) After all requirements have been met for selecting property to be leased, the Division of Real Properties shall determine the amount of rent to be paid for leased property by negotiating with the property owner or owner's authorized representative. In such negotiation the Secretary of Finance or his designee shall seek to obtain the lowest rate possible.

(2) Except as stated in Section 3, when part but not all of a building is to be leased, the rent shall be calculated by multiplying the agreed per square foot rental charge by the number of square feet for all space in the building to be exclusively occupied by the state agency.

(3) Except as stated in Section 3, when the purpose of a lease is to provide one (1) or more state agencies with total occupancy of an entire leased building, the rent shall be calculated by multiplying the agreed per square foot rental rate by the number of square feet of floor space in the building as determined by its exterior horizontal dimensions, times the number of floors.

Section 3. Lease Modification: (1) An agency may request that the Department of Finance provide additional space in a building in which space is already leased by the state. If the Department of Finance determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for such additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) The Department of Finance may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, provided the improvements and rent increase have the prior approval of the Secretary of Finance. Such rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.

(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in such property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.

Section 4. Change in Ownership: (1) When there is a change in ownership in the leased premises, the new owner shall furnish the Division of Real Properties a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and such other evidence in support of his claim to the payment of rent under the lease as the division may request. The state shall change its records and redirect its rent payments accordingly.

(2) When the agency occupying leased premises or the Department of Finance receives information that a change in ownership has occurred, payments of rent shall be suspended until the Department of Finance learns the ownership of the premises and determines who is entitled to the rent.

Section 5. Records relating to leases are a matter of public record, except as otherwise provided by law.

Section 6. 200 KAR 6:030, real property leases and rentals, is hereby repealed.

GEORGE L. ATKINS, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: George L. Atkins, Secretary, Department of Finance,  
New Capitol Annex, Frankfort, Kentucky 40601.

## DEPARTMENT OF FINANCE

### 200 KAR 6:040. Floodplain management.

RELATES TO: KRS Chapters 45, 56, 151

PURSUANT TO: KRS 13.082, 56.185

NECESSITY AND FUNCTION: This regulation establishes guidelines by which the Secretary of the Department of Finance may issue or grant a development permit for the activities covered by KRS 56.185 and this regulation.

Section 1. General. (1) Purpose. The purpose of this regulation is to minimize the loss of lives and property due to floods. Each state agency undertaking a development activity within the base floodplains of the state shall comply with this regulation.

(2) Definitions. Unless otherwise defined, terms in this regulation shall be interpreted to give them the meaning they commonly have.

(a) "Allowable base flood elevation" means an increase of no more than one (1) foot in the water surface elevation above the existing base flood elevation.

(b) "Base flood" means the flood having a one percent (1%) chance of being equaled or exceeded in any given year (i.e., 100-year frequency flood).

(c) "Base floodplain" means any land area susceptible to a base flood.

(d) "Development activity" means any man-made change to improved or unimproved real estate by a state agency including, but not limited to, the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

(e) "FEMA" means Federal Emergency Management Agency.

(f) "Flood-proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures or their contents.

(g) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

(h) "Mean sea level" means the average height of the sea for all stages of the tide.

(i) "Mobile home" means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and designated to be used with or without a permanent foundation when connected to the required utilities. It does not include recreational vehicles or travel trailers.

(j) "New construction" means facilities for which the "start of construction" began on or after the effective date of this regulation.

(k) "Riverine" means relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

(l) "Secretary" means the Secretary of the Department of Finance.

(m) "State" means Commonwealth of Kentucky.

(n) "State agency" means any state administrative body, department, bureau or division as defined in KRS Chapter 12, and any institution, commission, board, program cabinet, instrumentality, independent state authority, office, or other agency of the state.

(o) "State facility" means all structures including, but not limited to, buildings, mobile homes, storage tanks, docks, piers, dams, levees, utilities, roads, and bridges, constructed or placed, and associated land disturbance activities or state-owned lands.

(p) "Substantial improvement" means any repair, reconstruction, or improvement of a state facility, the cost of which equals or exceeds fifty percent (50%) of the current value of the facility either: before the improvement or repair is started; or if the facility has been damaged and is being restored, before the damage occurred. The term does not include: any project for improvement of a structure to comply with existing state health, sanitary, or safety codes solely necessary to assure safe living conditions; or any alteration of a structure listed on the "National Register of Historic Places" or a "State Inventory of Historic Places."

(q) "Water surface elevation" means the projected heights in relation to mean sea level reached by floods in the floodplains of riverine areas.

Section 2. Application. This regulation shall apply to all base floodplains of the state.

Section 3. Establishing Floodplains. (1) Base floodplains in the state will be identified in writing by the Department for Natural Resources and Environmental Protection. The Department of Finance will use this in determining whether a permit is to be issued.

Section 4. Abrogation and Greater Restrictions. This regulation is not intended to repeal, abrogate, or impair any existing state easements, covenants, or deed restrictions. Where this regulation and another state regulation conflict or overlap, whichever imposes the more stringent

restrictions shall apply. Compliance with this regulation does not relieve responsibility for complying with other statutory requirements.

**Section 5. Interpretation.** In interpreting and applying this regulation, all provisions shall be construed in favor of the state.

**Section 6. Warning and Disclaimer of Liability.** This regulation shall not subject the state or any officer, agency or employee thereof to any liability for any damages from flooding that may occur or result from compliance with or reliance on this regulation or any administrative decision made hereunder.

**Section 7. Development Permit.** (1) The Secretary shall administer this regulation by granting, granting with conditions, refusing to grant, or otherwise determining the appropriate action as hereinafter provided, a development permit to state agencies proposing to undertake development activity within the base floodplain, excluding only those activities of the Bureau of Highways in the Department of Transportation relating to the acquiring of right-of-way for, and constructing and maintaining of highways.

(2) The Secretary of the Department of Transportation, subject to this regulation, may grant, grant with conditions, or refuse to grant, a permit for development activities for the Bureau of Highways. The permit shall include a certification that it was issued pursuant to this regulation and a copy of it shall be provided to the Department of Finance.

**Section 8. Floodplain Management.** (1) Every state agency (except as provided in Section 7) proposing development activity within the base floodplain shall notify the Department of Finance prior to initiating such activity. The notice shall contain a complete description of the proposed development and likely effects of it on the base floodplain; an explanation of why the development must be located in the floodplain, whether alternative sites were considered, and why alternative sites not in the floodplain were rejected.

(2) The plans and specifications for all construction covered by this regulation shall meet the following criteria:

(a) All development activity within a floodway, except as hereinafter provided, is prohibited. Necessary utilities are permitted. Except as provided in Section 8(2)(a)3, the following are also permitted in the floodway only if their construction does not cause the flood to exceed the allowable base flood elevation: necessary marine use facilities (other than buildings) when such construction is considered together with full usage of the floodway on the opposite bank; and bridges, with their appurtenances. Construction within the floodway must be designed to withstand at least the water velocity of the base flood. Dams are permitted only if the base floodplain is held entirely in fee simple. To meet the requirements of this regulation, the following methods shall be acceptable in order of preference:

1. Design the facility so there is no encroachment within the floodway;
2. Fully offset the effect of any encroachment into the floodway by stream improvements; or
3. Determine the increased backwater over the allowable base flood elevation caused by an encroachment and secure any affected land by flood easement or fee simple purchase.

4. In areas where no floodway is designated, an engineering analysis must be conducted to establish an appropriate floodway or it must be demonstrated that the proposed development, in combination with all present and planned development, will not cause the flood to exceed the allowable base flood elevation. The methodology for conducting such an analysis may be obtained from FEMA.

5. If subparagraphs 2, 3, or 4 above are used, new floodplain information must be provided to FEMA.

(b) Development outside the floodway limits, but in the remaining portion of the floodplain, is permitted as follows:

1. Water supply, sewage, electrical, gas, and all other utilities must be so located and constructed as to eliminate infiltration of flood waters which could damage the utilities.

2. All structures shall be anchored to prevent flotation, collapse, or lateral movement and constructed with materials resistant to flood damage by methods that minimize flood damage.

3. Buildings shall be constructed and mobile homes located so as to be protected to at least the allowable base flood elevation. Flood protection for such buildings may consist of the following methods in order of preference:

- (i) Elevation of the lowest floor (including basement) using open works such as columns, walls, piles.
- (ii) Elevation of the lowest floor (including basement) using fill.

(iii) For non-residential buildings only, together with attendant utility and sanitary facilities, completely flood-proofed watertight with walls substantially impermeable to the passage of water and with structural components able to resist the hydrostatic and hydrodynamic loads and buoyancy effects of the base flood. The adequacy of such floodproofing shall be certified by a professional engineer registered in Kentucky.

(c) Improvements to existing facilities are permitted within the floodplain provided:

1. For facilities located in the floodway, no additions, alterations, encroachments, or relocations will cause flood levels to increase.
2. Practical alternatives are considered and used to minimize or eliminate flood damages.
3. Facilities substantially improved shall meet all requirements of new development as contained in this section.

**Section 9. Administrative Procedures.** (1) Upon receipt and review by the secretary of notice from a state agency proposing development activity within the floodplain, the secretary shall: issue a development permit; issue such a permit with conditions; refuse to issue a permit and provide the reasons for denial; or, in his discretion, determine that such a permit is not required under this regulation.

(2) When a development permit for building construction is issued, the agency undertaking the development in accordance with the terms of the permit shall:

(a) Secure a certification from a land surveyor or professional engineer registered in Kentucky of the elevation of the lowest floor (including basement) or, if floodproofing is utilized, the actual level of floodproofing in relation to the mean sea level and provide the certificate to the secretary within thirty (30) days following its issuance.

(b) Secure certifications, as applicable under Section 8(2)(b)3(iii) and provide same to the secretary within sixty (60) days after completion of the building.

(3) The Department of Finance shall maintain for public inspection all certifications and permit records required by these regulations.

GEORGE L. ATKINS, Secretary

ADOPTED: February 13, 1981

RECEIVED BY LRC: February 13, 1981 at 3:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: George L. Atkins, Secretary, Department of Finance,  
New Capitol Annex, Frankfort, Kentucky 40601.

**DEPARTMENT OF FINANCE**  
**Office for Social Security**

**200 KAR 13:010. Social security reports.**

RELATES TO: KRS 61.490

PURSUANT TO: KRS 61.490

NECESSITY AND FUNCTION: The Personnel Security Branch in the Division of Fiscal Services, Office of Administrative Services, Department for Human Resources was abolished, and its functions and duties transferred to the State Office for Social Security established in the Department of Finance by Executive Order Relating to Reorganization No. 80-457, effective June 16, 1980. The State Office for Social Security, Department of Finance finds it necessary, due to federal regulation, to set due dates for social security contributions and reports and to provide for the recoupment of interest assessed by the Social Security Administration for late payment of monthly contributions by state agencies and political subdivisions.

Section 1. The due date for social security contributions, to be filed by all state agencies and political subdivisions, shall be on or before the fifth (5th) day of the month next following the close of the month.

Section 2. The due date for the quarterly summary report of wages paid, to be filed by all state agencies and political subdivisions, shall be the tenth (10th) day of the month next following the close of the calendar quarter and the due date for the annual report of wages paid shall be the tenth (10th) day following the close of the calendar year.

Section 3. In order to recoup, and to pass on to delinquent state agencies and political subdivisions interest assessed by the Social Security Administration for late payment of social security contributions, a late payment charge at the rate of ten dollars (\$10) for the first day, and one dollar (\$1) per day for each day of delinquency thereafter shall be assessed against any state agency or political subdivision failing to remit its monthly deposit of

social security contributions within the time specified in Section 1.

Section 4. 900 KAR 1:005 is hereby repealed.

GEORGE L. ATKINS, Secretary

ADOPTED: January 30, 1981

RECEIVED BY LRC: January 30, 1981 at 2 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Martha Belwood, Department of Finance, State  
Agency for Social Security, P.O. Box 557, Frankfort, Kentucky 40602.

**DEPARTMENT OF FINANCE**  
**Kentucky Board of Dentistry**

**201 KAR 8:251. License reinstatement.**

RELATES TO: KRS 313.085

PURSUANT TO: KRS 13.082, 313.220

NECESSITY AND FUNCTION: Sets forth guidelines and requirements for those to reinstate a temporarily retired license.

Section 1. Each requesting party for reinstatement under KRS 313.085 must appear before the Kentucky Board of Dentistry with a signed statement of the following information:

- (1) Chronological list of employment beginning the year of retirement of the license to the date of application.
- (2) The reason applicant wishes to be reinstated.
- (3) Whether applicant has been convicted of a felony or misdemeanor since retirement of license.
- (4) A list of all continuing dental education during the retirement time.
- (5) Application shall be accompanied by a certified check made payable to the Kentucky State Treasurer in an amount sufficient to pay all accumulated renewal fees and the cost of reinstatement.

JAMES W. HOLLADAY, Secretary-Treasurer

ADOPTED: August 23, 1980

RECEIVED BY LRC: January 26, 1981 at 1 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING  
TO: Secretary-Treasurer, Kentucky Board of Dentistry,  
2106 Bardstown Road, Louisville, Kentucky 40205.

**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Instruction**

**704 KAR 3:035. Annual in-service education plan.**

RELATES TO: KRS 158.070

PURSUANT TO: KRS 13.082, 156.095, 156.160, 158.070

NECESSITY AND FUNCTION: KRS 158.070 requires the State Board of Education to adopt regulations setting

forth guidelines and procedures to be followed for the approval of the four (4) days of the minimum school term which are mandated to be utilized by each local school district for in-service, professional development and planning activities for the professional staff. This regulation implements this duty by interpreting what in-service education consists of and by requiring each local district to have approved annually a master in-service education plan by which it is to be guided in providing suitable in-service training programs.

Section 1. In-service education shall mean any training of school personnel to prepare them to satisfy a need of the school system. The data, skills, and concepts comprising the substance of the training programs are determined by deficiencies in the instructional, administrative and support services of the school system.

Section 2. Each local district board of education shall by May 1, beginning in 1981 and annually thereafter, submit to the State Department of Education for approval a master in-service education plan. The plan shall include the following components:

- (1) Name of local school district;
- (2) Name of in-service education coordinator;
- (3) Names of local school district's in-service education committee, which shall be a representative body of all areas or levels of educational personnel within the local school district;
- (4) Description of needs assessment, including a brief description of procedures implemented to determine how the district's in-service education needs were assessed;
- (5) Statement of district's instructional improvement goal(s), which shall be based on identified needs;
- (6) Statement of district's in-service education objectives, which shall provide direction for education personnel in the attainment of the district's instructional improvement goal(s);
- (7) Description of recordkeeping system and procedures, including an indication of the participation of educational personnel in in-service education activities; and
- (8) Description of evaluation, including:
  - (a) A summary of how implemented in-service education programs will be evaluated; and
  - (b) A summary of how the implementation of the master in-service education plan will be evaluated.

Section 3. When implementing in-service education programs under KRS 158.070, each local school district shall adhere to its approved master in-service education plan as developed with technical assistance provided from the Department of Education.

Section 4. 704 KAR 15:050 is hereby repealed.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

## EDUCATION AND ARTS CABINET

Department of Education

Bureau of Instruction

704 KAR 3:307. Recognition of credits when transferring without transcript.

RELATES TO: KRS 156.160, 158.140

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt regulations setting forth the minimum courses of study for the different grades and determining the scope of instruction that may be offered in the different classes and the minimum requirements for graduation; and KRS 158.140 mandates the assignment of a pupil to the class or grade to which the pupil is best suited. This regulation prescribes procedures for recognition of credits for graduation from a public secondary school upon transfer from a nonaccredited secondary school and for the awarding of credit upon transfer to a public secondary school without a proper transcript being reasonably available.

Section 1. For the purposes of this regulation, a nonaccredited secondary school is a school enrolling students for secondary school instruction when that school is not recognized as accredited, or voluntarily complying with accreditation standards, by one (1) of the fifty (50) state departments of education or one (1) of the seven (7) independent regional accrediting associations.

Section 2. (1) The local school district shall be responsible for the appropriate assignment of a student transferring from a nonaccredited secondary school to the class or grade best suited for the student. Previous credit earned by a student in a nonaccredited secondary school shall be awarded by the local school district by one (1) of the two (2) following methods:

(a) Pass an examination of similar nature and content to the examination used for other students receiving credit for a particular course within the school district and graded on a comparable basis; or

(b) Successful performance of the student in a higher level of the course when the courses are sequential in nature such as English, mathematics, history, and science. Successful performance shall be defined as achieving an average grade in the course by the twelfth week of school.

(2) The courses successfully completed by examination or performance shall be counted toward minimum high school graduation requirements in the local school district.

Section 3. A student desiring recognition of previous credits toward graduation upon entering a public secondary school from a nonaccredited secondary school without a properly certified transcript, and for whom a properly certified transcript cannot reasonably be obtained, shall be placed and awarded credit as outlined in Section 2.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: January 20, 1981

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SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.



**EDUCATION AND ARTS CABINET**  
**Department of Education**  
**Bureau of Instruction**

**704 KAR 20:057. Certificate endorsements for certain subjects.**

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 13.082, 156.030, 156.070, 161.030

**NECESSITY AND FUNCTION:** KRS 161.020 prohibits any person from holding a teaching position in the public schools without a certificate of legal qualifications for his particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes procedures and standards whereby certain teachers can acquire certificate endorsements to teach advanced data processing, typewriting, and accounting.

**Section 1.** An endorsement for teaching advanced data processing may be added to a high school certificate with a major in basic business or a major in general business upon completion of a total of nine (9) semester hours credit in data processing.

**Section 2.** An endorsement for teaching typewriting may be added to a high school certificate with specialization in general business provided the certificate holder has completed two (2) courses in typewriting and a third course which includes methods of teaching typewriting.

**Section 3.** An endorsement for teaching accounting may be added to a high school certificate with specialization in general business provided the certificate holder has completed six (6) semester hours in accounting and a course which includes methods of teaching accounting.

**RAYMOND BARBER**

Superintendent of Public Instruction

ADOPTED: January 20, 1981

RECEIVED BY LRC: January 27, 1981 at 11:20 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. Fred Schultz, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

**EDUCATION AND HUMANITIES CABINET**  
**Department of Library and Archives**

**725 KAR 2:015. Services and facilities for public libraries.**

RELATES TO: KRS 171.150, 171.204, 171.125 to 171.306

PURSUANT TO: KRS 13.082, 171.150, 171.204, 171.125 to 171.306

**NECESSITY AND FUNCTION:** The following rules and regulations are necessary for the Department of

Library and Archives to exercise its duties. The Department of Library and Archives is designated by KRS Chapter 171 as the agency to administer funds granted for the purpose of providing and equalizing minimum public library services in Kentucky. This service includes the establishment, extension and development of local public library facilities. The Construction Officer of the Department of Library and Archives is authorized to act according to the following.

**Section 1.** Hereinafter, the expression, the "local board" refers to the library trustees; the initials, "C.O." refer to the Construction Officer; and the initials, "D.L.A." refer to the Department of Library and Archives.

**Section 2.** All public library buildings are bound by certain stipulations concerning any public service and any public building. Those stipulations are: (1) Public building code:

(a) Federal regulations:

1. Federal wage law for contractor;
2. Physically handicapped entrance.

(b) State regulations:

1. State Fire Marshal requirements;
2. Physically handicapped entrance;
3. State health codes;
4. State minimum wage law.

(c) County and city ordinances:

1. Sidewalks, etc.;
2. Sanitation laws, etc.

(2) Public service law:

(a) The right of any individual, regardless of race, creed, color, etc., to use and enjoy the services of the library.

(b) The right of any group to use the facility as provided for under the rules and regulations of the board of trustees.

(3) The following stipulations are required by the D.L.A.:

(a) The application for a construction grant must be filed with the C.O.'s office.

(b) The site and facility must be owned or shall be purchased by the local board of trustees. The site must be approved by the C.O.

(c) Purchase of existing buildings for renovation for library purposes may be authorized if this would be the best and most reasonable method of obtaining adequate library facilities. The C.O. shall approve or disapprove the purchase of an existing building, using the criteria specified in paragraph (e) of this subsection.

(d) Buildings or alterations must be planned and construction supervised by an architect registered in the Commonwealth of Kentucky and approved by the D.L.A.

(e) The plans submitted by the architect must be approved by the D.L.A. (C.O.) as to size, adequacy, location, function, and suitability for services of a public library.

(f) In the event that either the D.L.A. or the C.O. exercise their disapproval power in any of the above areas of this subsection, a letter of disapproval will be sent promptly to the local board explaining the reasons for such disapproval, and outlining the procedure to be followed if the board desires to appeal.

**Section 3.** Establishment of the Board of Review. A Board of Review is established to advise the State Librarian on the awarding of grants from such monies as are available to the D.L.A. for construction, improvement, and equipping of public library facilities.

(1) The chairman, who shall be the Director of Field Services, shall vote only in case of a tie.

(2) The voting membership of the Board of Review shall be the Chairman of the State Advisory Council on Libraries, the President of the Kentucky Library Association, the Chairman of the Public Library Section of the Kentucky Library Association, the President of the Kentucky Library Trustees Association, and the President of the Friends of Kentucky Libraries, or a person designated by each of said officers in accordance with this subsection. The term for membership on the Board of Review shall commence January 1 of the calendar year starting after the election to their office and expire December 31 of the calendar year in which a successor is elected. A quorum which shall be three (3) of the voting members and the chairman shall be necessary for an official meeting. A member of the Board of Review may designate another officer of the organization he represents on the Board of Review to serve in his place; however, the designation must be for the full term of office. When a new officer is beginning his term, the D.L.A. shall notify him that by virtue of his office he is a member of the Board of Review from that organization during his term. The C.O. shall serve as ex-officio, nonvoting member. The Regional Librarian and the Chairman or President of the Local Library Board and the local librarian should be in attendance if an application is pending before the Board of Review regarding their library.

(3) The Board of Review shall meet twice in every year, at the call of the Director of Field Services, who shall act as chairman. The call for a meeting shall be publicly issued thirty (30) days prior to the meeting date.

**Section 4. Preliminary Review of Applications For Construction.** A preliminary review is recommended for the purpose of establishing the completeness of the construction application.

(1) A preliminary review to establish the completeness of applications for construction projects may be held when deemed necessary by the chairman. A preliminary review committee of five (5) is established to review applications and to make recommendations as needed to the Board of Review. Members shall be chosen as follows: Four (4) of these members shall be regional librarians, elected by the regional librarians as a committee of the whole. Initially two (2) of the members are to be elected for one (1) year and two (2) of the members are to be elected for two (2) years. Thereafter two (2) members are to be elected annually for a two (2) year term. In the case of a member not being able to complete his term, the Director of Field Services shall appoint an interim member, who shall serve until the next regional meeting, at which time a new member shall be elected to complete the term. The fifth member shall be the C.O. of the D.L.A., who shall act as chairman.

(2) Procedures of the Preliminary Review Committee:

(a) Applications shall be presented alphabetically by county name.

(b) Realistic operating budget for the proposed facility shall be presented insofar as practicable; i.e., estimates on costs of utilities, etc., should be obtained from proper authority. This budget should be brought up-to-date before each review. Ability to provide service adequately after the new facility is in operation is necessary.

(c) Proof of need must be plainly established; i.e., lack of space for services, book collection, etc., which an expanded facility would enable the library to provide. A plan of projected service shall accompany the application.

(d) The application must show that the librarian is certified in accordance with KRS Chapter 171.

(e) The regional librarian involved must have a knowledge of possible sites, needed square footage, approximate costs, and the local board's willingness to proceed.

(f) The review committee shall return the applications to the C.O. with a recommendation. These applications shall be scheduled for the next Board of Review's consideration.

(3) Correction of application. If an application is found to be lacking in any of the above, the applicant shall be informed in writing of the Review Committee findings. The applicant should submit, in writing, a correction or explanation to be attached to the file.

**Section 5. (1) Priority system for consideration of applications for grants:**

(a) Those libraries serving counties and serving as headquarters for a multicounty federations (called library regions), having an assured, adequate income, but with facilities which do not meet minimum standards established by the D.L.A. Those libraries in this group shall be considered first.

(b) Those libraries serving counties and participating in multicounty federations (hereinafter called library regions), which have an assured, adequate income, but with facilities that do not meet minimum standards established by the D.L.A. Those libraries in this group shall be considered second.

(c) Those libraries serving counties, participating in multicounty federations, having an assured, adequate income, which have reached minimum facilities and service, and are applying for a branch facility or an addition or renovation to an existing building. Those libraries in this group shall be considered third.

(d) Those libraries giving countywide service which meet other requirements of this document. Those libraries in this group shall be considered fourth.

(2) Ranking system for applications within a priority group. The applicants shall be ranked in high to low per capita library income within a priority group. The application showing the highest income is the first to be considered.

(a) Income can include: All assured funds; taxes from library districts or from taxes legally established within the general fund, income from trusts or property.

(b) Income cannot include: Fines, gifts, or appropriations (including those from other units of government), or income from annual art exhibits, plays, shows, fairs, cookie sales, etc.

(c) Population as used for per capita definition is based on the latest annual Kentucky Department of Commerce census figures.

(d) All previous steps being equal between any two (2) or more applicants, a "coin flip" (or other method acceptable to both parties) shall determine the first to be considered in the priority group.

(3) The Board of Review shall take formal action on the project or projects for which applications is/are complete. This group shall review the applications to ascertain that the requirements of the plan for grants have been met. The recommendation of the Board of Review shall be that the State Librarian:

(a) Approve the application as submitted and award a grant.

(b) Approve the application (for purposes of other granting agencies) and award no grant; or

(c) Reject the application completely.

(4) Action following the board's recommendations:

(a) Within ten (10) calendar days the State Librarian shall approve or disapprove the recommendations of the Board of Review.

(b) Promptly, following the State Librarian's approval or disapproval, all library boards whose applications have been acted upon shall receive a written notice of the approval or rejection from the D.L.A.

#### Section 6. Board of Appeals. (1) Notification:

(a) If the application is rejected, a letter of rejection shall explain the reasons for the rejection, and the procedure to be followed by the local board if members desire to appeal the decision of the State Librarian.

(b) If an applicant disagrees with the provision of an approved application, procedures for appeal are to be the same as that of a rejected application.

#### (2) Procedures:

(a) Within twenty-one (21) days of the date of the letter of notification, the local board must notify the D.L.A. of the intent to appeal. This notification must be in writing, to the State Librarian, and include the basis for appeal. The appeal is to be filed by registered mail with the State Librarian, who is charged then with the responsibility of notifying and convening an appeal board.

(b) The board of appeals shall be appointed by the State Librarian, who shall appoint three (3) members, one (1) each from nominations by the following organizations: the State Advisory Council, the Kentucky Library Association, and the Kentucky Library Trustees Association. The State Librarian shall designate one (1) of the appointees to serve as chairman. The head of each organization shall be notified by the State Librarian when an appeal has been received in the office of the State Librarian.

(c) The appeals board shall notify, in writing, both the appellant and the State Librarian of the date and place, at which a hearing shall be held. After the hearing has been held, the appeals board shall notify the State Librarian and the local board of its recommendation, within a reasonable length of time.

(d) The State Librarian shall consider the recommendation of the appeal board and render a final decision.

#### Section 7. Procedures After Approval. (1) After a letter of approval has been received by the local board, the following items must be completed:

(a) Architect's contract as approved by the D.L.A.

(b) Option on site as approved the D.L.A.

(c) Letter of intent concerning financing.

(d) Contract between the D.L.A. and local board.

(e) Holding company contract, if needed.

(f) Construction plans approved by the D.L.A.

(g) Other documentation as specified by the D.L.A.

(2) Files for the project shall be kept at the C.O.'s office.

(3) Following approval of plans by the D.L.A., construction of the project should be started in accordance with the following schedule after the D.L.A. funds become available:

\$100,000 to \$250,000—9 months

\$250,000 to \$500,000—10 months

\$500,000 to \$750,000—12 months

\$750,000 to \$1,000,000—14 months

\$1,000,000 and over—14 to 24 months

(4) All requirements of subsection (3) of this section may be delayed with written approval of the C.O.

Section 8. Construction Procedures. (1) The local board and/or holding company shall establish a separate bank account into which shall be deposited all funds making up the total budget of the construction project.

(2) The architect for the project shall submit a list of construction trades that may be involved to the Department of Labor to quote the wage rate which the contractor shall be required to pay.

(3) The architect shall proceed with the working drawings and specifications for submission to the C.O. for final approval by the D.L.A. before the project is advertised for bids.

(4) When the D.L.A. has approved the working drawings, the plans shall be completed and advertised publicly for construction bids.

(5) The bid opening date (coordinated with the C.O.) shall be at least seven (7) days after the third weekly running of the bid advertisement in the local newspaper.

(6) The contract shall be awarded to the "lowest and best" bidder, as mutually determined by the local board, the architect, and the C.O. of the D.L.A. In case of serious disagreement as to which bid is "lowest and best," the final decision is to be made by the State Librarian.

(7) The architect shall have the responsibility of notifying the C.O., one (1) week in advance, when the building is ready for inspection. The building shall be inspected by the C.O., or his designated official, when the foundations are complete, during roofing, and at the completion of the building.

(8) Payments shall be made to the architect and contractor by the local board in accordance with state law. These payments shall be made from the bank account established to pay the bills for the project.

(9) Duplicate copies of all invoices, checks, deposit documents, and all contractor's payrolls must be filed with the D.L.A., or designee, to facilitate state audits.

(10) The D.L.A. may assist the local board to whatever extent members desire in selecting and ordering the furniture and equipment for the project. The D.L.A. shall supervise the advertisement for bids and purchase of the equipment. State law must be adhered to and all requirements for public advertisement and bids shall be met. In any case, bidding for furniture and equipment must be competitive.

(11) Payments shall be made promptly to contractors and suppliers when approved by the architect except that ten (10) percent may be withheld until the satisfactory completion of each item has been officially approved by the D.L.A.

Section 9. Minor Renovation and Repair Construction Grants. A committee shall be established by the State Librarian to make minor grants from such funds as become available. Grants may be made for renovation and repair of library facilities. These grants are based on sixty-five (65) percent of the cost up to \$30,000 provided by the D.L.A. Application for these funds should be made by the local board through the offices of the Regional Librarian with advice and assistance from the C.O. as needed.

Section 10. Emergency and Federal Grants. (1) Grants may be made to public libraries in the case of major emergencies from such funds as may become available. Applications for these funds should be made by the local board to the D.L.A. Administration of these funds may be handled by the Regional Librarian.

(2) If Library Services and Construction Act funds are used, the rate shall be based on the formula as described by

the United States Department of Education. The amount shall be given to the local library district or holding company in four (4) payments during the construction period. If the applicant county is in the Appalachian area, a supplemental grant amount to be determined by the Appalachian Council Rules could be made. This grant is coordinated with the four (4) Library Services and Construction Act payments. In the absence of federal regulations to the contrary, the procedures shall be as previously stated in these rules.

Section 11. 725 KAR 2:010, public libraries, is hereby repealed.

JAMES A. NELSON, State Librarian  
DON MILLS, Secretary

ADOPTED: February 10, 1981

RECEIVED BY LRC: February 13, 1981 at 4:15 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: John Lee West, Construction Officer, Department of Library and Archives, P.O. Box 537, Frankfort, Kentucky 40602.

#### DEPARTMENT FOR HUMAN RESOURCES Office of Inspector General

##### 900 KAR 1:015. Laetrile manufacturing standards.

RELATES TO: KRS 217.950, 217.952, 311.950 to 311.966, 311.991

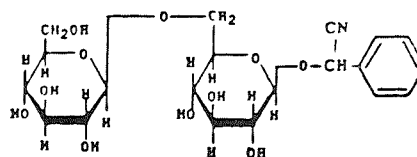
PURSUANT TO: KRS 13.082, 217.950

NECESSITY AND FUNCTION: KRS 217.950 provides that Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Department for Human Resources and directs the Secretary for Human Resources to adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing and packaging the substance. The Secretary is also directed to establish standards of purity and make periodic tests and inspections of both the facilities for manufacture and samples to ascertain the purity, quality and identity of the substance.

Section 1. Intent. In adopting a regulation relating to the manufacture of Amygdalin (laetrile) pursuant to the mandate of the General Assembly of Kentucky the Department for Human Resources takes official notice that such substance has not been approved by the Federal Food & Drug Administration and that the interstate shipment of such substance has been held to be illegal. This regulation is adopted in recognition of existing federal restrictions.

Section 2. Definitions. As used in this regulation:

(1) "Amygdalin" (laetrile) means Amygdalin (D-mande-lonitrile-beta-D-glucoside-6-beta-D-Glucoside), including all dosage forms thereof.



It includes:

- (a) D-Amygdalin; and
- (b) D, L-Amygdalin.

(2) "Department" means the Department for Human Resources.

(3) "Current Good Manufacturing Practices" means the applicable provisions of 21 CFR Part 210—Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding of Drugs and 21 CFR Part 211—Current Good Manufacturing Practice for Finished Pharmaceuticals adopted by the U.S. Food and Drug Administration.

Section 3. Licensing Requirements. (1) No person, partnership, association, corporation, or other business organization may manufacture, prepare, or compound amygdalin in this state without first obtaining a license from the department.

(2) An application for a license shall be made on forms prescribed or approved by the department and shall include among other things the training and experience of personnel and a description of the facilities, equipment and materials to be used in the manufacture of amygdalin.

(3) No license shall be issued to manufacture amygdalin unless the applicant:

(a) Is of good moral character or if the applicant is an association or corporation that its officers are of good moral character;

(b) Is in compliance with "Current Good Manufacturing Practices;"

(c) Has qualified personnel to perform assigned tasks;

(d) Submits the formula, including all components thereof, involved in the manufacture of the product;

(e) Has submitted a label for approval which discloses all information required for a prescription drug under federal law including a disclosure of possible side effects;

(f) Is financially responsible; and

(g) Is in compliance with all other provisions of this regulation.

Section 4. License Expiration; Renewal. (1) Every license issued by the department to manufacture amygdalin shall expire on June 30 of each year following the date of issuance unless sooner suspended or revoked.

(2) No license shall be renewed by the department to manufacture amygdalin unless the applicant is in full compliance with the provisions of this regulation.

Section 5. Manufacturing Practices. The Current Good Manufacturing Practices in Manufacturing, Processing, Packing, or Holding of Drugs as set forth in 21 CFR Part 210 and the Current Good Manufacturing Practice for Finished Pharmaceuticals as set forth in 21 CFR Part 211 adopted by the U.S. Food and Drug Administration are hereby adopted by the department as applicable to the manufacture of amygdalin in this state. The Code of Federal Regulations is published by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. A copy of this publication shall be on file in the Office of Inspector General, Department for Human

Resources, 275 East Main Street, Frankfort, Kentucky 40621, and is available for public inspection. A copy of this publication is also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

#### Section 6. Standards of Identity, Purity and Tests for D-Amygdalin.

##### (l) Powder form:

- (a) Molecular formula:  $C_{20}H_{27}NO_{11}$ ;  
 (b) Molecular weight: 457.4;  
 (c) Description: White powder—melting range: varies with water of crystallization and previous melting;  
 (d) Solubility: (mg/ml) water 125, ethanol 0.33, 10% ethanol 20, ether insoluble, methylene chloride insoluble;

##### (e) Stability:

1. Solution: (10 mg/ml) Determined by gas chromatography of TMS derivative

pH 6 phosphate buffer Stable at least 24 hours

pH 8 phosphate buffer No more than 15% L-Amygdalin formed in 24 hours

0.1 N HCl No more than 65% decomposition in 10 minutes

0.1 N NaOH No more than 56% decomposition in 10 minutes

2. Bulk: A sample stored at 60°C for 30 days showed no degradation as indicated by gas chromatography;

##### (f) Elemental composition:

Carbon	52.51
Hydrogen	5.95
Nitrogen	3.06
Oxygen	38.48

(g) Water: The compound may contain no more than 6% water, determine by Karl-Fischer;

(h) Infrared spectrum: The infrared spectrum conforms to reference material;

(i) Ultraviolet absorption: ( $H_2O$ ) a solution has the following absorption peaks (alpha max) and extinction coefficients (E)

Alpha max	E
268 nm	214
262 nm	312
257 nm	287
252 nm	203
208 nm	7400

(j) Nuclear magnetic resonance: ( $D_2O$ )

Chemical Shift ( $\delta$ )	Pattern	No. Protons	Assignment
3.2-5.2	m	14	Glucosyl protons
5.9	s	1	$H-C \equiv N$
7.6	s	5	Phenyl protons

(k) Optical rotation:

$$[\alpha]_D^{20} = -42^\circ (1, H_2O)$$

Merck Index, 8th Ed. (1968);

##### (l) Gas chromatography:

1. Column: 3% OV-1 on 100/200 Chromosorb W, AW-DMCS in glass column;

2. Oven temperature: 250° to 275°C programmed at 1°/minute;

3. Carrier gas:  $N_2$ , 35 ml/minute;

4. Sample: TMS-derivative of the sample (Prepare by dissolving 1 mg of the sample in 0.5 ml tri-sil with gentle heat.);

5. Detection: Flame ionization at 300°C;

##### (m) Thin layer chromatography:

1. Adsorbent:  $SiO_2 \cdot HF$ ;

2. Solvent system: n-BuOH/HOAc/ $H_2O$  (6:3:1);

3. Sample applied: 100  $\mu$ , 200  $\mu$ , ( $H_2O$ );

4. Detection: UV,  $I_2$ , KPR Spray;

(n) Purity: The compound should contain no more than 1% total impurities other than water;

(o) Suggested identity tests: IR, UV & NMR Spectra; and

(p) Suggested assay procedures: Thin layer and gas chromatography;

##### (2) Tablet form:

TEST	SPECIFICATION
Assay:	90-110% of label
HPLC Method	
Column—Lichrosorb RP8, 300 mm x 4 mm	The total of all uv absorbing impurities shall not exceed 5% of this chromatogram
Mobile phase—25% $CH_3OH$ in $H_2O$	
Flow rate—2 ml/min	
Detector/sensitivity—uv at 254 nm/0.02 aufs	
Disintegration:	100% within 15 minutes
Current USP method	
Dissolution:	100% within 30 minutes
Current USP method	
Weight variation	Conforms to current USP
Thin layer chromatography (Methanol extraction)	Compares favorably to reference material
Adsorbent—Silica gel GF	
Solvent system	
n-BuOH/HOAc/ $H_2O$ , 4/1/1	
Sample applied—200, 100 $\mu$ (MeOH)	
References—D, L-Amygdalin, 100 $\mu$ ( $H_2O$ )	
D, L-Amygdalinamide, 2, 4 $\mu$ ( $H_2O$ )	
D, L-Amygdalin acid, 3, 5 $\mu$ ( $H_2O$ )	
Detection—uv, $I_2$ , $H_2SO_4$ -charring.	

#### Section 7. Standards of Identity, Purity and Tests for D, L-Amygdalin.

##### (l) Powder form:

(a) Molecular formula:  $C_{20}H_{27}NO_{11}$ ;

(b) Molecular weight: 457.4;

(c) Description: White powder;

(d) Solubility: (mg/ml) Water 350; Methanol 100+; Chloroform 0.1;

##### (e) Stability:

1. Solution: A solution of 10 mg in 1 ml water shows no degradation as indicated by gas chromatography, after 24 hours.

2. Bulk: A sample stored at 60°C for 30 days shows

no degradation as indicated by gas chromatography.

(f) Elemental composition:

Carbon	52.51
Hydrogen	5.95
Nitrogen	3.06
Oxygen	38.48

(g) Water: The compound may contain no more than 6% water, determine by Karl-Fischer;

(h) Infrared spectrum: The infrared spectrum conforms to reference material;

(i) Ultraviolet absorption: (H<sub>2</sub>O)

Alpha max	E
268 nm	206
262 nm	300
257 nm	280
252 nm	200

(j) Optical rotation:

$$[\alpha]_D^{21} = -52^\circ \quad (1, \text{H}_2\text{O});$$

(k) Nuclear magnetic resonance: (D<sub>2</sub>O)

Chemical Shift (δ)	Pattern	No. Protons	Assignment
3.2-5.2	m	14	Glucosyl protons
5.9	s	½	H—C—C≡N   (L-form)
6.1	s	½	H—C—C≡N   (D-form)
7.6	s	5	Phenyl protons

Internal Reference for Assay: Pyrocatechol, 6.9 δ ;

(l) Gas chromatography:

1. Column: 3% OV-1 on 100/200 Chromosorb W-HP glass column, 6' x 2 mm;

2. Carrier gas: N<sub>2</sub>, 40 ml/min;

3. Oven temperature: 240° to 275°C programmed at 2 ml per minute;

4. Sample: TMS-derivative (Prepare by dissolving 1 mg in 0.5 ml tri-sil with gentle heat.);

5. Detection: FID at 280°C;

(m) Thin layer chromatography:

1. Adsorbent: SiO<sub>2</sub>-GF;

2. Solvent system: n-BuOH/HOAc/H<sub>2</sub>O (12:3:1);

3. Sample: 100 γ, 200 γ, (H<sub>2</sub>O);

4. Detection: I<sub>2</sub>, UV, (NH<sub>4</sub>)<sub>2</sub>SO<sub>4</sub> -charring;

(n) Purity: The compound consists of about 50:50 D, L-material. There is to be no more than 3% total organic impurities. The compound may contain no more than 6% water;

(o) Suggested identity tests:

1. Infrared spectrum,

2. Ultraviolet absorption,

3. Nuclear magnetic resonance;

(p) Suggested assay procedures:

1. Thin layer chromatography,

2. Karl-Fischer determination,

3. Gas chromatography.

(2) Sterile injectable form:

TEST	SPECIFICATION
Content uniformity HPLC Method Column—300 mm x 4 mm I.D. Lichrosorb RP8 Mobile phase—25% CH <sub>3</sub> OH in H <sub>2</sub> O Flow rate—2 ml/min Detector/sensitivity—uv at 254 nm/0.02 aufs	90-110% of label  The total of all uv absorbing impurities shall not exceed 5% of this chromatogram
Moisture—determine by Karl-Fischer	less than 2%
Weight variation	Conforms to current USP
pH of reconstituted solution	4.0 to 8.0
Color of solution	Colorless
Clarity and completeness of solution	Conforms to current USP
Particulate matter	Conforms to current USP
USP sterility test	Sterile
USP pyrogen test	Non-pyrogenic at 600 mg/kg
Thin layer chromatography Adsorbent—Silica gel GF Solvent system n-BuOH/HOAc/H <sub>2</sub> O, 4/1/1 Sample applied—400, 200 γ (H <sub>2</sub> O) References—D,L-Amygdalin, 200 γ (H <sub>2</sub> O) D,L-Amygdalinamide, 1, 2 γ (H <sub>2</sub> O) D,L-Amygdalin acid, 1, 2 γ (H <sub>2</sub> O)	Compares favorably to reference material
Detection—uv, I <sub>2</sub> , 30% H <sub>2</sub> SO <sub>4</sub> -charring.	

Section 8. When Amygdalin Deemed Adulterated.  
Amygdalin shall be deemed to be adulterated:

(1) (a) If it consists in whole or in part of any filthy, putrid, or decomposed substance; or

(b) If it has been produced, prepared, packed, or held under unsanitary conditions whereby it may have been contaminated with filth or whereby it may have been rendered injurious to health; or

(c) If its container is composed in whole or in part of any poisonous or deleterious substance which may render the contents injurious to health.

(2) If its strength differs from, or its quality or purity falls below the standard set forth in this regulation. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in this regulation;

(3) If its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess;

(4) If amygdalin has been:

(a) Mixed or packed therewith so as to reduce its quality or strength; or

(b) Substituted wholly or in part therefor.



Section 9. When Amygdalin Deemed Misbranded. Amygdalin shall be deemed to be misbranded:

- (1) If its labeling is false or misleading in any particular;
- (2) If in package form unless it bears a label containing:
  - (a) The name and place of business of the manufacturer, and the name and place of business of the packer, or distributor, if other than manufacturer; and
  - (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; provided that reasonable variations shall be permitted;
- (3) If any word, statement, or other information required by or under authority of this regulation to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;
- (4) Unless its label bears:
  - (a) The common or usual name of amygdalin;
  - (b) Adequate directions for use; and
  - (c) Such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users;
- (5) If it has been found by the department to be liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions;
- (6) (a) If its container is so made, formed, or filled as to be misleading; or
  - (b) If it is an imitation of another substance; or
  - (c) If it is offered for sale under the name of another substance;
- (7) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof;
- (8) If:
  - (a) It is intended for use by man which because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner, and is not dispensed upon a prescription unless prior to dispensing its label bears the statement "Caution: Kentucky law prohibits dispensing without prescription;" or
  - (b) Its label (as originally packed) directs that it is to be dispensed or sold only on prescription, unless it is dispensed or sold on a prescription of an authorized practitioner and its label (as dispensed) bears the name and place of business of the dispenser or seller, the serial number and date of such prescription, and the name of such licensed practitioner. Such prescriptions shall not be refilled.
- (9) Amygdalin sold on a prescription of a practitioner shall be exempt from the requirements of this section if:
  - (a) Such practitioner is licensed by law to administer amygdalin; and
  - (b) Amygdalin bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such practitioner and the name of the patient for whom prescribed.

(10) It is not the intention of subsection (2)(a) of this section to require the name and place of business of the wholesaler to appear upon the label of the package.

Section 10. Inspections. The department or its duly authorized agent shall have free access at all reasonable times to any factory, warehouse, or establishment in which amygdalin is manufactured, processed, packed or held for sale for the purpose:

(1) Of inspecting such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling thereon, to determine if any of the provisions of this regulation are being violated; and

(2) Of securing samples or specimens of any amygdalin. It shall be the duty of the department to make or cause to be made examinations of samples secured under the provisions of this section to determine whether or not any provision of this regulation is being violated; and

(3) Of examining or reproducing books, papers, documents or other evidence pertaining to such amygdalin.

Section 11. Detention or Quarantine of Amygdalin If Adulterated or Misbranded. (1) Whenever a duly authorized agent of the department finds or has probable cause to believe, that any amygdalin is adulterated, or misbranded within the meaning of this regulation, he shall affix to such article a tag or other appropriate marking, giving notice that such amygdalin is, or is suspected of being, adulterated or misbranded and has been detained or quarantined and warning all persons not to remove or dispose of such amygdalin by sale or otherwise until permission for removal or disposal is given by such agent or by the court. No person shall remove or dispose of such detained or quarantined amygdalin by sale or otherwise without such permission.

(2) When amygdalin detained or quarantined under subsection (1) of this section has been found by such agent to be adulterated, or misbranded, he shall petition the judge of the district court in whose jurisdiction the amygdalin is detained or quarantined for an order for condemnation of such article; provided that nothing in this section shall require that the department or its agent shall go to court if destruction of the quarantined amygdalin is accomplished by agreement made in writing with the owner of the property. When such agent has found that amygdalin so detained or quarantined is not adulterated or misbranded, he shall remove the tag or other marking.

Section 12. Revocation or Suspension of License. The department may suspend or revoke any license to manufacture amygdalin for violation of any provision of this regulation after proper notice and an opportunity for a due process hearing.

JACKIE HOWELL FRANKS, Inspector General

ADOPTED: February 10, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: February 12, 1981 at 8:45 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, Department for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

## ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

## Minutes of the February 3-4, 1981 Meeting

(Subject to subcommittee approval at its March meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Tuesday and Wednesday, February 3 and 4, 1981, in Room A, Capitol Annex. Present were:

**Members:** Representative William T. Brinkley, Chairman; Senators James P. Bunning, Helen Garrett and William Quinlan; Representatives James Bruce, Albert Robinson and Gregory Stumbo.

**Guests:** Roy Butler, Jim Gooding, Ked Fitzpatrick, Laura Scritchfield, Jan Grimes Wise, Sharon A. Rodriguez, Clifford Jennings, Diane Simmons, Hughes Walker, Greg Lawther, Gene A. Thomas and M. Conrad Hilton, Department for Human Resources; Billie R. Downing, Lynette Uhl, John Shoemaker, Eugene Robinson and Gary Bale, Department of Education; Carroll Roberts, Pat H. Wilson and James H. Boyd, Board of Hairdressers and Cosmetologists; Jack A. Wilson, Hisham M. Saaid, Norman E. Schell, Susan M. Schrage and Marjorie Mullen, Department for Natural Resources and Environmental Protection; Ellyn Elise Crutcher, Energy Regulatory Commission; Joe Johnson, Crime Victims' Compensation Board; Bill Graves, Department of Fish and Wildlife Resources; John A. Celletti, Kentucky Real Estate Commission; Paul E. Hunley and William C. Debord, Department of Transportation; Bill Schmidt, George Geohegan and Tom Carter, Medical Licensure Board; Howard G. Myers, Kentucky Forest Industries Association; John D. Hinkle and Mack J. Morgan, Jr., Kentucky Retail Federation; Steven R. Adams, Pharmacy Technical Advisory Com.; Dwaine Green, Kentucky Pharmacists' Assn.; David Wren, Kentucky Association of Health Care Facilities; James E. Garrett, H. Joseph Schutte and Joseph Michael Schutte, Pharmacare, Inc.; Frank P. Partee and Thomas A. Hoermann, Ford Motor Company; Andrew Cammack, Environmental Quality Commission; Jan Barthle and Betty D. Cox, Jefferson County Public Schools; Tony Sholar, Kentucky Chamber of Commerce; John M. Leinenbach, Blue Grass Chapter AGC.

**LRC Staff:** Mabel D. Robertson, Deborah Herd, O. Joseph Hood, Garnett Evins and Mary Helen Wilson.

**Press:** John Robb, WLEX-TV; Mary Gehant and Melissa Anne McKinney, Department of Public Information.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Bruce, seconded by Senator Garrett, the minutes of the January meeting were approved.

The following emergency regulations were reviewed by the subcommittee:

## DEPARTMENT FOR HUMAN RESOURCES

## Bureau for Social Insurance

## Medical Assistance

904 KAR 1:020E. Payment of pharmacy services. (Chairman Brinkley pointed out that a public hearing on

the regulation is scheduled for February 6, 1981. It was the consensus that an emergency did not exist and expressed opposition to the way the subcommittee was by-passed.)

## Public Assistance

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

904 KAR 2:088E. Home energy assistance program.

The following regulations were accepted and ordered filed:

## DEPARTMENT FOR HUMAN RESOURCES

## Bureau for Health Services

## Certificate of Need and Licensure

902 KAR 20:126. Licensure hearings.

## Medical Assistance

904 KAR 1:061. Payments for medical transportation.

## Public Assistance

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

904 KAR 2:040. Procedures for determining initial and continuing eligibility. (As amended.)

## Food Stamp Program

904 KAR 3:040. Issuance procedures. (Chairman Brinkley voted "no.")

## PUBLIC SERVICE COMMISSIONS

## Energy Regulatory Commission

807 KAR 50:067. Electric consumer information.

## DEPARTMENT OF FISH AND WILDLIFE RESOURCES

## Hunting and Fishing

301 KAR 3:053. Spring gun and archery season for wild turkey.

## DEPARTMENT OF EDUCATION

## Bureau of Administration and Finance

## General Administration

702 KAR 1:005. Textbook program plan. (As amended.)

## Bureau of Education for Exceptional Children

## Exceptional and Handicapped Programs

707 KAR 1:051. Exceptional children's programs.

707 KAR 1:053. Programs for physically handicapped and other health impaired children.

707 KAR 1:055. Programs for home instruction and/or hospital instruction.

707 KAR 1:058. Programs for multiple handicapped children.

707 KAR 1:060. Identification, evaluation and placement policy and procedures.

The following regulations were accepted contingent upon the State Board of Education accepting the recommendations made by the Jefferson County Public School System, Unit of Special Education:

**DEPARTMENT OF EDUCATION****Bureau of Education for Exceptional Children  
Exceptional and Handicapped Programs**

707 KAR 1:052. Programs for children with communication disorders.

707 KAR 1:054. Programs for the emotionally disturbed; behavior disordered.

707 KAR 1:056. Programs for children with specific learning disabilities.

707 KAR 1:057. Programs for mentally handicapped children.

707 KAR 1:059. Programs for visually handicapped children.

The recommendations made by the Jefferson County Public School System are as follows:

(1) The age range in the above Resource Plans be increased to six (6) years with no more than a four-year age span served within the classroom at any given time.

(2) The age range in the Resource Plans (Itinerant) in 707 KAR 1:052 be changed from four (4) years to "unlimited" with no more than a four-year age span served within the classroom at any given time. Teacher certification will be a consideration only where teachers are not certified K-12. Majority of itinerant teachers are, in fact, certified in both the elementary and secondary areas.

(3) The classroom plans in 707 KAR 1:059, Section 8, be expanded to include Resource Plan (Itinerant) with an age range of "unlimited" years and no more than a four-year age span served at any one time. Teacher certification will be a consideration only where teachers are not certified K-12. Majority of itinerant teachers are, in fact, certified in both the elementary and secondary areas.

The meeting was recessed on February 3, at 5:30 p.m., until 10 a.m. on February 4. The meeting was reconvened at 10 a.m., on February 4, in Room A of the Capitol Annex.

Chairman Brinkley announced that all members of the subcommittee were present and called the meeting to order.

The following regulations were deferred until the March meeting at the request of the issuing agency:

**DEPARTMENT OF FINANCE****Occupations and Professions****Board of Hairdressers and Cosmetologists**

201 KAR 12:050. Reciprocity for valid licensee.

201 KAR 12:055. Instructor's license for out-of-state applicant.

201 KAR 12:065. Inspection of new, relocated and change of owner salons.

The following regulations were deferred by the subcommittee until the March meeting:

**HARNESS RACING COMMISSION****Harness Racing Rules**

811 KAR 1:180. Personnel to be licensed; fees.

**KENTUCKY SCHOOL BUILDING AUTHORITY****School Building Construction**

723 KAR 1:005. Funding procedures.

**DEPARTMENT OF FINANCE****Occupations and Professions****Real Estate Commission**

201 KAR 11:140. Salesman operating as broker; when.

201 KAR 11:147. Procedure for license retention when salesman released by broker.

The following regulations were accepted and ordered filed:

**DEPARTMENT OF TRANSPORTATION****Bureau of Vehicle Regulation****Motor Carriers**

601 KAR 1:025. Transporting hazardous materials; permit. (As amended.)

**DEPARTMENT OF FINANCE****Occupations and Professions****Board of Medical Licensure**

201 KAR 9:005. Ethical conduct.

**Board of Hairdressers and Cosmetologists**

201 KAR 12:020. Examination. (As amended.)

201 KAR 12:082. School's course of instruction. (As amended.)

201 KAR 12:083. Education requirements. (As amended.)

201 KAR 12:085. School advertising.

201 KAR 12:130. School fees for services.

201 KAR 12:161. Repeals.

**CRIME VICTIMS' COMPENSATION BOARD****Claims and Awards**

107 KAR 1:030. Reciprocal agreement defined. (As amended.)

**DEPARTMENT FOR NATURAL RESOURCES****AND ENVIRONMENTAL PROTECTION****Bureau of Environmental Protection****Air Pollution****New Source Standards**

401 KAR 59:048. Leaks from new petroleum refinery equipment. (Amended after hearing.)

401 KAR 59:050. New storage vessels for petroleum liquids. (Amended after hearing.)

401 KAR 59:212. New graphic arts facilities using rotogravure and flexography. (Amended after hearing.)

401 KAR 59:214. New factory surface coating operations of flat wood paneling. (Amended after hearing.)

401 KAR 59:225. New miscellaneous metal parts and products surface coating operations. (Amended after hearing.)

401 KAR 59:230. New synthesized pharmaceutical manufacturing operations. (Amended after hearing.)

401 KAR 59:235. New pneumatic rubber tire manufacturing plants. (Amended after hearing.)

401 KAR 59:240. New perchloroethylene dry cleaning systems. (Amended after hearing.)

**Existing Source Standards**

401 KAR 61:050. Existing storage vessels for petroleum liquids. (Amended after hearing.)

401 KAR 61:122. Existing graphic arts facilities using rotogravure and flexography. (Amended after hearing.)

401 KAR 61:124. Existing factory surface coating operations of flat wood paneling. (Amended after hearing.)

401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations. (Amended after hearing.)

401 KAR 61:137. Leaks from existing petroleum refinery equipment. (Amended after hearing.)

401 KAR 61:150. Existing synthesized pharmaceutical product manufacturing operations. (Amended after hearing.)

401 KAR 61:155. Existing pneumatic rubber tire manufacturing plants. (Amended after hearing.)

401 KAR 61:160. Existing perchloroethylene dry cleaning systems. (Amended after hearing.)

On motion of Representative Bruce, seconded by Representative Stumbo, the meeting was adjourned at 11:45 a.m., until the March meeting to be held in Room A of the Capitol Annex.

# *Administrative Register* <sup>of</sup> *kentucky*

## Cumulative Supplement

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## Regulation Locator—Effective Dates

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405 KAR 7:030E	710	6-11-80	405 KAR 16:160E	787	6-11-80	405 KAR 20:050E	831	6-11-80
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405 KAR 16:080E	774	6-11-80	405 KAR 18:210E	822	6-11-80	603 KAR 2:015		
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405 KAR 16:090E	776	6-11-80	405 KAR 18:220E	823	6-11-80	702 KAR 4:040		
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## Volume 7

NOTE: Effective July 15, 1980, emergency regulations expire upon being repealed, replaced or sine die adjournment of the next regular session of the General Assembly.

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200 KAR 4:005E	291	9-4-80	11 KAR 4:010 Amended	481	1-6-81	Amended	442	11-6-80
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902 KAR 20:007E	396	10-14-80	115 KAR 3:005	519	1-6-81	Amended	443	11-6-80
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902 KAR 20:065E	161	8-8-80	201 KAR 12:065 Amended	483		201 KAR 26:040 Rejected	285	8-6-80
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