

LEGISLATIVE RESEARCH COMMISSION
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NOTE: The November meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting— THURSDAY, November 5, 1981, at 10 a.m., in Room 327, State Capitol.

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
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Public Hearing Scheduled

DEPARTMENT FOR HUMAN RESOURCES

A public hearing will be held at 9 a.m. EDT November 5, 1981, in the Vital Statistics Conference Room, First Floor, DHR Building, 275 East Main Street, Frankfort, Kentucky on the following regulations:

902 KAR 20:008. Health facilities and health service; licensure and fee schedule. [8 Ky.R. 218]

902 KAR 20:135. Certificate of need application fee schedule. [8 Ky.R. 255]

902 KAR 20:140. Operation and services; hospices. [8 Ky.R. 255]

Emergency Regulations Now In Effect

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-836
September 25, 1981

EMERGENCY REGULATION Department for Human Resources Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and

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(See instruction on reverse)

KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that, at the current rate of spending, the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with appropriation; and

WHEREAS, the Secretary has found that to reduce the rate of spending it is necessary to implement a new regulation governing technical eligibility; and

WHEREAS, the Secretary has promulgated a regulation on Technical Eligibility, which removes from coverage as an eligible group that group of children who are eligible on the basis of the state's special definition of unemployment; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.085(2), become 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 Technical Eligibility, and hereby direct that said regulation shall become effective upon being filed 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 1:003E. Technical eligibility.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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(3) 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, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

- (1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;
- (2) Children in psychiatric hospitals or medical institutions for the mentally retarded;
- (3) Unborn children deprived of parental support due to death, absence, incapacity or unemployment of the father;
- (4) Children of unemployed parents;
- (5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;
- (6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment.

Section 2. The Medically Needy. Other individuals, meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Department for Human Resources.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

- (1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under twenty-one (21) years of age, except that a child eligible for and receiving inpatient psychiatric services on his twenty-first birthday may be eligible until he reaches his twenty-second birthday or the inpatient treatment ends, whichever comes first;
- (2) Unborn children are eligible only upon medical proof of pregnancy;
- (3) Unemployment relating to eligibility of both parents and children is defined as:
 - (a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;
 - (b) The individual has prior labor market attachment consisting of earned income of at least fifty dollars (\$50) during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;
 - (c) The individual is currently receiving or has been

found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR section 233.100(a)(3)(ii).

[(4) Children, but not parents, may be eligible if both parents meet a more liberal definition of unemployment defined as:]

[(a) Employment of less than thirty (30) hours per week; or]

[(b) Regular attendance, at public expense, in a formalized full-time training course, below the college level. A public work project in which a real wage is paid, that is, subject to standard payroll deductions, is not considered a training course; or]

[(c) Receipt of unemployment compensation; and]

[(d) Requirements of subsection (3)(d) are met in that at least one (1) parent is registered and available for employment unless both parents are unemployed pursuant to paragraph (b) of this subsection; and the requirements of subsection (3)(e) are met for both parents.]

(4) [(5)] Under the definition[s] contained in subsection[s] (3) [and (4)] of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) [(6)] An aged individual must be at least sixty-five (65) years of age.

(6) [(7)] A blind individual must meet the definition of blindness as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(7) [(8)] A disabled individual must meet the definition of permanent and total disability as contained in Title II and XVI of the Social Security Act relating to RSDI and SSI.

(8) [(9)] For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) [(10)] Parents may be included for assistance in the cases of families with children [(except as shown in subsection (4) of this section)] including adoptive parents and alleged fathers where circumstances indicate the alleged

father has admitted the relationship prior to application for assistance. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the aid to families with dependent children program.

(10) [(11)] An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(11) [(12)] Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member.

(12) [(13)] 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. An alien must have been admitted for permanent residence. 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 recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(13) [(14)] An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(14) [(15)] "Child" means a needy dependent child under the age of twenty-one (21), including the unborn child, who is not otherwise emancipated, self supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) under the age of twenty-one (21), previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

Section 4. Institutional Status: No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age twenty-one (21) (except as provided for in Section 3(1) or is sixty-five (65) years of age or over.

Section 5. Application for Other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have

previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 6. Transferred Resources. When an applicant or recipient transfers a non-excluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the department shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if non-homestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for non-homestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the department will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by \$500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) of this subsection shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 10, 1981

APPROVED:

W. GRADY STUMBO, Secretary

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

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-806
September 16, 1981

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible under the provisions of KRS Chapters 194 and 205 for promulgating, by regulation, the policies of the Department with regard to the provision of Aid to Families with Dependent Children and the provision of Medical Assistance; and

WHEREAS, federal law with respect to those programs has been amended, effective October 1, 1981; and

WHEREAS, at the current rate of spending the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with the appropriation; and

WHEREAS, the Secretary has found that, to reduce the rate of spending and to conform to federal law, it is necessary to implement new regulations governing eligibility for the Aid to Families with Dependent Children and Medical Assistance programs; and

WHEREAS, the Secretary has promulgated regulations on Resource and Income Standard of Medically Needy, Technical Requirements; AFDC, AFDC: Standards for Need and Amount, and Conditions Under Which Adverse Action is Taken; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.085(2), become effective 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 an emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulations on Resource and Income Standard of Medically Needy, Technical Requirements; AFDC, AFDC: Standards for Need and Amount, and Conditions Under Which Adverse Action is Taken, and hereby direct that said regulation shall become effective upon being filed 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 1:004E. Resource and income standard of medically needy.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 16, 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 pro-

gram of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) 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 resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations of the Medically Needy: An applicant for or recipient of medical assistance is permitted to retain:

(1) A homestead, occupied or abandoned, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity of \$6,000 in income-producing, non-homestead property;

(3) Equity of \$3,000 in non-income producing, non-homestead property;

(4) Savings, stocks, bonds, totaling no more than \$1,500 for family size of one (1); \$3,000 for family size of two (2); and fifty dollars (\$50) for each additional member.

(5) Burial reserves in the form of pre-paid burial, trust fund or life insurance policies are exempt from consideration if the reserve does not exceed \$1,500 per individual. If burial reserves have a face value in excess of the above amount, the cash surrender value is determined and any excess of the allowable reserve added to total liquid assets in determining eligibility.

Section 2. Income and Resource Exemptions: Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the department, except that the AFDC earned income disregard (first thirty dollars (\$30) and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section 3. Income Limitations of the Medically Needy: Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	2,200	183
2	2,600	217
3	3,100	258
4	3,800	317
5	4,400	367
6	5,000	417

For each additional member, \$600 annually or fifty dollars (\$50) monthly is added to the scale.

Section 4. Additional Income Considerations: In comparing income with the scale as contained in Section 3, gross income is adjusted as follows in all cases with exceptions as contained in Section 5:

(1) In cases of adults and children, the standard or actual work related expenses of adult members and out-of-school youth are deducted from gross earnings. All earnings of an in-school child are disregarded plus any amount

of a statutory benefit received by an eighteen (18) to twenty-one (21) year old youth contingent upon school attendance actually used for school expenses.

(2) In all cases, verified fixed and measurable medical costs, including cost of health insurance premiums and expenses for medical services, recognized under state law but outside the scope of the medical assistance program, are deducted from income before comparison with the scale.

Section 5. Individuals in Chronic Care Institutions: For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable:

(1) Income protected for basic maintenance is twenty-five dollars (\$25) monthly in lieu of the figure shown in Section 3. All income in excess of twenty-five dollars (\$25) is applied to the cost of care except as follows:

(a) Available income in excess of the twenty-five dollars (\$25) is first applied to the cost of non-covered medical expenses and to other verified fixed and measurable medical expenses; and

(b) Remaining income of the patient is conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3, including any additional amount needed to cover the verified fixed and measurable medical expenses of the spouse or minor children.

(2) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs. However, an individual entering a facility on the first day of the month, and who remains institutionalized for the remainder of the month, would not receive a disregard for home maintenance.

Section 6. Spend-Down Provisions: No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 may qualify for any part of a three (3) month period in which medical expenses incurred during the period have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment and is thus disregarded as a fixed and measurable medical expense. When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the medical assistance program) if actually available for payment to the provider.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the medical assistance program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases which are solely responsible for ineligibility of the individual for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements.

Section 10. Relative Responsibility. For purposes of the medical assistance program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. *Stepparents are responsible for their stepchildren as shown in Section 11.* This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness.

(2) In cases of aged, blind, or disabled applicants or recipients living with their spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind, or disabled couples, living apart, both of whom are concurrently applying for or receiving MA only, income is considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart. After the six (6) month period, each is considered as a single individual.

(4) In cases of an aged, blind, or disabled individual living apart from a spouse who is not a recipient of MA only, the applicant or recipient is considered as a single individual in the month after separation and only that individual's income and resources are considered.

(5) For an individual whose case is being worked as if he were a single individual due to living apart from his spouse, as shown in Section 10(3) and (4), who has jointly held resources with his spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(6) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or non-spouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(7) In cases of a blind or disabled child under eighteen (18), or age eighteen (18) through twenty (20) if in school, living with his parent(s), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent.

(8) Income and resources of parent(s) are not considered available to a child living apart from the parent(s) for a period in excess of thirty (30) days, but any continuing con-

tribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(9) When a recipient in a family case has income and resources considered in relation to family size and enters a long term care facility, his income and resources are considered in the same manner as previously for up to one (1) year. For such an individual, the twenty-five dollars (\$25) maintenance standard is not applicable since his needs are considered with that of other family members. The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent and Effect on Eligibility of the *Assistance Group* [Parent]. An incapacitated (as determined by the department) stepparent's income is considered in the same manner as for a parent if the stepparent is included in the family case. *For the period prior to October, 1981, when the stepparent is not being so included, the amount of available income to allocate to the parent from the stepparent is determined by first deducting from the combined income of the stepparent and his minor dependent children in the home the standard or actual work expenses if income is earned (not to exceed earnings). Then disregard the maintenance amount (Section 3) for the stepparent and his/her children in the home, their verified fixed and measurable medical expenses, and any child support payments being paid by the stepparent for children outside the home. From the remainder, deduct any income attributable to the stepparent's children which is in excess of the children's prorated share of the maintenance scale. The balance is then allocated to the parent. If this balance, plus other income of the parent, equals or exceeds the parent's prorated share from the maintenance scale, the parent is precluded from eligibility. If the balance is less than the prorated share, the parent may be included in the family case with the income allocated from the stepparent to the parent considered when determining eligibility of the family case. For the period beginning October, 1981, and later, when the stepparent is not being included in the family case on the basis of incapacity, the stepparent's income is treated in the same manner as for the Aid to Families with Dependent Children Program (904 KAR 2:010E); except that the medically needy income limitations scale (Section 3) is used to determine the amount of income conserved for the stepparent and his/her dependents, and fixed and measurable medical expenses may be disregarded for the stepparent and his/her dependents in the home.*

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself on the basis of age, blindness, or disability (except as shown in subsection 3).

(2) In the case of a spouse, income and resources of both

spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 10, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 16, 1981 at 3 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-847
September 30, 1981

EMERGENCY REGULATION
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that to comply with the intent of the General Assembly, and to reimburse certain providers on a more equitable basis, the method of computing reimbursement rates for physicians, dentists, optometrists, and ophthalmic dispensers should be on a statewide basis; and

WHEREAS, the Secretary has promulgated regulations on Payments for Physicians' Services, Payments for Dental Services, and Payments for Vision Care Services; and

WHEREAS, the Secretary has found that an emergency exists with regard to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.085(2), become 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 regulations on Payments for Physicians' Services, Payments for Dental Services, and Payments for Vision Care Services; and hereby direct that said regulation shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

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

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 1:010E. Payment for physicians' services.

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 a program of Medical Assistance under Title XIX of the Social Security Act. KRS 205.550 and 205.560 require that the secretary prescribe the methods for determining costs for vendor payments for medical care services. This regulation sets forth the method for establishing payment for physician services.

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment: (1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

(2) Prevailing charge refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each medical procedure are derived from the overall pattern existing within the state [each medical service area].

Section 3. Method and Source of Information on Charges. (1) Effective October 1, 1974, the individual fee profiles for participating physicians were generated from historical data accumulated from charges submitted and processed by the medical assistance program during all of calendar year 1973.

(2) Effective October 1, 1974, the Title XIX prevailing fee maximums were generated from the same historical data as referenced in subsection (1) of this section.

(3) Effective October 1, 1974, the Title XVIII, Part B, current reasonable charge profiles were utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(4) Effective October 1, 1974, the Title XVIII, Part B, current prevailing charge data was utilized by the medical assistance program to comply with 45 C.F.R. section 250.30, now recodified as 42 C.F.R. 447.341.

(5) Percentile:

(a) The Title XIX prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

(b) The Title XVIII, Part B, prevailing charges were established by utilizing the statistical computation of the seventy-fifth (75th) percentile.

Section 4. Maximum Reimbursement for Covered Procedures. (1) Reimbursement for covered procedures is limited to the lowest of the following:

(a) Actual charge for service rendered as submitted on billing statement;

(b) The physician's median charge for a given service

derived from claims processed or from claims for services rendered during all of the calendar year preceding the start of the fiscal year in which the determination is made. [; or]

[(c) The physician's reasonable charge recognized under Part B, Title XVIII.]

(2) In no case may payment exceed the aggregate prevailing charge established [recognized] under Part B, Title XVIII for similar service on a statewide basis [in the same locality].

[(3) In instances where a reasonable charge for a specific medical procedure for a given physician has not been established under Part B, Title XVIII, the prevailing charge recognized under Part B, Title XVIII, for a similar procedure is utilized.]

(3) [(4)] In instances where a [neither a reasonable charge nor] prevailing charge has not been established for a specific medical procedure by Part B, Title XVIII, the prevailing charge established under Title XIX is utilized as the maximum allowable fee.

(4) [(5)] The upper limit for new physicians shall not exceed the fiftieth (50th) percentile.

Section 5. Exceptions. Exceptions to reimbursement as outlined in foregoing sections are as follows: (1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first fifty dollars (\$50) of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of fifty dollars (\$50) per procedure, after the appropriate prevailing fee screens are applied. The percentage rate applied to otherwise allowable reimbursement in excess of fifty dollars (\$50) per procedure is established at sixty (60) percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payment for individuals eligible for coverage under Title XVIII, Part B, Supplementary Medical Insurance, is made in accordance with Sections 1 through 4 and Section 5(1) within the individual's deductible and coinsurance liability.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 24, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 81-845

September 30, 1981

EMERGENCY REGULATION

Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that, at the current rate of spending, the Department will incur a deficit which

necessitates reductions in the Department's budget to bring spending in line with appropriation; and

WHEREAS, it has been found necessary to reduce the rate of spending through a reduction in dental benefits by discontinuance of the present dental program for individuals age twenty-one (21) and over and implementation of certain services to meet the basic and emergency needs of individuals age twenty-one (21) and over; and

WHEREAS, the Secretary has promulgated a regulation on Dental Services to implement these program changes; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.085(2), become 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 Dental Services, and hereby direct that said regulation shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor

FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:026E. Dental services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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(3) 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 provisions relating to dental services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Out-of-Hospital Services. Payment for services is limited to those procedures listed in the department's Dental Benefit Schedule which are included in the following categories:

- (1) Diagnostic;
- (2) Preventive;
- (3) Oral surgery;
- (4) Endodontics;
- (5) Operative;
- (6) Crown and bridge;
- (7) Prosthetics;
- (8) Orthodontics;

(9) Dentures; and

(10) Other services.

Section 2. Limitations by Age Group. Payment for the following procedures shall be limited to recipients of medical assistance who are under age twenty-one (21):

(1) Topical application of stannous fluoride, two (2) treatments per year excluding prophylaxis. The dentist may, at his option, utilize dental sealant instead of the second topical application of stannous fluoride.

(2) Extirpation of pulp filling of one (1) rooted, two (2) rooted and three (3) rooted canal, excluding restoration.

(3) Repair of fracture of transitional appliance or space maintainers.

(4) Repair of fracture and replacement of one (1) broken tooth on a transitional appliance or space maintainer.

(5) Fixed space maintainer, band type.

(6) Removable space maintainer, acrylic.

(7) Removable appliance for tooth guidance.

(8) Fixed or cemented appliance for tooth guidance.

(9) Transitional appliance, includes one (1) tooth on appliance, upper appliance.

(10) Transitional appliance, includes one (1) tooth on appliance, lower appliance.

(11) Each additional tooth on appliance.

(12) Child dental prophylaxis, two (2) treatments per year.

Section 3. Calendar Year Restrictions. Procedures for which payment is limited on a calendar year basis are:

(1) One (1) each for the following:

(a) Dental prophylaxis (for adults aged twenty-one (21) or over).

(b) Relining upper denture (flask cured only).

(c) Relining lower denture (flask cured only).

(d) Transitional appliance, includes one (1) tooth on appliance, upper appliance.

(e) Transitional appliance, includes one (1) tooth on appliance, lower appliance.

(2) Any two (2) from the following. This may be in the form of two (2) from any one (1) of the procedures, or one (1) each from any two (2) of the procedures:

(a) Fixed space maintainer, band type.

(b) Removable space maintainer, acrylic.

(c) Removable appliance for tooth guidance.

(d) Fixed or cemented appliance for tooth guidance.

(3) Three (3) each for the following:

(a) Repair of fracture of transitional appliance or space maintainer.

(b) Repair of fracture and replacement of one (1) broken tooth on a transitional appliance or space maintainer.

(c) Repairing broken denture with no teeth damaged.

(d) Repairing broken denture and replacing one (1) broken tooth.

Section 4. Inpatient Hospital Services. (1) Payment shall be made for all hospital inpatient services rendered by oral surgeons.

(2) Payment for services [pre-authorized by the Division for Medical Assistance,] rendered by general dentists for hospital inpatient care [shall be limited to multiple extractions] for patients termed to be "medically a high risk," defined as:

(a) Heart disease;

(b) Respiratory disease;

(c) Chronic bleeder;

(d) Uncontrollable patient, i.e., retardate, emotionally disturbed;

(e) Other, e.g., car accident, high temperature, massive infection.

Section 5. *Dentures. Complete dentures, excluding single plate, partial, replacement and interim dentures, are provided only when preauthorized by the department. Such preauthorization shall be granted only when submitted prior to extraction and full-mouth extraction of remaining teeth of the eligible recipient is the indicated method of dental treatment. Recipients currently edentulous (without teeth at the time of the preauthorization request) are not eligible for this benefit. Coverage of dentures shall end at that point in each fiscal year when the funds appropriated for provision of dentures are exhausted, and shall resume at such time as funds appropriated for that purpose again become available.*

Section 6. *Termination of Coverage of Dental Benefits for Adults. Dental benefits for adults (eligible individuals aged twenty-one (21) or over), as shown above in Sections 1 through 5 shall not be provided after September 30, 1981.*

Section 7. *Coverage of Dental Benefits for Adults. The following named dental benefits only shall be covered for adults (eligible individuals aged twenty-one (21) or over), effective October 1, 1981:*

(1) Oral surgery, as follows:

(a) Extraction, uncomplicated, single tooth, with local anesthetic and including routine post-operative care; and

(b) Extraction, uncomplicated, each additional tooth, with local anesthetic and including routine post-operative care.

(2) Operative, as follows:

(a) Amalgam filling for one (1) surface cavity;

(b) Amalgam filling for two (2) surface cavity;

(c) Amalgam filling for cavity involving three (3) or more surfaces;

(d) Silicate cement filling; and

(e) Acrylic, plastic, or composite filling.

(3) Other services, as follows: emergency treatment for pain, infection, and hemorrhage.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 24, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 81-847

September 30, 1981

EMERGENCY REGULATIONS

Department for Human Resources

Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that to comply with the intent of the General Assembly, and to reimburse

certain providers on a more equitable basis, the method of computing reimbursement rates for physicians, dentists, optometrists, and ophthalmic dispensers should be on a statewide basis; and

WHEREAS, the Secretary has promulgated regulations on Payments for Physicians' Services, Payments for Dental Services, and Payments for Vision Care Services; and

WHEREAS, the Secretary has found that an emergency exists with regard to said regulations and that, therefore, said regulations should, pursuant to the provisions of KRS 13.085(2), become 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 regulations on Payments for Physicians' Services, Payments for Dental Services, and Payments for Vision Care Services; and hereby direct that said regulations shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

JOHN Y. BROWN, JR., Governor

FRANCES JONES MILLS, Secretary of State

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:027E. Payment for dental services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 dental services.

Section 1. Out-of-Hospital Care. (1) The department shall reimburse participating dentists for covered services rendered to eligible medical assistance recipients at rates based on the dentist's usual customary, reasonable, and prevailing charges.

(2) Definitions: For purpose of determination of payment:

(a) "Usual and customary charge" refers to the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.

(b) "Prevailing charge" refers to those charges which fall within the range of charges as computed by the use of a pre-determined and established statistical percentile. Prevailing charges for each dental procedure are derived from the overall pattern existing within the state [each medical service area].

(3) Method and source of information on charges:

(a) Effective with fee revisions December 1, 1974 and after, individual fee profiles for participating dentists will be generated from historical data accumulated from charges submitted and processed by the Medical Assistance Program during all of the calendar year preceding the start of the fiscal year in which the determination is made.

(b) Effective with revisions December 1, 1974 and after, Title XIX prevailing fee maximums will be generated from the same historical data as referenced in paragraph (a) above.

(c) Effective with revisions December 1, 1974 and after, when applicable, Title XVIII, Part B current *aggregate* [reasonable charge profiles and current] prevailing charge data will be utilized by the Medical Assistance Program, to comply with 42 CFR 447.341.

(d) Percentile. The Title XIX prevailing charges were established by utilizing the statistical computation of the 50th and 75th percentile.

(4) Maximum reimbursement for covered procedures: Reimbursement for covered procedures shall be limited to the lowest of the following:

(a) The actual charge for services rendered as submitted on the billing statement.

(b) The dentist's median charge for a given service derived from claims processed during all of the calendar year preceding the start of the fiscal year in which the determination is made.

(c) The Title XIX prevailing fee maximum for a given service, derived from claims processed as described in paragraph (b) above.

[(d) The dentist's reasonable charge recognized under Part B, Title XVIII when applicable.]

Section 2. Hospital Inpatient Care. (1) Hospitalized inpatient care refers to those services provided inpatients. It does not include dental services provided in the outpatient, extended care or home health units of hospitals. All fees for "hospitalized inpatient care" are on a per admission basis, i.e., any dentist or oral surgeon submitting a claim for a payment of either of the two (2) benefits under hospitalized inpatient care must agree to accept that single program benefit payment for all his professional services rendered to that patient during that admission.

(2) An oral surgeon submitting a claim for payment shall be paid for all in-hospital dental services as an "attendance fee" or "consultation fee." The "attendance fee" shall be fifty dollars (\$50) and the "consultation fee" shall be twenty-five dollars (\$25).

(3) A general dentist may submit a claim for hospital inpatient services only [for multiple extractions] for the patient termed "medically a high risk." Medically high risk is defined as a patient in one (1) of the following classifications:

(a) Heart disease;

(b) Respiratory disease;

(c) Chronic bleeder;

(d) Uncontrollable patient (retardate, emotionally disturbed); or

(e) Other (car accident, high temperature, massive infection, etc.).

(4) A general dentist shall receive "attendance fee" or "consultation fee" for the hospital inpatient service in the amount of forty dollars (\$40) as "attendance fee" and twenty dollars (\$20) as "consultation fee."

(5) "Attendance fee" is considered to be full payment for daily attendance of a hospital inpatient, per admission,

regardless of length of stay, diagnosis, or type of professional service rendered. This fee is to be requested by the attending dentist or oral surgeon for any given admission.

(6) "Consultation fee" is considered to be in full payment of consultation provided on behalf of a hospital inpatient or at the request of the consulting physician/oral surgeon/dentist. This fee may be paid to more than one (1) physician/oral surgeon/dentist per admission. The fee is thus considered full payment for all consultation provided by a given physician/oral surgeon/dentist (other than the attending oral surgeon/dentist) during a given admission. For purpose of payment in this program the administration of anesthesia by a physician/oral surgeon will be considered consultation.

Section 3. Dentures. [Effective July 1, 1979,] The maximum program payment for complete upper and lower dentures is \$250.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 24, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 1:040E. Payments for vision care services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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(3) 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 vision care services.

Section 1. Allowable Charge Determinations. Reimbursement shall be made to optometrists and ophthalmic dispensers on the basis of usual, customary and allowable charges, except that reimbursement for materials is at the laboratory cost of the materials not to exceed upper limits as set by the department.

Section 2. Definitions. For purposes of determination of payment the following definitions shall be applicable:

(1) "Usual and customary charge" means the uniform amount the individual optometrist or ophthalmic dispenser charges in the majority of cases for a specific covered procedure or service.

(2) "Allowable charges" are those charges computed on the basis of the provider's past charge history [, determined by medical service area,] and which do not exceed:

(a) The median charge for the service; or
 (b) The [area] seventy-fifth (75th) percentile (or fiftieth (50th) percentile for newly participating providers) charge for the service; or

(c) The Title XVIII-B (Medicare) *aggregate* [reasonable or] prevailing charge for the service.

(3) The "median charge" is the arithmetic median of all billed charges for a given individual procedure billed by a given optometrist in a calendar year.

(4) The "seventy-fifth (75th) percentile" or "fiftieth (50th) percentile" is the charge that is equal to or greater than seventy-five (75) or fifty (50) percent of all charges, respectively, computed on the basis of all submitted charges for each procedure [within a given area].

Section 3. Maximum Reimbursement for Covered Procedures and Materials for Optometrists.

(1) Reimbursement for covered services, except materials, is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 2.

(2) Reimbursement for materials (eyeglasses and/or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the department. A laboratory invoice, or proof of actual acquisition cost of materials, must accompany the billing form.

Section 4. Maximum Reimbursement for Covered Procedures and Materials for Ophthalmic Dispensers. (1) Payment for covered services (a dispensing service fee or a repair service fee) rendered by licensed ophthalmic dispensers to eligible recipients is limited to the lowest of the following:

(a) The actual charge for the service rendered as submitted on the billing statement; or

(b) The allowable charge, as defined in Section 2.

(2) Reimbursement for materials (eyeglasses and/or parts of eyeglasses) may be made at the laboratory cost of the materials not to exceed upper limits for materials as set by the department. A laboratory invoice, or proof of actual acquisition cost of materials, must accompany the billing form.

Section 5. Reimbursement for Other Supplies and Materials. Other supplies and materials such as cleaning fluid, cleaning cloth, carrying cases, etc., which are not eyeglasses or replacement/repair parts for eyeglasses, are considered to be provided in conjunction with and paid for as a part of the vision services rendered, and additional charges may not be made to the department or the recipient for these items.

Section 6. Effect of Third Party Liability. When payment for a covered service is due and payable from a third party source, such as private insurance, or some other third party with a legal obligation to pay, the amount payable by the department shall be reduced by the amount of the third party payment.

Section 7. Limitations. (1) Program reimbursement for eyeglasses must be inclusive. The cost of both laboratory materials and dispensing fees must be billed to either the program or the recipient. If any portion of the amount is billed to or paid by the recipient, no responsibility for reimbursement shall attach to the department and no bill for the service shall be paid by the department. This limita-

tion shall not, however, preclude the issuance of billings for the purpose of establishing the liability of, and/or collecting from, liable third parties.

(2) Telephone contacts are excluded from payment.

(3) Contact lenses are excluded from payment.

(4) Safety glasses are excluded from payment, unless the recipient is blind in one (1) eye and safety glasses are prescribed for protection.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 24, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 81-806

September 16, 1981

EMERGENCY REGULATIONS

Department for Human Resources

Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible under the provisions of KRS Chapters 194 and 205 for promulgating, by regulation, the policies of the Department with regard to the provision of Aid to Families with Dependent Children and the provision of Medical Assistance; and

WHEREAS, federal law with respect to those programs has been amended, effective October 1, 1981; and

WHEREAS, at the current rate of spending the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with the appropriation; and

WHEREAS, the Secretary has found that, to reduce the rate of spending and to conform to federal law, it is necessary to implement new regulations governing eligibility for the Aid to Families with Dependent Children and Medical Assistance programs; and

WHEREAS, the Secretary has promulgated regulations on Resource and Income Standard of Medically Needy, Technical Requirements; AFDC, AFDC: Standards for Need and Amount, and Conditions Under Which Adverse Action is Taken; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulations and that, therefore, said regulations should, pursuant to the provisions of KRS 13.085(2), become effective 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 an emergency by the Secretary of the Department for Human Resources with respect to the filing of said regulations on Resource and Income Standard of Medically Needy, Technical Requirements; AFDC, AFDC: Standards for Need and Amount, and Conditions Under Which Adverse Action is Taken, and hereby direct that said regulations shall become effective upon being filed 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 2:005E. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2), (3)

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 16, 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 the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40 which, in summary, provides that a resident is anyone who is living in the state, entered the state with a job commitment or seeking employment, and is not receiving AFDC benefits from another state. Citizenship is determined in accordance with 45 CFR 233.50 which states that AFDC can be provided only to citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, military service, [or] deportation or single parent adoption. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(3) Incapacity defined. Incapacity is any condition of

mind or body which makes a parent physically or mentally unable to provide the necessities of life for his/her needy child. The condition must be anticipated to continue for at least thirty (30) days beyond the date of application and may be presumed to continue during a period in which the parent is undergoing diagnostic studies and/or evaluation of rehabilitation potential. Incapacity of the parent must prevent him/her from working in an occupation in which he/she previously engaged, or another job for which he/she is equipped and which is accessible in the county or community where he/she normally resides. If a job opportunity exists in the community or county, it shall be considered accessible regardless of its immediate availability. Scarcity of work does not establish incapacity unless there is a causal relationship between the parent's unemployment and actual physical or mental disability. *Lack of paid work experience does not preclude the parent from being considered incapacitated.*

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(4) Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.

(5) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

(6) A child placed in foster care is not required to be living in the home of a relative to be eligible to receive AFDC in his/her foster home.

Section 4. Age and School Attendance. Prior to October, 1981, a [A] child may be eligible for AFDC from birth to age twenty-one (21); provided, however, that the child eighteen (18) to twenty-one (21) is regularly attending a school or training course leading to a certificate, diploma or degree as required by 45 CFR Section 233.10 and further provided that the eighteen (18) to twenty-one (21) year old attending school less than full-time is either regularly employed or available for and seeking employment unless precluded therefrom by a physical handicap. *For payments made for October, 1981, or later, a child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19).* Full- and part-time is defined in accordance with 45 CFR 233.90. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to re-enter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Work Registration. (1) Unless exempt under the criteria, as specified in Title VI of the Social Security Act and 45 CFR Section 224.20(b) needs of an individual for whom application has been made may not be included in the AFDC assistance grant if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause.

(2) Individuals exempt from WIN registration pursuant to 45 CFR 224.20(b) are as follows:

(a) A child under age sixteen (16).

(b) *For the period prior to October, 1981, a [A] child age sixteen (16) to twenty-one (21) if enrolled as a full-time student. For payments made for October, 1981, or later, a child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation.*

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days.

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days.

(e) An individual age sixty-five (65) or over.

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible.

(g) A mother or other caretaker relative of a child under six (6).

(h) A person so far remote from a work incentive project that his/her effective participation is precluded.

Section 7. Cooperation in Child Support Activities. (1) Inclusion of the specified relative in the AFDC budget is dependent upon cooperation in child support activities pursuant to 45 CFR 232.40 and refusal, except for "good cause," results in removal of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.

(3) Pursuant to 45 CFR part 232.13, the Department for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.

(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicants'/recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent

jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation.

(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 8. Potential Entitlement for Other Programs. All applicants/recipients must apply for any statutory benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 9. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 10. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Department for Human Resources of any child support owed for the child up to the amount of AFDC payments made to the recipient.

Section 11. Eligibility Criteria for Foster Care. To be eligible for foster care, the child must meet the technical requirements of the regular AFDC program as set forth in this regulation. In addition, the child must have been:

(1) Removed from the home after April 30, 1961; and

(2) Committed to the department by a judicial determination under the authority of KRS 208.200 or 208.080 specifying that the child is delinquent, neglected, needy, or dependent (as stated in KRS 208.020), or if prior to June 1976, KRS 205.430, that continuance in or return to the home of a relative would be contrary to his/her welfare; and

(3) Receiving AFDC as of the month in which court action was initiated, or if not, would have received AFDC if application had been made; or if not living with a relative at the time of court action, did live with such relative within six (6) months prior to the month of initiation of court action and was eligible or would have been eligible for AFDC if application had been made.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 10, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 16, 1981 at 3 p.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 2:010E. AFDC; standards for need and amount.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 13.082, 205.200(2)

EFFECTIVE: September 16, 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 is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Resource Limitations: An applicant for or recipient of AFDC is permitted to retain:

(1) A homestead, household equipment, motor vehicles and farm equipment without limitation on value;

(2) Equity in non-homestead, income producing property, not to exceed \$5,000;

(3) Equity in non-income producing non-homestead property not to exceed \$1,000;

(4) Other assets are limited to:

(a) Savings, stocks or bonds: \$500 for child living with relative other than parent; \$1,000 for one (1) child and one (1) parent; \$1,500 for two (2) or more children and one (1) or two (2) parents or one (1) child and two (2) parents.

(b) Cash surrender value of life insurance not to exceed \$1,000 for each parent or \$500 for each child.

(5) Non-continuing income which, whenever added to other resources, does not exceed resource maximums.

Section 2. Countable Income: (1) *Income of a stepparent in the home is considered in the following manner:*

(a) *For the period prior to October 1, 1981, to determine if a specified relative may be included in the AFDC grant when a stepparent is also in the home, a test budget is completed. Gross income of the stepparent and any of his/her minor children in the home is adjusted by deducting work expenses, child care and fixed and measurable medical expenses. The adjusted income is compared to the income allowed for that family size (the stepparent and his/her children) in accordance with the medical assistance income scale contained in 904 KAR 1:004. Any excess is then applied to the needs of the specified relative. If the specified relative's needs are met, the specified relative may not be included in the AFDC grant and none of the stepparent's income is included in the budget unless it is actually made available to the children included in the grant. If the specified relative's needs are not met, the specified relative may be included in the AFDC grant and the excess income of the stepparent is counted in the grant determination.*

(b) *For payments made for October, 1981, and later, the adjusted net excess income of a stepparent living in the home as determined in accordance with subsection (2)(p) of this section shall be considered in determining the amount of the assistance payment.*

(2) In determining initial eligibility for AFDC and the

amount of the assistance payment, all continuing income of persons for whom application is made or assistance received is deducted from the assistance standard except those amounts or from those sources for which a disregard is required by 45 CFR 233.20 as follows:

(a) [(1)] Standard work expense deductions in accordance with the following scale or verified actual work expenses if verification is provided by the client. This scale covers all work expenses except child care. Actual cost of child care is deducted as a work-related expense for an applicant/recipient who is employed.

Work Expense Standard Deduction Scale
(Excluding Work-Related Child Care)

Gross Monthly Earned Income	Standard Monthly Deduction
\$ 2.00- 49.99	\$ 6.00
50.00- 99.99	19.00
100.00-149.99	31.00
150.00-199.99	44.00
200.00-249.99	56.00
250.00-299.99	69.00
300.00-349.99	81.00
350.00-399.99	94.00
400.00-449.99	106.00
450.00-499.99	119.00
500.00-549.99	131.00
550.00-599.99	144.00
600.00-649.99	156.00
650.00-699.99	169.00
700.00-749.99	181.00
750.00 and over	194.00

(b) [(2)] Earnings of a child under age fourteen (14).

(c) [(3)] Work Incentive Program (WIN) and Comprehensive Employment and Training Act Program (CETA) incentive payments.

(d) [(4)] Reimbursement for training-related expenses made by a manpower agency to applicants in institutional and work experience training.

(e) [(5)] Value of food coupons.

(f) [(6)] Emergency assistance program [payments pursuant to 904 KAR 2:008].

(g) [(7)] Non-emergency medical transportation payments.

(h) [(8)] Principal of loans obtained to meet needs not included in the assistance plan, e.g., home repair, farm expansion.

(i) [(9)] Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans administered by the United States Commissioner of Education.

(j) [(10)] The amount of statutory benefits, paid to or for a minor child and with the condition that the child be in regular school attendance, which is used for tuition, registration fees, and other school-related expenses[,] except that RSDI benefits based on school attendance are totally disregarded.

(k) [(11)] Highway relocation assistance.

(l) [(12)] Urban renewal assistance.

(m) [(13)] Federal disaster assistance and state disaster grants.

(n) [(14)] Home produce for household consumption.

(o) [(15)] Proceeds from the sale of homestead property

provided the family intends to reinvest in another homestead within six (6) months.

(p) [(16)] For the period prior to October, 1981, income/resources of a step-parent are considered only in relation to the eligibility of the parent as specified relative. For payments made for October, 1981, and later, gross income of a stepparent living in the home is considered available to the assistance unit, subject to the following disregards:

1. The first seventy-five dollars (\$75) of the gross earned income of the stepparent who is employed full time or the first forty dollars (\$40) of the gross earned income of the stepparent who is employed part time. Full-time employment shall be defined as employment of thirty (30) hours per week or more.

2. An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are claimed by the stepparent as dependents for purposes of determining his/her federal personal income tax liability.

3. Any amount actually paid by the stepparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

4. Payments by the stepparent for alimony or child support with respect to individuals not living in the household.

5. Income of a stepparent receiving Supplemental Security Income.

(q) [(17)] Earnings received by a person employed by CETA under the Youth Incentive Entitlement Pilot Projects (YIEPP), the Youth Community Conversation and Improvement Project (YCCIP), and the Youth Employment and Training Program (YETP).

(r) [(18)] Earnings received from participation in Job Corps.

(s) [(19)] Experimental housing allowance program payment made under annual contributions contracts entered into prior to January 1, 1975, under Section 23 of the U.S. Housing Act of 1937, as amended; and HUD Section 8 payments for existing housing under Title 24 part 882.

(t) [(20)] Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975.

(u) [(21)] Compensation provided to volunteers under Vista/Action or other programs established under Title VI of the Older American's Act of 1965, as amended.

(v) [(22)] Earned income credit provided under the Revenue Act of 1978.

(w) [(23)] First thirty dollars (\$30) and one-third ($\frac{1}{3}$) of the remainder of the total combined earned income of all the members of the assistance group if the family's needs were met in whole or in part by an AFDC payment for any one (1) of the four (4) months preceding the month of application.

Section 3. Additional Disregards: After initial eligibility is established, the following income is also disregarded:

(1) First thirty dollars (\$30) and one-third ($\frac{1}{3}$) of the remainder of the total combined earned income of all the members of the assistance group.

(2) Earnings of a child in full-time school attendance or in half-time school attendance, if working full-time.

Section 4. Members of Assistance Group: (1) The assistance group is composed of one (1) or more children and may include as specified relative any person specified

in 904 KAR 2:005, Section 3. The incapacitated natural or adoptive parent of the child(ren) who is living in the home and legally married to the specified relative may be included as second parent if the technical eligibility factors are met.

(2) The decision regarding application for or continued inclusion of an individual child rests with the parent or other specified relative.

Section 5. Gross Income Limitation. For payments made for October, 1981, and later, all non-AFDC gross income of the assistance group, without benefit of the disregards specified in paragraphs (a) and (w) of Section 2(2), and Section 3(1), shall not exceed 150 percent of the assistance standard as shown in Section 6. If income exceeds the income limitation standard set forth below, the case is ineligible.

Number of Eligible Persons	Monthly Gross Income Limitation Standard
1 Child	\$200
2 Persons	\$243
3 Persons	\$282
4 Persons	\$353
5 Persons	\$413
6 Persons	\$465
7 or more Persons	\$518

Section 6. [5.] Assistance Standard. [(1)] The AFDC assistance standard including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment is as follows:

Number of Eligible Persons	Monthly Standard
1 Child	\$133
2 Persons	\$162
3 Persons	\$188
4 Persons	\$235
5 Persons	\$275
6 Persons	\$310
7 or more Persons	\$345

[(2)] The actual cost of child care shall be added to the standard if, prior to July 1, 1981, the relative with whom the child lives requests a child care payment for child care costs incurred prior to July 1, 1981, and is in a training program for which no wage or allowance is received. Child care costs shall not be paid for child care incurred after July 1, 1981.]

Section 7. [6.] Payment Rates for Foster Care. Payment rates are based on the Department for Human Resources per diem payment rates. The department's rates are based on the age and needs of the child.

(1) A child in foster family care who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment (as determined by the Bureau for Social Services):

Age	Regular	Special	Extraordinary
0-5	\$144	\$167	\$228
6-12	160	183	228
13-over	175	198	228

(2) A child in a private child caring institution who is eligible for aid to families with dependent children foster care payments receives payment in one (1) of the following monthly amounts according to the child's age and needs assessment as (determined by the Bureau for Social Services):

Age	Regular	Special
0-5	\$151	\$212
6-12	175	212
13-over	192	212

WILLIAM L. HUFFMAN, Commissioner
 ADOPTED: September 10, 1981
 APPROVED: W. GRADY STUMBO, Secretary
 RECEIVED BY LRC: September 16, 1981 at 3 p.m.

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 2:045E. Conditions under which adverse action is taken.

RELATES TO: KRS 205.200(2), 205.245

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 16, 1981

EXPIRED: October 8, 1981 (repealed by 904 KAR 2:046E)

NECESSITY AND FUNCTION: The Department for Human Resources has responsibility to administer public assistance programs under Title 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 has responsibility to provide supplementation to certain aged, blind and disabled individuals as required by Title XVI, as amended and by KRS 205.245, 45 CFR section 205.10(a)(4) and 45 CFR section 206.10(a)(4) require that applicants or recipients be provided adequate notice of adverse action in written form citing applicable state regulations. This regulation sets forth the conditions under which an application is denied or assistance is decreased or discontinued.

Section 1. Reasons for Adverse Action: An application is denied or assistance discontinued or decreased when:

(1) Income or resources exceed the standards for the specific assistance program, or when income of a recipient increases;

(2) Technical eligibility does not exist or ceases to exist:

(a) Deprivation of the needy child does not exist;

(b) The needy child is not living in the home of a relative within the specified degree of relationship;

(c) For the period prior to October, 1981, if [T]he needy child becomes twenty-one (21), or if eighteen (18) to twenty-one (21), is not attending school; for payments made for October, 1981, and later, the needy child

becomes age eighteen (18), and is not a full-time student in a secondary school or the equivalent level of vocational or technical training, or is such a full-time student but is not expected to complete the program before age nineteen (19);
 (d) For medical assistance only, the needy child becomes age twenty-one (21);

(e) [(d)] The needy child is receiving supplemental security income;

(f) [(e)] The needy individual is neither aged, blind nor disabled;

(g) [(f)] The individual is residing in a public, non-medical institution, or if under age sixty-five (65), a tuberculosis hospital or, if between age twenty-one (21) and sixty-five (65) a psychiatric hospital.

(3) The applicant or recipient has failed to comply with a technical requirement:

(a) The applicant or recipient has failed to furnish a Social Security number, or to permit application to be made for such number, for one (1) or more persons for whom application has been made or assistance granted, resulting in ineligibility of the non-enumerated member(s);

(b) The specified relative as defined in 904 KAR 2:005 with whom the child lives has failed without good cause to cooperate in child support activities resulting in ineligibility of such relative;

(c) The non-exempt applicant or recipient has failed to register for and/or participate in the Work Incentive Program, resulting in ineligibility of the non-exempt individual;

(d) The applicant or recipient has failed to provide sufficient information or clarify conflicting information for a determination of eligibility despite receipt of written notice detailing the additional information needed for a determination;

(e) The applicant/recipient has failed to keep the appointment for an interview.

(4) Other reasons:

(a) Request of client, or voluntary written withdrawal of application;

(b) Bureau staff unable to locate applicant or recipient;

(c) Applicant or recipient no longer domiciled in Kentucky;

(d) Change in program policy has adversely affected the recipient.

Section 2. Denial of Applications: Whenever an application is denied, the applicant is given written notification of the denial including the reason for the denial and the right to a fair hearing.

Section 3. Decreases and Discontinuances: Whenever a change in circumstances indicates that a money payment should be reduced or discontinued, or that medical entitlement should be discontinued or curtailed to any or all members, the recipient is given ten (10) days advance notice of the proposed action in writing, explaining the reason for the proposed action, and extending the opportunity to confer with the worker or to request a fair hearing. Hearing requests received during the advance notice period result in delay of the decrease or discontinuance pending the hearing officer's decision.

Section 4. Exceptions to the Advance Notice Requirement: An advance notice of proposed action is not required, but written notice is given, whenever the decrease or discontinuance results from:

(1) Information reported by the recipient and the reci-

patient has signed a waiver of the notice requirement indicating understanding of the consequences;

(2) The bureau has received a clear written statement, signed by the recipient, that he no longer wishes assistance;

(3) AFDC-FC is being discontinued;

(4) The bureau has received factual information that the aged, blind or disabled recipient has died;

(5) Whereabouts of the recipient are unknown and mail addressed to him has been returned indicating no known forwarding address, however a returned check will be made available to him if his whereabouts become known during the payment period covered by the returned check;

(6) It has been established that assistance has been accepted in another state;

(7) The AFDC child has been removed from the home by judicial order and placed in foster care;

(8) The aged, blind or disabled supplementation recipient has entered a chronic care facility resulting in vendor payment status;

(9) The recipient has entered a penal institution or if under sixty-five (65) a tuberculosis hospital, or if between twenty-one (21) and sixty-five (65), a mental hospital;

(10) A special allowance, or time limited assistance is terminated and the recipient has been informed in writing at the time the allowance or assistance was granted of the automatic termination at the end of a specified period or under specific conditions.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 10, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 16, 1981 at 3 p.m.

JOHN Y. BROWN, JR., GOVERNOR

Executive Order 81-869

October 8, 1981

EMERGENCY REGULATION

Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050 and KRS 205.520, for promulgating, by regulation, the policies of the Department with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary has found that, at the current rate of spending, the Department will incur a deficit which necessitates reductions in the Department's budget to bring spending in line with appropriation; and

WHEREAS, the Secretary has found that to reduce the rate of spending it is necessary to implement new policies governing technical eligibility and conditions under which adverse action is taken; and

WHEREAS, the Secretary has promulgated a regulation on Conditions Under Which Adverse Action is Taken which reflects policy decisions recently made; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.085(2), become 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 Conditions Under Which Adverse Action is Taken, and hereby direct that said regulation shall become effective upon being filed 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 2:046E. Adverse action; conditions.

RELATES TO: KRS 205.200(2), 205.245

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: October 8, 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 public assistance programs under Title 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 has responsibility to provide supplementation to certain aged, blind and disabled individuals as required by Title XVI, as amended, and by KRS 205.245. 45 CFR section 205.10(a)(4) and 45 CFR section 206.10(a)(4) require that applicants or recipients be provided adequate notice of adverse action in written form citing applicable state regulations. This regulation sets forth the conditions under which an application is denied or assistance is decreased or discontinued.

Section 1. Reasons for Adverse Action. An application is denied or assistance discontinued or decreased when:

(1) Income or resources exceed the standards for the specific assistance program, or when income of a recipient increases;

(2) The applicant or recipient does not meet technical eligibility criteria or has failed to comply with a technical requirement as set forth in 904 KAR Chapters 1 and 2;

(3) The applicant or recipient has failed to provide sufficient information or clarify conflicting information for a determination of eligibility despite receipt of written notice detailing the additional information needed for a determination;

(4) The applicant/recipient has failed to keep the appointment for an interview;

(5) Other reasons:

(a) Request of client, or voluntary written withdrawal of application;

(b) Bureau staff unable to locate applicant or recipient;

(c) Applicant or recipient no longer domiciled in Kentucky;

(d) Change in program policy has adversely affected the recipient.

Section 2. Denial of Applications. Whenever an application is denied, the applicant is given written notification of the denial including the reason for the denial and the right to a fair hearing.

Section 3. Decreases and Discontinuances. Whenever a change in circumstances indicates that a money payment should be reduced or discontinued, or that medical entitlement should be discontinued or curtailed to any or all members, the recipient is given ten (10) days advance notice of the proposed action in writing, explaining the reason for the proposed action, and extending the opportunity to confer with the worker or to request a fair hearing. Hearing requests received during the advance notice period result in delay of the decrease or discontinuance pending the hearing officer's decision.

Section 4. Exceptions to the Advance Notice Requirement. An advance notice of proposed action is not required, but written notice is given, whenever the decrease or discontinuance results from:

- (1) Information reported by the recipient and the recipient has signed a waiver of the notice requirement indicating understanding of the consequences;
- (2) The bureau has received a clear written statement, signed by the recipient, that he no longer wishes assistance;
- (3) AFDC-FC is being discontinued;
- (4) The bureau has received factual information that the aged, blind or disabled recipient has died;
- (5) Whereabouts of the recipient are unknown and mail addressed to him has been returned indicating no known forwarding address, however a returned check will be made available to him if his whereabouts become known during the payment period covered by the returned check;
- (6) It has been established that assistance has been accepted in another state;
- (7) The AFDC child has been removed from the home by judicial order and placed in foster care;
- (8) The aged, blind or disabled supplementation recipient has entered a chronic care facility resulting in vendor payment status;
- (9) The recipient has entered a penal institution or if under sixty-five (65) a tuberculosis hospital, or if between twenty-one (21) and sixty-five (65), a mental hospital;
- (10) A special allowance, or time limited assistance is terminated and the recipient has been informed in writing at the time the allowance or assistance was granted of the automatic termination at the end of a specified period or under specific conditions.

Section 5. 904 KAR 2:045 and 904 KAR 2:045E, Conditions under which adverse action is taken, are hereby repealed.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: October 8, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: October 8, 1981 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 81-846
September 30, 1981

EMERGENCY REGULATIONS
Department for Human Resources
Bureau for Social Insurance

WHEREAS, the Secretary of the Department for Human Resources is responsible, under KRS 194.050, for promulgating, by regulation, the policies of the Department with regard to administration of the Food Stamp Program; and

WHEREAS, federal law with respect to said program has been amended effective October 1, 1981; and

WHEREAS, the Secretary has found that recently promulgated federal regulations necessitate reductions in the Department's budget to bring it in line with appropriation; and

WHEREAS, the Secretary has found that to reduce the cost it is necessary to implement new regulations governing the Food Stamp Program; and

WHEREAS, the Secretary has promulgated regulations on Definitions, Eligibility Requirements, Application Process, Certification Process, and Additional Provisions; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulations, and that, therefore, said regulations should, pursuant to the provisions of KRS 13.085(2), 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 regulations on Definitions, Eligibility Requirements, Application Process, Certification Process and Additional Provisions, and hereby direct that said regulations shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

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

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Social Insurance

904 KAR 3:010E. Definitions.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 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 definitions for terms used by the department in regulations pertaining to the food stamp program.

Section 1. Definition of terms utilized in regulations relating to the food stamp program are as follows:

(1) "Application for participation" means the form designed or approved by Food and Nutrition Service, hereinafter referred to as FNS, which is completed by a household member or authorized representative; or for household consisting solely of public assistance recipients, it may also mean the application form used to apply for public assistance, including attachments approved by FNS, which is completed by a household member or authorized representative.

(2) "Authorization to participate card," ATP, means the document which is issued by the state agency to a certified household to show the allotment the household is authorized to receive on presentation of such document.

(3) "Authorized representative" means an individual designated by a household member to act on behalf of the household in one (1) or all of the following capacities: making application for the program, obtaining the coupons, using the coupons.

(4) "Certification" means the action necessary to determine eligibility of a household. Such action includes interviews, verification and decisions.

(5) "Communal dining facility" means a public or non-profit private establishment, approved by FNS, which prepares and serves meals for elderly persons, or for supplemental security income (SSI) recipients and their spouses, a public or private nonprofit establishment (eating or otherwise) that feeds elderly persons or SSI recipients and their spouses, and federally subsidized housing for the elderly at which meals are prepared for and served to the residents. It also includes private establishments that contract with an appropriate state or local agency to offer meals at concessional prices to elderly persons or SSI recipients and their spouses.

(6) "Coupons" mean any stamp, coupon or type of certificate issued in accordance with the Food and Nutrition Service regulations for the purchase of eligible food.

(7) "Drug addiction or alcoholic treatment and rehabilitation program" means any drug addiction or alcoholic treatment and rehabilitation program conducted by a private nonprofit organization or institution which is certified by the department or agencies designated by the Governor as responsible for the administration of the state's programs for alcoholics and drug addicts.

(8) "Elderly person" means a person sixty (60) years of age or older.

(9) "Eligible foods" means any of the following:

(a) Any food or food product intended for human consumption except alcoholic beverages, tobacco, and hot foods and hot food products prepared for immediate consumption;

(b) Seeds and plants to grow foods for the personal consumption of eligible households;

(c) Meals prepared and delivered by an authorized meal delivery service to households eligible to use coupons to purchase delivered meals; or meals served by a communal dining facility for the elderly, for SSI households or both, to households eligible to use coupons for communal dining;

(d) Meals prepared and served by an authorized drug addict or alcoholic treatment and rehabilitation center to households eligible to use coupons to purchase those meals; or

(e) Meals prepared and served by an authorized group living arrangement facility to residents who are blind or disabled recipients of benefits under Title II or Title XVI of the Social Security Act.

(10) "Federal fiscal year" means a period of twelve (12) calendar months beginning with each October 1 and ending with September 30 of the following calendar year.

(11) "FNS" means the Food and Nutrition Service of the United States Department of Agriculture.

(12) "Food Stamp Act" means the Food Stamp Act of 1977 (Pub. L. 95-113) including any subsequent amendment thereto.

(13) "Group living arrangement" means a public or private nonprofit residential setting that serves no more than sixteen (16) residents and is appropriately certified. Residents must be blind or disabled and receiving benefits under Title II or Title XVI of the Social Security Act to be eligible for food stamps.

(14) "Head of household" is the person in whose name the application for participation is made.

(15) "Household" means any of the following individuals or groups of individuals provided that such individuals or groups are not residents of an institution, [or residents of a commercial boarding house,] and provided that separate household status shall not be granted to a spouse of a member of the household, [or] to children under eighteen (18) years of age under the parental control of a member of the household, *to non-elderly parents (regardless of their marital status) and children who live together, or to a boarder.*

(a) An individual living alone;

(b) An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from the others;

[(c) An individual who is a boarder, living with and paying reasonable compensation to the others for meals for home consumption;]

(c) [(d)] A group of individuals living together for whom food is customarily purchased in common and for whom meals are prepared together for home consumption. [; or]

[(e) A group of individuals who are boarders living with others and paying reasonable compensation to the others for meals for home consumption.]

(16) "Identification (ID) card" means a card which identifies the bearer as eligible to receive and use food coupons.

(17) "Immigration and Naturalization Service (INS)" means the Immigration and Naturalization Service, United States Department of Justice.

(18) "Institution of higher education" means any institution providing post high school education, *which normally requires a high school diploma or equivalency certificate for a student to enroll*, including but not limited to colleges, universities, and vocational or technical schools [at the post high school level].

(19) "Low-income household" means any [a] household whose gross [annual] income does not exceed 130 [125] percent of the Office of Management and Budget poverty guidelines, *with the following exceptions: Households in which one (1) of the members is sixty (60) years of age or older, or one (1) of the members receives Supplemental Security Income (SSI) under Title XVI of the Social Security Act or disability and blindness payments under Titles I, II, X, XIV, or XVI of the Social Security Act shall not have net income exceeding 100 percent of the Office of Management and Budget poverty guidelines.*

(20) "Meal delivery service" means a political subdivision, a private nonprofit organization, or a private establishment with which the department has contracted for the preparation of meals at concessional prices to elderly persons and their spouses, and to the physically or mentally handicapped and persons otherwise disabled, and

their spouses, such that they are unable to adequately prepare all of their meals.

(21) "Medicaid" means medical assistance under Title XIX of the Social Security Act, as amended.

(22) "Non-Assistance household" hereinafter referred to as NA, means a household containing members who are not included in a public assistance household, hereinafter referred to as PA, grant.

(23) "Nonprofit cooperative food purchasing venture" means any private nonprofit association of consumers whose members pool their resources to buy food.

(24) "Non-household member" means individuals residing with a household but [are] not considered household members in determining the household's eligibility or allotment. Non-household members who are otherwise eligible may participate in the program as separate households.

(a) Roomers. Individuals to whom a household furnishes lodging, but not meals, for compensation.

(b) Boarders. Individuals to whom a household furnishes lodging and meals with the following restrictions;

1. Boarder status shall not be granted to a spouse of a member of the household, *non-elderly parents (regardless of marital status) and children who live together even if they do not prepare or eat meals together*, or to children under eighteen (18) years of age under the parental control of a member of the household.

2. Boarder status shall not be extended to persons paying less than a reasonable monthly payment for meals.

(c) Live-in-attendants. Individuals who reside with a household to provide medical, housekeeping, child care or other similar personal services.

(d) Ineligible aliens. Individuals who do not meet the citizenship or eligible alien status.

(e) Ineligible students. Students not meeting eligibility requirements as set forth in 7 CFR 273.5.

(f) Disqualified individuals. Individuals disqualified for fraud, or for failure to meet social security number requirements as set forth in 7 CFR 273.6.

(g) Others. Other individuals who share living quarters with the household but who do not customarily purchase food and prepare meals with the household.

(25) "Overissuance" means the amount by which coupons issued to a household exceeds the amount such household was eligible to receive.

(26) "Public assistance" hereinafter referred to as PA, means any of the programs authorized by the Social Security Act of 1935, as amended; old age assistance, aid to families with dependent children (AFDC), including AFDC for children of unemployed parents, aid to the blind, aid to the permanently and totally disabled and aid to aged, blind or disabled.

(27) "Spouse" refers to either of two (2) individuals:

(a) Who would be defined as married to each other under applicable state law; or

(b) Who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or tradespeople.

(28) "Striker" means anyone involved in a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective-bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees, unless otherwise exempt from work registration for reasons other than employment.

(29) [(28)] "Supplemental security income (SSI)" means monthly cash payments made under the authority of Title

XVI of the Social Security Act, as amended, to the aged, blind and disabled.

(30) [(29)] "Thrifty food plan" means the diet required to feed a family of four (4) persons consisting of a man and a woman twenty (20) through fifty-four (54), a child six (6) through eight (8), and a child nine (9) through eleven (11) years of age, determined in accordance with the Secretary of United States Department of Agriculture's calculations. The cost of such diet shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary of the United States Department of Agriculture shall make household-size adjustment in the thrifty food plan taking into account economies of scale.

(31) [(30)] "Underissuance" means the amount by which the allotment to which the household was entitled exceeds the allotment which the household received.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 25, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 3:020E. Eligibility requirements.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 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, *including all wages and salaries received by a striker the month prior to the month of the strike.*

(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) Monies withdrawn or dividends which are or could be received from a trust fund by a household, unless otherwise exempt under the provisions set forth in 7 CFR 273.9(c).

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.

(14) Any energy assistance payments made under federal, state, or local laws.

Section 4. Income Eligibility Standards. Participation in the Food Stamp Program is limited to those households whose incomes fall at or below the applicable standards as established by FNS and which are set forth below.

(1) Households which contain a member who is sixty (60) years of age or over, or a member who receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, or disability and blindness payments under Titles I, II, X, XIV or XVI of the Social Security Act shall have their net income compared 100 percent to the Office of Management and Budget (OMB) poverty guidelines.

(2) All other households shall have their gross income (total income after excluded income has been disregarded but before any deductions have been made) compared to 130 percent of the Office of Management and Budget (OMB) poverty guidelines.

Section 5. [4.] Income Deductions. The following shall be allowable income deductions:

(1) A standard deduction per household per month. This standard shall be *periodically* adjusted by FNS [each January 1 to the nearest five dollars (\$5)] to reflect changes in the cost of living for a prior period of time as determined by FNS [consumer price index for items other than food for the twelve (12) months ending the preceding September 30].

(2) Eighteen (18) [Twenty (20)] percent of gross earned income.

(3) Payments for the actual cost for the care of a child or other dependent *when necessary for a household member to seek, accept or continue employment or attend training or pursue education preparatory to employment.* 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 *periodically* by FNS to [each January to the nearest five dollars (\$5). The adjustment shall] reflect changes in the cost of living for a prior period of time as determined by FNS [shelter, fuel, and utility components of the consumer price index for the eighteen (18) month period ending the preceding September 30]. 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.

(5) Allowable medical expenses in excess of thirty-five dollars (\$35) per month, excluding special diets, incurred by any household member who meets the definition of aged, blind, or disabled as set forth in 7 CFR 273.9(d)(3). Allowable medical costs are those meeting the criteria set forth in 7 CFR 273.9(d)(3) including, but not limited to:

- (a) Medical and dental care;
- (b) Hospitalization or outpatient treatment and nursing care;
- (c) Medication and medical supplies;
- (d) Health and hospitalization premiums; and
- (e) Dentures, hearing aids, eyeglasses and prosthetics.

Section 6. [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: for all other households.

Section 7. [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, personal effects *including one (1) burial plot per household member*, [and] the cash value of life insurance policies and pension funds, *and prepaid burial plans if a contractual agreement for repayment must be signed in order to withdraw any funds.*

(3) Licensed/unlicensed 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 8. [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 9. [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) Identity: Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) 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;

(4) Household size: Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) 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: September 25, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 3:030E. Application process.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 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 citizens of the Commonwealth. This regulation sets forth the application process used by the department in the administration of the food stamp program.

Section 1. Application Process. The application process consists of filing and completing an application, an interview and required verification and documentation. The department shall make applications readily accessible to households as well as groups and organizations involved in *program information activities* [outreach efforts] and shall provide an application form to anyone upon request.

Section 2. Prompt Action on Applications. The department shall provide eligible households that complete the initial application process an opportunity to participate as

soon as possible but not later than thirty (30) days after the application is filed. The bureau shall notify the household of any action it must take to complete the application process. If verification is lacking, the household will have up to thirty (30) days from the date the missing verification was requested to provide such verification.

Section 3. Expedited Service. (1) The department shall identify households eligible for expedited service at the time the household requests assistance. If otherwise eligible, the following households are entitled to expedited service:

(a) Households with zero (0) net monthly income as computed in 7 CFR Part 273.10.

(b) Households who are destitute as defined in 7 CFR Part 273.10(e)(3).

(2) The department shall comply with 7 CFR Parts 273.2(i)(3) and 273.2(i)(4) when expediting certification and issuance procedures.

Section 4. Public Assistance Application Process. Households in which all members are applying for public assistance (PA) and state administered general assistance shall be allowed to simultaneously apply for food stamp benefits. The department shall comply with procedures specified in 7 CFR 273.2(j) in handling PA households.

Section 5. Joint SSI/FS Application Process. *Households in which all members are applicants/recipients of Supplemental Security Income (SSI) shall be allowed to simultaneously apply for both SSI and food stamps at the appropriate Social Security Administration office. The department will comply with procedures specified in 7 CFR 273.2(k) in processing these households.*

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 25, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 3:035E. Certification process.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 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 certification process used by the department in the administration of the food stamp program.

Section 1. Eligibility and Benefit Levels. Eligibility and benefit levels shall be determined by the department by

considering the households circumstances for the entire month(s) for which each household is certified. Procedures specified in 7 CFR Parts 273.10(a), 273.10(b), 273.10(c), 273.10(d) and 273.10(e) shall be used to determine eligibility and calculate net income and benefit levels.

Section 2. Certification Periods. The department shall establish a definite period of time within which a household shall be eligible to receive benefits. At the expiration of each certification period entitlement to food stamp benefits ends. Further eligibility shall be established only upon a recertification based upon a newly completed application, an interview, and verification. Certification periods for non-public assistance households shall be in accordance with those specified in 7 CFR Part 273.10(f)(3)(4)(5)(6). Households in which all members are included in a PA grant shall be certified for one (1) year, except that the food stamp case shall be recertified at the same time they are redetermined for PA.

Section 3. Certification Notices to Households. The department shall provide applicants with one (1) of the following written notices as soon as a determination is made, but no later than thirty (30) days after the date of the initial application:

- (1) Notice of eligibility.
- (2) Notice of denial.
- (3) Notice of pending status.

Section 4. Application for Recertification. The department shall process applications for recertification in accordance with 7 CFR Part 273.10(g)(2) and Part 273.14.

Section 5. Certification Process for Specific Households. The following households have circumstances that are substantially different from other households and therefore require special certification procedures:

(1) Households with self-employed members shall have their cases processed in accordance with 7 CFR Part 273.11(a).

(2) [Boarders and/or] Households with boarders shall have their case processed in accordance with 7 CFR Part 273.11(b).

(3) Households with members which have been disqualified from program participation due to fraud or failure to provide a Social Security number shall have their case processed in accordance with 7 CFR Part 273.11(c).

(4) Households with ineligible aliens or other non-household members will be processed in accordance with 7 CFR Part 273.11(d).

(5) Residents of drug/alcoholic treatment and rehabilitation programs shall have their case processed in accordance with 7 CFR Part 273.11(e).

(6) Residents of group living arrangements who are blind or disabled receive benefits under Title II or Title XVI of the Social Security Act shall have their case processed in accordance with 7 CFR Part 273(f), which allows residents to apply in their own behalf or through the use of an authorized/certified facility's authorized representative.

(7) *Households consisting only of Supplemental Security Income (SSI) applicants or recipients shall have their case processed in accordance with 7 CFR 273.2(k).*

(8) *Households with a member who is on strike shall have their case processed in accordance with 7 CFR 273.1(g).*

(9) *[(7)] Households requesting replacement allotments for stolen or destroyed coupons or improperly manufac-*

tured or mutilated coupons shall be processed in accordance with 7 CFR 273.11(g).

Section 6. Reporting Changes. Certified households are required to report within ten (10) days, those changes in household circumstances specified in 7 CFR Part 273.12(a). The department shall use the change report form designated by FNS and shall act on reported changes in accordance with 7 CFR Part 273.12(c). The department shall comply with other change reporting provisions outlined in 7 CFR Part 273.12.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 25, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

DEPARTMENT FOR HUMAN RESOURCES Bureau for Social Insurance

904 KAR 3:050E. Additional provisions.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 13.082, 194.050

EFFECTIVE: September 30, 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 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 additional provisions used by the department in the administration of the food stamp program.

Section 1. Civil Rights Compliance. The department insures that no applicant or participant shall be discriminated against in any aspect of program administration for reasons of age, race, color, sex, handicap, religious creed, national origin, or political beliefs.

Section 2. Restoration of Lost Benefits. Benefits shall be restored to households as specified in 7 CFR Part 273.17, when such household has lost benefits due to an error by the department.

Section 3. *Program Informational Activities*. ["Outreach."] Low-income or disadvantaged households shall be informed of the availability of the program and program rights and responsibilities through program informational activities [encouraged participation in the program through an "outreach" program] as required by 7 CFR Part 272.6.

Section 4. Claims Against Households. The department shall establish a claim against households that receive more coupons than it is entitled to receive. Claims shall be classified as:

(1) Non-fraud which shall be processed as specified in 7 CFR Part 273.18(b).

(2) Fraud claims which shall be processed as specified in 7 CFR Part 273.18(c).

Section 5. Disclosure of Information. Use or disclosure of information obtained from applicant households, exclusively for the program, shall be restricted to persons directly connected with the administration or enforcement of the provisions of the Food Stamp Act or regulations, or with other federal or federally aided, means-tested assistance programs such as Titles IV-A (AFDC), XIX (Medicaid), or XVI (SSI). Regulations, plans of operation, state manuals, and federal procedures which affect the public shall be maintained in the central and local office as well as in FNS national and regional offices for examination by members of the public on regular workdays during regular office hours. Copies of regulations, plans of operation, state manuals and federal procedures may be obtained from FNS or the department.

Section 6. Sixty (60) Day Continuation of Certification. Certification of a household moving from one (1) food stamp county to another, whether within Kentucky or between states, shall remain under certain circumstances valid for a period of sixty (60) days after the date of the move without regard to change in income or resources.

Section 7. Retention of Records. The department shall retain all program records in an orderly fashion, for audit and review purposes, for a period of three (3) years from the month of origin of each record. The department shall retain fiscal records and accountable documents for three (3) years from the date of fiscal or administrative closure.

Section 8. Disaster Certification. The Department shall distribute emergency coupon allotments to households within a food stamp county determined to be a disaster area only when so authorized by the Food and Nutrition Service.

(1) In accordance with the Disaster Relief Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service of the United States Department of Agriculture as a result of a major disaster which is determined as such by the President of the United States.

(2) In accordance with the Food Stamp Act, emergency food stamp assistance may be authorized by the Food and Nutrition Service as a result of a lesser disaster, even if the affected area has not been declared a major disaster, if the emergency has resulted either from a natural or human occurrence which disrupted the commercial channels of food distribution and the Food Stamp Program is operational.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: September 25, 1981

APPROVED: W. GRADY STUMBO, Secretary

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

Amended Regulations Now In Effect

PUBLIC PROTECTION AND REGULATION CABINET Department of Mines and Minerals Division of Explosives and Blasting As Amended

805 KAR 4:010. Licensing blasters.

RELATES TO: KRS 351.315, 351.325
PURSUANT TO: KRS 13.082, 351.335
EFFECTIVE: October 7, 1981

NECESSITY AND FUNCTION: KRS 351.315 requires the Department of Mines and Minerals to license blasters. This regulation spells out the licensing requirements and duties of a blaster to effect this law.

Section 1. Licensing of Blasters. (1) No person shall detonate explosives in any blasting operation in which more than five (5) pounds of explosives or the equivalent are used in a single charge or in which less than five (5) pounds of explosives is used by a regular user, excluding blasting for agriculture and underground coal, unless he is licensed by the department. The department shall issue a license to use explosives to any person who:

(a) Has worked in blasting operations for at least twenty-four (24) months under the immediate supervision of an experienced blaster; and

(b) Has passed an examination, prescribed by the department which shall test the examinee's practice of blasting operations and the storage, moving, handling, and detonation of explosives.

(2) Application for license shall be in writing upon a form furnished by the department and shall be accompanied by a fee of *twenty dollars (\$20)* [ten dollars (\$10)]. If the applicant is successful in passing the examination, a license to detonate explosives shall be issued upon the payment of an additional fee of five dollars (\$5).

(3) The department shall have two (2) classifications of blasting licenses and two (2) tests; one (1) termed "Kentucky Blasters License," and one (1) termed "Limited Kentucky Blasters License."

(4) Persons holding a limited Kentucky blasters license shall not conduct a blasting operation in which more than five (5) pounds of explosives are used in a single charge.

(5) Each blaster shall be required to renew his license each year by application to the department, which application shall be accompanied by a fee of *ten dollars (\$10)* [five dollars (\$5)]. The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.

(6) A blaster who fails to renew his Kentucky Blasters License within five (5) [two (2)] years of the expiration date of his last valid license shall be required to reapply for a license and retake the blasters examination as specified in subsection (2). Blasters not falling in the above category may have their licenses renewed by paying to the Department a sum equal to the annual renewal fees for the years of non-renewal.

(7) [(6)] The commissioner may grant a thirty (30) day non-renewable blaster's license to any person qualified under KRS 351.315(3) upon the payment of a five dollar (\$5) fee.

(8) [(7)] The definitions of a blaster for the purpose of a license is:

(a) A blaster is a person who makes any or all of the following decisions:

1. Decides hole size, spacing, or depth;
2. Decides total quantity of explosives;
3. Decides quantity of explosives in each hole;
4. Decides timing delays to be used.

(b) He must be present when the charge is detonated and either physically detonates the charge or gives the order to detonate the charge.

(9) [(8)] A licensed blaster shall not take any instruction on the activities covered in subsection (8) [(7)] from a person not holding a blaster's license if compliance with such instruction will result in an unlawful act or unlawful effect of the blast.

(10) [(9)] Anyone failing a blaster's examination may not retake the examination in less than thirty (30) days.

(11) *The commissioner may suspend any license for due cause but no license may be revoked until the licensee has been granted a hearing.*

(12) *Persons involved in seismic exploration of the sub-surface geology and detonating explosives solely for the purpose of monitoring seismic waves generated by such a detonation must hold either a Kentucky blaster's license or a Limited Kentucky blaster's license. The five (5) pound limitation in subsection (4) may be waived for the purpose of seismic exploration based upon a written request to the department.*

(13) *Any person who is a licensed blaster in another state where the qualifications prescribed at the time of licensing were, in the opinion of the commissioner, equal to those prescribed in the Commonwealth at the date of application, and where reciprocal licensing privileges satisfactory to the department are granted to licensees of the Commonwealth, may be granted a license without an examination. Application for such license shall be on a form furnished by the department and accompanied by a fee of ten dollars (\$10) [twenty-five dollars (\$25)].*

WILLIARD STANLEY, Commissioner

ADOPTED: July 29, 1981

APPROVED: H. FOSTER PETTIT, Secretary

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

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

815 KAR 25:020. Recreational vehicles.

RELATES TO: KRS 227.570
PURSUANT TO: KRS 13.082, 227.590
EFFECTIVE: October 7, 1981

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 required 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 Marshall'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 (1½) 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 applica-

tion 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 *ten dollars (\$10) [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.

(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						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						

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

Name of Dealer

Mailing Address

County

City

State

Zip Code

[illegible][illegible]

This form must be used in reporting units to the field inspector.

DATE _____

SIGNATURE

Proposed Amendment in Response to Subcommittee Objections

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

815 KAR 7:050. Accessibility standards for the physically disabled.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.260

NECESSITY AND FUNCTION: The Board of Housing, Buildings and Construction is required by KRS 198B.260 to issue regulations establishing the requirements necessary for making buildings accessible to and usable by physically disabled persons. This regulation has been designed after and selected from various nationally recognized codes and standards. This regulation establishes the minimum new construction requirements which shall apply to buildings and facilities to provide accessibility and usability by the elimination of architectural barriers in the environment. The terms of this regulation shall be incorporated into the Kentucky Building Code.

Section 1. Purpose and Scope. It is the express intention of this regulation to achieve uniformity in the technical design criteria necessary to establish a barrier-free environment thereby allowing a physically disabled person to get to, enter and use a building or facility, so that they may have access to education, employment, living and recreational opportunities and be as self sufficient as possible.

(1) New construction. This regulation shall be mandatory to and in all buildings and facilities, including both rooms and spaces, site improvements, exterior facilities and public walks, as follows [with the following specific exceptions]:

(a) *Storage, miscellaneous and temporary occupancies in which the total occupant load is in excess of 100 persons or 20,000 square feet or three (3) stories.* [One (1) and two (2) family dwellings which are single family detached units or duplexes;]

(b) *Factory and industrial occupancies in which the total occupant load is in excess of 100 persons or 20,000 square feet.* [Multi-family residential buildings or projects consisting of twenty-four (24) units or less;]

(c) *Business occupancies in which the total occupant load is in excess of 100 persons or 10,000 square feet.* [The restoration or authentic reconstruction of buildings designated as historic properties by the Kentucky Heritage Commission or the National Register of Historic Places;]

(d) *Mercantile occupancies in which the total occupant load is in excess of 100 persons, 3,000 square feet of consumer area or 10,000 square feet of total floor area.* [Small business concerns, which is defined to mean buildings and facilities primarily used for office purposes consisting of a total square footage of less than 10,000 square feet and no more than two (2) stories in height. [Any building or facility owned or leased by the Commonwealth or any political subdivision thereof shall not be classified as a small business, irrespective of area or height.] (In the case of a one (1) story building or the first floor of a two (2) story

building not exceeding the maximum established herein, it is the intent that the provisions of this subsection should be applied as broadly as possible, including the theory of accessible route.)]

(e) *Churches, parochial and private schools and other similar non-public assembly type occupancies in which the total occupant load is in excess of 250 persons or 3,200 square feet.* [All buildings or facilities owned or leased by state, city or county governmental bodies shall be accessible and shall not be consider a "small business concern."]

(f) *Assembly occupancies (other than those in subsection (e)) in which the total occupant load is in excess of fifty (50) persons or 1,500 square feet total area.*

(g) *Residential occupancies, with the exception of single family dwellings, duplexes and multi-family housing projects of less than twenty-five (25) units.*

(h) *Institutional occupancies, with the exception of child day care facilities providing care for less than thirteen (13) children.*

(i) *All buildings and facilities which are leased or owned by the state, county, city or other municipal corporation, regardless of type of use, occupant load or total square footage.*

(j) *Any establishment which is physically located within any building or facility otherwise covered by this section or within the premises of which is physically located any such covered establishment; and which also holds itself out as serving patrons of such covered establishment.*

(k) *All gasoline service stations, regardless of size or occupant capacity.*

(l) *Any building of an occupant load, occupancy type or size not listed in this section shall be exempted from the requirements of this regulation as a "small business concern."*

(2) Existing buildings. This regulation shall be mandatory for existing buildings, as follows:

(a) Alterations and repairs may be made to any structure without requiring other areas of the existing structure to comply with the accessibility requirement of this regulation provided such new work conforms to that of a new structure.

(b) Additions to an existing facility shall comply with the standards established by this regulation; however, the existing portion need not comply provided such addition does not result in decreased accessibility.

(c) Remodeling involving major structural changes to a building shall require full compliance with all applicable provisions of this regulation.

(d) *The restoration or authentic reconstruction of buildings designated as historic properties by the Kentucky Heritage Commission or the National Register of Historic Places are exempt from the requirements of this regulation.*

(3) Modifications of the technical provisions of this regulation may be allowed where such modification provides equal facilitation.

(4) Problem sites. It is not the intent of this regulation to discourage development of sites with extreme conditions,

for example, where housing would be built on steep slopes or recreation facilities provided in natural terrain, and where full accessibility might prove impractical.

(5) Interpretive decisions. Where any provision of this regulation can be shown to be clearly unreasonable or impractical as applied to a particular building or use, or if full compliance would create a safety hazard, because of a particular use or condition, any person may request to appear before the Architectural Barriers Advisory Committee of the Department of Housing, Buildings and Construction. After advice from the committee, the department shall render its decision in the matter and said decision shall be appealable to the Board of Housing, Buildings and Construction.

(6) Enforcement. It shall be the duty of the local building official or the state building official having plan review and inspection responsibility under the Kentucky Building Code to enforce the provisions of this regulation.

(7) Distribution of accessible elements. Residential units accessible to the physically handicapped must not be segregated from other units. For example, in large apartment complexes, hotels or motels, all the units or rooms for the disabled may not be placed in one (1) building but must be dispersed throughout the complex.

(8) Appendix. All figures, tables and charts which are not included under a specific section of this regulation shall be found in Appendix A which is attached hereto. *Any figures or numbers not in agreement with the written language of this regulation shall be superceded by said written words or numbers.*

(9) Technical provisions. Sections 3 through 35 constitute the technical provisions of this regulation.

Section 2. Definitions. The following terms shall, for the purpose of this regulation, have the meaning indicated in this section.

(1) Access aisle. An accessible pedestrian space between elements such as parking spaces, seating, and desks, that provides clearances appropriate for use of the elements.

(2) Accessible. Describes a site, building, facility, or portion thereof that complies with this section and that can be approached, entered, and used by physically disabled people.

(3) Accessible element. Part of an accessible route or accessible functional space; an item specified by this regulation (for example, telephone, controls, and the like).

(4) Accessible route. A continuous unobstructed path connecting all accessible elements and spaces in a building or facility that can be negotiated by a severely disabled person using a wheelchair and that is also safe for and usable by people with other disabilities. Interior accessible routes may include corridors, floors, ramps, elevators, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, walks, and ramps.

(5) Adaptability. The ability of certain building elements, such as kitchen counters and sinks to be added to, raised, lowered, or otherwise altered so as to accommodate the needs of either the disabled or nondisabled, or to accommodate the needs of persons with different types or degrees of disability.

(6) Assembly area. A room or space accommodating fifty (50) or more individuals for religious, recreational, educational, political, social or amusement purposes, or for the consumption of food and drink, including all connected rooms or spaces with a common means of egress and ingress. Such areas as conference rooms would have to be accessible in accordance with other parts of this stan-

dard but would not have to meet all of the criteria associated with assembly areas.

(7) Automatic door. A door equipped with a power-operated mechanism and controls that open and close the door automatically upon receipt of a momentary actuating signal. The switch that begins the automatic cycle may be a photoelectric device, floor mat, or manual switch mounted on or near the door itself (see power-assisted door).

(8) Circulation path. An exterior or interior way of passage from one place to another for pedestrians, including, but not limited to, walks, hallways, courtyards, stairways, and stair landings.

(9) Clear. Unobstructed.

(10) Common use. Refers to those interior and exterior rooms, spaces, or elements that are made available for the use of a restricted group of people (for example, residents of an apartment building, occupants of an office building, or guests of such residents or occupants).

(11) Coverage. The extent or range of accessibility that a particular administrative authority adopts and requires.

(12) Cross slope. The slope of a pedestrian way that is perpendicular to the direction of travel (see running slope).

(13) Curb ramp. A short ramp cutting through a curb.

(14) Detectable. Perceptible by one (1) or more of the senses.

(15) Disability. A limitation or loss of use of a physical, mental, or sensory body part or function.

(16) Dwelling unit. A single unit providing complete, independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

(17) Egress, means of. A continuous and unobstructed path of travel from any point in a building or structure to a public way and consists of three (3) separate and distinct parts:

(a) The exitway access;

(b) The exitway; and

(c) The exitway discharge; a means of egress comprises the vertical and horizontal means of travel and shall include intervening room spaces, doors, hallways, corridors, passageways, balconies, ramps, stairs, enclosures, lobbies, escalators, horizontal exits, courts, and yards.

(18) Emergency. Refers to facilities resulting from or anticipating unforeseen combinations of circumstances, for example, storm shelters, bomb shelters, and comparable refuges.

(19) Functional spaces. The rooms and spaces in a building or facility that house the major activities for which the building or facility is intended.

(20) Handicapped. Those with significant limitations in using specific parts of the environment.

(21) Housing. A building, facility, or portion thereof, excluding inpatient health care facilities, that contains one (1) or more dwelling units or sleeping accommodations. Housing may include, but is not limited to, one (1) and two (2) family dwellings, apartments, group homes, hotels, motels, dormitories, and mobile homes.

(22) Marked crossing. A crosswalk or other identified path intended for pedestrian use in crossing a vehicular way.

(23) Operable part. A part of a piece of equipment or appliance used to insert or withdraw objects, or to activate, deactivate, or adjust the equipment or appliance (for example, coin slot, pushbutton, handle).

(24) Power-assisted door. A door with a mechanism that helps to open the door, or relieve the opening resistance of a door, upon the activation of a switch or a continued

force applied to the door itself. If the switch or door is released, such doors immediately begin to close or close completely within three (3) to thirty (30) seconds (see automatic door).

(25) Principal entrance. An entrance intended to be used by the residents or users to enter or leave a building or facility. This may include, but is not limited to, the main entrance.

(26) Public use. Describes interior and exterior rooms or spaces that are made available to the general public. Public use may be provided at a building or facility that is privately or publicly owned.

(27) Ramp. A walking surface that has a running slope greater than 1:20.

(28) Reasonable number. A number that is sufficient to accommodate the disabled users of a site, building, facility, or element.

(29) Running slope. The slope of a pedestrian way that is parallel to the direction of travel (see cross slope).

(30) Service entrance. An entrance intended primarily for delivery or service.

(31) Signage. Verbal, symbolic, and pictorial information.

(32) Site. A parcel of land bounded by a property line or a designated portion of a public right-of-way.

(33) Site improvements. Landscaping, paving for pedestrian and vehicular ways, outdoor lighting, recreational facilities, and the like, added to a site.

(34) Sleeping accommodations. Rooms in which people sleep, for example, dormitory and hotel or motel guest rooms, but not including dwelling units.

(35) Tactile. Describes an object that can be perceived using the sense of touch.

(36) Tactile warning. A standardized surface texture applied to or built into walking surfaces or other elements to warn visually impaired people of hazards in the path of travel.

(37) Temporary. Applies to facilities that are not of permanent construction but are extensively used or essential for public use for a given (short) period of time; for example, temporary classrooms or classroom buildings at schools and colleges, or facilities around a major construction site to make passage accessible, usable, and safe for everybody. Structures directly associated with the actual processes of major construction, such as port-a-potties, scaffolding, bridging, trailers, and the like, are not included.

(38) Vehicular way. A route intended for vehicular traffic, such as a street, driveway, or parking lot.

(39) Walk. An exterior pathway with a prepared surface intended for pedestrian use, including general pedestrian areas such as plazas and courts.

(40) Walking aid. A device used by a person who has difficulty walking (for example, a cane, crutch, walker, or brace).

Section 3. Minimum Requirements. (1) Accessible site and exterior facilities. An accessible site shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5 shall be provided from public transportation stops, accessible parking spaces, accessible passenger loading zones if provided, and public streets or sidewalks to an accessible building entrance.

(b) At least one (1) accessible route complying with Section 5 shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

(c) All objects that protrude from surfaces or posts into circulation paths shall comply with Section 5(3).

(d) Ground surfaces along accessible routes and in accessible spaces shall comply with Section 5(2).

(e) When parking is provided, parking spaces and access aisles shall comply with Section 6.

(f) Stairs shall comply with Section 9.

(g) All passenger elevators shall comply with Section 10.

(h) All doors or gates to accessible spaces and elements and along accessible routes shall comply with Section 13.

(i) All drinking fountains along accessible routes shall comply with Section 15.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22. Bathing facilities on accessible routes shall comply with Section 23.

(k) Tactile warnings shall be provided at hazardous conditions as specified in Section 29.

(l) All signs shall comply with Section 30.

(m) If public telephones are provided, they shall comply with Section 31.

(n) If seating, tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32.

(o) If places of assembly are provided, they shall comply with Section 33.

(2) Accessible buildings. Accessible buildings and facilities shall meet the following minimum requirements:

(a) At least one (1) accessible route complying with Section 5(1) shall connect accessible building or facility entrances with all accessible spaces and elements within the building or facility.

(b) All objects that overhang circulation paths shall comply with Section 5(3).

(c) Ground and floor surfaces along accessible routes and in accessible rooms and spaces shall comply with Section 5(2).

(d) Stairs shall comply with Section 9. This requirement is not mandatory within dwelling units.

(e) All passenger elevators shall comply with Section 10.

(f) If windows intended to be operated by occupants are provided, then a reasonable number, but always at least one (1), of windows in each accessible space shall comply with Section 12.

(g) All doors to accessible spaces along accessible routes shall comply with Section 13.

(h) All principal entrances shall comply with Section 14.

(i) All drinking fountains along accessible routes shall comply with Section 15.

(j) All toilet rooms provided for public use or as otherwise required by the Kentucky Building Code shall comply with Section 22. Bathing facilities on accessible routes shall comply with Section 23.

(k) If storage facilities such as cabinets, shelves, closets, and drawers are provided in accessible spaces, they shall comply with Section 25.

(l) Controls and operating mechanisms in accessible spaces, along accessible routes, or as parts of accessible elements (for example, light switches and dispenser controls), shall comply with Section 27.

(m) If emergency warning systems are provided, they shall comply with Section 28.

(n) Tactile warnings shall be provided at hazardous conditions as specified in Section 29.

(o) If signs are provided, they shall comply with Section 30.

(p) If public telephones are provided, they shall comply with Section 31.

(q) If seating tables, or work surfaces are provided in accessible spaces, they shall comply with Section 32.

(r) If places of assembly are provided, they shall comply with Section 33.

(s) If sleeping accommodations are provided, they shall comply with Section 34.

(3) Accessible housing. Accessible housing shall comply with the minimum requirements in subsections (1) and (2) of this section. It shall also meet the following requirements:

(a) Accessible dwelling units shall comply with Section 35.

(b) Each accessible dwelling unit shall be connected to an accessible entrance complying with Section 14 by an accessible route complying with Section 5.

(c) Common use spaces and facilities (for example, swimming pools, playgrounds, entrances, rental offices, lobbies, elevators, mail box areas, lounges, storage rooms, halls, corridors, and the like) that serve one (1) or more accessible dwelling units shall comply with subsections (1) and (2) of this section. At least one (1) accessible route shall connect all accessible entrances to each accessible dwelling unit.

Section 4. Space Allowances and Reach Ranges. (1) Wheelchair passage width. The minimum clear width for single wheelchair passage shall be thirty-two (32) inches at a point and thirty-five (35) inches continuously.

(2) Width for wheelchair passing. The minimum width for two (2) wheelchairs to pass is sixty (60) inches.

(3) Wheelchair turning space. The space required for a wheelchair to make a 180 degree turn is a clear space of sixty (60) inches diameter or a T-shaped space with a minimum clear width of thirty-six (36) inches.

(4) Clear floor or ground space for wheelchairs:

(a) Size and approach. The minimum clear floor or ground space required to accommodate a single, stationary wheelchair and occupant is thirty (30) inches by forty-eight (48) inches. The minimum clear floor or ground space for wheelchairs may be positioned for forward or parallel approach to an object. Clear floor or ground space for wheelchairs may be part of the knee space required under some objects.

(b) Relationship of maneuvering clearances to wheelchair spaces. One (1) full unobstructed side of the clear floor or ground space for a wheelchair shall adjoin or overlap an accessible route or adjoin another wheelchair clear floor space. If a clear floor space is located in an alcove or otherwise confined in all or part of three (3) sides, additional maneuvering clearances shall be provided (see Appendix A, Figure 1).

(c) Surfaces of wheelchair spaces. Clear floor or ground spaces for wheelchairs shall comply with Section 5(2).

(5) High forward reach. If the clear floor space only allows forward approach to an object, the maximum high forward reach allowed shall be *forty (40)* [forty-eight (48)] inches. If the high forward reach is over an obstruction, reach and clearances shall be as shown in Appendix A, Figure 2.

(6) Side reach. If the clear floor space allows parallel approach by a person in a wheelchair, the maximum high side reach allowed shall be *forty-eight (48)* [fifty-four (54)] inches and the low side reach shall be no less than nine (9) inches above the floor. If the side reach is over an obstruction, the reach and clearances shall be as shown in Appendix A, Figure 3.

Section 5. Accessible Route, Ground and Floor Sur-

faces, and Protruding Objects. (1) Accessible route. All walks, halls, corridors, aisles, and other spaces that are of an accessible route shall comply with this subsection.

(a) Location:

1. At least one (1) accessible route shall be provided from public transportation stops, accessible parking and accessible passenger loading zones, and public streets or sidewalks to the accessible building entrance they serve.

2. At least one (1) accessible route shall connect accessible buildings, facilities, elements, and spaces that are on the same site.

3. At least one (1) accessible route shall connect accessible building or facility entrances with all accessible spaces and elements and with all accessible dwelling units within the building or facility.

4. An accessible route shall connect at least one (1) accessible entrance of each accessible dwelling unit with those exterior and interior spaces and facilities that serve the accessible dwelling unit.

(b) Width. The minimum clear width of an accessible route shall be thirty-six (36) inches except at doors. (See Section 13(5).) If a person in a wheelchair must make a turn around an obstruction, the minimum clear width of the accessible route shall be as shown in Appendix A, Figure 4.

(c) Passing space. If an accessible route has less than sixty (60) inches clear width, then passing spaces at least sixty (60) inches by sixty (60) inches shall be located at reasonable intervals not to exceed 200 feet. A T-intersection of two (2) corridors or walks is an acceptable passing place.

(d) Head room. Accessible routes shall comply with subsection (3)(b) of this section.

(e) Surface texture. The surface of an accessible route shall comply with subsection (2) of this section.

(f) Slope. An accessible route with a running slope greater than 1:20 is a ramp and shall comply with Section 8. Nowhere shall the cross slope of an accessible route exceed 1:50.

(g) Changes in level. Changes in level along an accessible route shall comply with subsection (2)(b) of this section. If an accessible route has changes in level greater than one-half ($\frac{1}{2}$) inch, then a curb ramp, ramp or elevator shall be provided that complies with Sections 7, 8 and 10, respectively. Stairs shall not be part of an accessible route.

(h) Doors. Doors along an accessible route shall comply with Section 13.

(i) Egress. At least one (1) accessible route serving any accessible space or element shall also serve as a means of egress.

(2) Ground and floor surfaces. Ground and floor surfaces along accessible routes and in accessible rooms and spaces, including floors, walks, ramps, stairs, and curb ramps, shall be stable, firm, and relatively nonslip under all weather conditions and shall comply with this subsection.

(a) Changes in level. Changes in level up to one-fourth ($\frac{1}{4}$) inch may be vertical and without edge treatment. Changes in level between one-fourth ($\frac{1}{4}$) inch and one-half ($\frac{1}{2}$) inch shall be beveled with a slope no greater than 1:2. Changes in level greater than one-half ($\frac{1}{2}$) inch shall be accomplished by means of a ramp that complies with Sections 7 or 8.

(b) Carpet. If carpet or carpet tile is used on a ground or floor surface, then it shall be securely attached; have a firm cushion, pad, or backing or no cushion or pad; and have a level loop, textured loop, level cut pile or level cut/uncut pile texture. The maximum combined thickness of pile,

cushion, and backing shall be one-half ($\frac{1}{2}$) inch. Exposed edges and trim shall be securely fastened in place and shall comply with paragraph (a) of this subsection.

(c) Gratings. If gratings are located in walking surfaces, then they shall have spaces no greater than one-half ($\frac{1}{2}$) inch wide in one (1) direction. If gratings have elongated openings, then they shall be placed so that the long dimension is perpendicular to the dominant direction of travel.

(3) Protruding objects:

(a) Objects projecting from walls (for example, telephones) with their leading edges between twenty-seven (27) inches and eighty (80) inches above the finished floor shall protrude no more than four (4) inches into walks, halls, corridors, passageways, or aisles. Objects mounted with their leading edges at or below twenty-seven (27) inches above the finished floor may protrude any amount. Free standing objects mounted on posts or pylons may overhang twelve (12) inches maximum from twenty-seven (27) inches to eighty (80) inches above the ground or finished floor. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space. (See Appendix A, Figure 5.)

(b) Head room. Walks, halls, corridors, passageways, aisles, or other circulation spaces shall have eighty (80) inches in minimum clear head room. (See Appendix A, Figure 5.)

Section 6. Parking and Passenger Loading Zones. (1) Minimum number. Where parking spaces are provided, the minimum number of spaces shall be in accordance with Table 1 and shall comply with subsections (2) through (4) of this section. Where passenger loading zones are provided, at least one (1) shall comply with subsection (5) of this section.

TABLE 1

1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 or over	2% of total—20 plus 1 for each 200 over 1000

[(2) Location. Parking spaces for disabled people and accessible passenger loading zones that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance of the building. In separate parking structures or lots that do not serve a particular building, parking spaces for disabled people shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.]

(2) [(3)] Parking spaces. Parking spaces for disabled people shall be at least ninety-six (96) inches wide and shall have an adjacent access aisle sixty (60) inches wide minimum (see Appendix A, Figure 6). Parking access aisles shall be part of the accessible route to the building or facility entrance and shall comply with Section 5(1). Two (2) accessible parking spaces may share a common access aisle. Parked vehicle overhangs shall not reduce the clear width of an accessible circulation route.

(3) [(4)] Signage. Accessible parking spaces shall be designated as reserved for the disabled by a sign showing

the international symbol of accessibility. Such signs shall be above grade.

(4) [(5)] Passenger loading zones. Passenger loading zones shall provide an access aisle at least forty-eight (48) inches wide and twenty (20) feet long adjacent and parallel to the vehicle pull-up space. If there are curbs between the access aisle and the vehicle pull-up space, then a curb ramp complying with Section 7 shall be provided.

(5) [(6)] Vertical clearance. Provide minimum vertical clearance of nine (9) feet six (6) inches at accessible parking spaces, at accessible passenger loading zones and along vehicle access route to such areas from site entrances.

Section 7. Curb Ramps. (1) Location. Curb ramps complying with this section shall be provided wherever an accessible route crosses a curb.

(2) Slope. Slopes of curb ramps shall comply with Table 815 of the Kentucky Building Code. The slope shall be measured at a ratio of rise to horizontal run.

(3) Width. The minimum width of a curb ramp shall be thirty-six (36) inches, exclusive of flared sides.

(4) Surface. Surfaces of curb ramps shall comply with Section 5(2). Transitions from ramps to walks and ramps to gutters or streets shall be flush and free from abrupt changes.

(5) Sides of curb ramps. If a curb ramp is located where pedestrians must walk across the ramp, then it shall have flared sides; the maximum slope of the flare shall be 1:10. Curb ramps with returned curbs may be used where pedestrians would not normally walk across the ramp. Curb ramps shall not have handrails.

(6) Built-up curb ramps. Built-up curb ramps, or curb ramps that project into a vehicular path, shall not be permitted in new construction. They may be permitted in existing conditions only where such application is determined to be the only reasonable means of access and where the location of the built-up curb ramp is not in an uncontrolled vehicular path. Built-up curb ramps shall comply with this section.

(7) Warning textures. A curb ramp shall have a tactile warning texture contrasting to adjoining surfaces and complying with Section 29, extending the full width and depth of the curb ramp, including any flares.

(8) Obstructions. Curb ramps shall be located or protected to prevent their obstruction by parked vehicles.

(9) Location at marked crossings. Curb ramps at marked crossings shall be wholly contained within the markings, excluding any flared sides.

(10) Diagonal curb ramps. If diagonal (or corner type) curb ramps have returned curbs or other well defined edges, such edges shall be parallel to the direction of pedestrian flow. If diagonal curb ramps have flared sides, they shall also have at least a twenty-four (24) inch long segment of straight curb located on each side of the curb ramp and within the marked crossing.

(11) Islands. Any raised islands in crossings shall be cut through level with the street or have curb ramps at both sides and a level area at least forty-eight (48) inches long in the part of the island intersected by the crossings.

(12) Uncurbed intersections. If there is no curb at the intersection of a walk and an adjoining street, parking lot, or busy driveway, then the walk shall have a tactile warning texture complying with Section 29(5) at the edge of the vehicular way.

Section 8. Ramps. Any part of an accessible route with a slope greater than 1:20 shall be considered a ramp and

shall comply with Section 815 of the Kentucky Building Code as filed in 815 KAR 7:020.

Section 9. Stairs. Stairways shall comply with Section 816 of the Kentucky Building Code as filed in 815 KAR 7:020. These specifications are not mandatory for stairs within dwelling units.

Section 10. Elevators. (1) All public passenger elevators shall be required to be accessible and shall comply with the provisions of Article 21 of the Kentucky Building Code as filed in 815 KAR 7:020.

(2) At least one (1) public passenger elevator shall be required in buildings three (3) stories or greater in height; *except that residential buildings three (3) stories in height and containing no more than twenty-four (24) units shall not be required to have an elevator.*

Section 11. Platform lifts. Platform lifts are not permitted until such time as a national standard shall be created and approved by the board.

Section 12. Windows. (1) General. If windows intended to be operated by occupants are provided, at least one (1) operable window in each accessible space shall comply with this section.

(2) Window hardware. Windows requiring pushing, pulling or lifting to open (for example, doublehung, sliding, or casement and awning units without cranks) shall require no more than five (5) pounds to open or close. Locks, cranks, and other window hardware shall comply with Section 27.

Section 13. Doors. (1) General. All doors to accessible spaces and elements and along accessible routes shall comply with the requirements of this section.

(2) Revolving doors and turnstiles. Revolving doors or turnstiles shall not be the only means of passage at an accessible entrance or along an accessible route.

(3) Gates. Gates, including ticket gates, shall meet all applicable specifications of this section.

(4) Double-leaf doorways. If doorways have two (2) door leaves, then at least one (1) leaf shall meet the specifications in subsections (5) and (6) of this section. That leaf shall be an active leaf.

(5) Clear width. Doorways shall have a minimum clear opening of thirty-two (32) inches with the door open ninety (90) degrees, measured between the face of the door and the stop. Openings more than twenty-four (24) inches in depth shall have a minimum clear opening of thirty-six (36) inches.

(6) Maneuvering clearances at doors. Minimum maneuvering clearances for doors that are not automatic shall be as shown in Appendix A, Figure 7. The floor or ground area within the required clearances shall be level and clear. Doors required to be a minimum of forty-four (44) inches in institutional buildings shall be exempt from the requirements for space at the latch side of the door.

(7) Two (2) doors in series. The minimum space between two (2) doors in series shall be forty-eight (48) inches plus the width of any door swinging into the space. Doors in series shall swing either in the same direction or away from the space between the doors.

(8) Thresholds at doorways. Thresholds at doorways shall not exceed one-half ($\frac{1}{2}$) inch in height except that thresholds at exterior sliding doors shall not exceed three-fourth ($\frac{3}{4}$) inch. Raised thresholds and floor level changes

at accessible doorways shall be beveled with a slope no greater than 1:2, and shall meet the requirements of Section 5(2)(a).

(9) Door hardware. Handles, pulls, latches, locks and other operating devices on accessible doors shall have a shape that is easy to grasp with one (1) hand and does not require tight grasping, tight pinching, or twisting of the wrist to operate. Lever-operated mechanisms, push-type mechanisms and U-shaped handles are acceptable designs. When sliding doors are fully open, operating hardware shall be exposed and usable from both sides. Doors to hazardous areas shall have hardware complying with Section 29(3).

(10) Door closers. If a door has a closer, then the sweep period of the closer shall be adjusted so that from an open position of seventy (70) degrees, the door will take at least three (3) seconds to move to a point three (3) inches from the latch, measured to the leading edge of the door.

(11) Door opening force. The maximum force for pushing or pulling open a door shall be as follows:

(a) Fire doors shall have the minimum opening force of fifteen (15) pounds and as required in Section 812.5.4 of the Kentucky Building Code.

(b) Other doors: exterior hinged doors, 8.5 pounds; interior hinged doors, five (5) pounds; sliding or folding doors, five (5) pounds. These forces do not apply to the force required to retract latch bolts or disengage other devices that may hold the door in a closed position.

(12) Automatic doors and power-assisted doors. If an automatic door is used, then it shall comply with American National Standard for Power-Operated Doors, ANSI A156.10-1979. Slowly opening, low-powered, automatic doors shall be considered a type of custom design installation as described in paragraph 1.1.1 of ANSI A156.10-1979. Such doors shall not open to back check faster than three (3) seconds and shall require no more than fifteen (15) pounds to stop door movement. If a power-assisted door is used, its door opening force shall comply with subsection (11) of this section and its closing shall conform to the requirements in Section 10 of ANSI A156.10-1979.

(13) Framed glass doors. Where framed glass doors are used, the bottom rail shall be a minimum height of seven and one-half ($7\frac{1}{2}$) inches.

Section 14. Entrances. (1) Principal entrances. Principal entrances to a building or facility shall be part of an accessible route and shall comply with Section 5(1). Such entrances shall be connected by an accessible route to public transportation stops, to accessible parking and passenger loading zones, and to public streets or sidewalks if available. They shall also be connected by an accessible route to all accessible spaces or elements within the building or facility.

(2) Service entrances. A service entrance shall not be the sole accessible entrance unless it is the only entrance to a building or facility (for example, in a factory or garage).

Section 15. Drinking Fountains and Water Coolers. (1) Minimum number. All drinking fountains or water coolers along accessible routes shall comply with this section.

(2) Spout height. Spouts shall be no higher than thirty-six (36) inches, measured from the floor or ground surfaces to the spout outlet.

(3) Spout location. The spouts of drinking fountains and water coolers shall be at the front of the unit and shall direct the water flow in a trajectory that is parallel or nearly parallel to the front of the unit. The spout shall provide

a flow of water so as to allow the insertion of a cup or glass under the flow of water.

(4) Controls. Controls shall comply with Section 27(4).

(5) Clearances. Wall and post mounted cantilevered units shall have a clear knee space between the bottom of the apron and the floor or ground at least twenty-seven (27) inches high, thirty (30) inches wide, and seventeen (17) inches to nineteen (19) inches deep. Such units shall also have a minimum clear floor space thirty (30) inches by forty-eight (48) inches to allow a person in a wheelchair to make a parallel approach to the unit. This clear floor space shall comply with Section 4(4).

Section 16. Water Closets. Accessible water closets shall comply with this section. For water closets in adaptable dwelling units, see Section 35(4)(b).

(1) Clear floor space. Clear floor space for water closets not in stalls shall comply with Appendix A, Figure 9. Clear floor space may be arranged to allow either a left-handed or right-handed approach.

(2) Height. The height of water closets shall be seventeen (17) inches to nineteen (19) inches measured to the top of the toilet seat (see Appendix A, figure 10). Seats shall not be sprung to return to a lifted position when not in use.

(3) Grab bars. Grab bars for water closets shall comply with Appendix A, Figures 9 and 10, and Section 4. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required floor area.

(4) Flush controls. Flush controls shall be hand operated and shall comply with Section 27(4). Controls for flush valves shall be mounted no more than forty (40) [forty-four (44)] inches above the floor.

(5) Dispensers. Toilet paper dispensers shall be installed within reach as shown in Appendix A, Figure 10. Dispensers shall not control delivery and shall permit continuous paper flow.

Section 17. Toilet Stalls. (1) Location. Accessible toilet stalls shall be on an accessible route and shall meet the requirements of this section.

(2) Water closets. Water closets in stalls shall comply with Section 16.

(3) Size and arrangement. The size and arrangement of the toilet stalls shall comply with Appendix A, Figure 11(a). In existing buildings alternate stalls (Appendix A, Figure 11(b)) may be used where available space prohibits installation of the standard stall. Arrangements shown for stalls may be reversed to allow either a left or right-handed approach.

(4) Toe clearances. In standard stalls, the front partition and at least one (1) side partition shall provide a toe clearance of at least nine (9) inches above the floor. If the depth of the stall is greater than sixty (60) inches, then the toe clearance is not required.

(5) Doors. Toilet stall doors shall comply with Section 13. Doors of toilet stalls shall be out-swinging. Doors on toilet stalls shall have either a self-closing mechanism or a pull mounted on the hinged side of the stall door.

(6) Grab bars. Provide grab bars at toilet stalls as shown in Appendix A, Figures 10 and 11. Grab bars may be mounted by any desired method as long as they have a gripping surface at the locations shown and do not obstruct the required clear floor area. Grab bars shall comply with Section 26.

Section 18. Urinals. (1) General. Accessible urinals shall comply with this section.

(2) Heights. Urinals shall be stall-type or wallhung with an elongated rim at a maximum of seventeen (17) inches above the floor.

(3) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches shall be provided in front of urinals to allow forward approach. This clear space shall adjoin or overlap an accessible route and shall comply with Section 4(4).

(4) Flush controls. Flush controls shall be hand operated, shall comply with Section 27(4) and shall be mounted no more than forty (40) [forty-four (44)] inches above the finished floor.

(5) Urinal shields. Urinal shields that do not extend beyond the front edge of the urinal rim may be provided with twenty-nine (29) inches clearance between them.

Section 19. Lavatories and Mirrors. The requirements of this section shall apply to lavatory fixtures, vanities, and built-in lavatories.

(1) Height and clearances. Lavatories shall be mounted with a clearance of at least twenty-nine (29) inches from the floor to the bottom of the apron. Knee and toe clearances shall comply with Appendix A, Figure 12.

(2) Clear floor space. A clear floor space thirty (30) inches by forty-eight (48) inches complying with Section 4(4) shall be provided in front of a lavatory to allow a forward approach. Such clear floor space shall adjoin or overlap an accessible route and shall extend a maximum of nineteen (19) inches underneath the lavatory.

(3) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, the hot water and drain pipes under lavatories shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under lavatories.

(4) Faucets. Faucets shall comply with Section 27(4). Lever-operated, push-type and electronically controlled mechanisms are examples of acceptable designs. Self-closing valves are allowed if the faucet remains open for at least ten (10) seconds.

(5) Mirrors. Mirrors shall be mounted with the bottom edge no higher than forty (40) inches from the floor.

Section 20. Bathtubs. (1) General. Accessible bathtubs shall comply with this section. For bathtubs in accessible dwelling units, see Section 35(4)(d).

(2) Floor space. Clear floor space in front of bathtubs shall be as shown in Appendix A, Figure 13.

(3) Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.

(4) Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figures 13 and 14.

(5) Controls. Faucets and other controls complying with Section 27(4) shall be located as shown in Appendix A, Figure 14.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Bathtub enclosures. If provided, enclosures for bathtubs shall not obstruct controls or transfer from wheelchairs onto bathtub seats or into tubs. Enclosures on bathtubs shall not have tracks mounted on their rims.

Section 21. Shower Stalls. (1) General. Accessible shower stalls shall comply with this section. For shower stalls in accessible dwelling units, see Section 35(4)(e).

(2) Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.

(3) Seat. A seat shall be provided in transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be mounted seventeen (17) inches to nineteen (19) inches from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3).

(4) Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figure 17.

(5) Controls. Faucets and other controls complying with Section 27(4) shall be located as shown in Appendix A, Figure 17. In transfer shower stalls all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

(6) Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head or as a hand-held shower shall be provided.

(7) Curbs. If provided, curbs in transfer shower stalls shall be no higher than four (4) inches. Roll-in shower stalls shall not have curbs.

(8) Shower enclosures. If provided, enclosures for shower stalls shall not obstruct controls or obstruct transfer from wheelchairs onto shower seats.

Section 22. Toilet Rooms. (1) Minimum number. All toilet rooms provided for public use or otherwise required by the Kentucky Building Code shall be on an accessible route and shall comply with this section.

(2) Doors. All doors to accessible toilet rooms shall comply with Section 13. Doors shall not swing into the clear floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6) and (7) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) shall be provided within an accessible toilet room. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17; its water closet shall comply with Section 15. If water closets are not in stalls, then a reasonable number, but always at least one (1), of water closets shall comply with Section 16.

(5) Urinals. If urinals are provided, a reasonable number, but always at least one (1), shall comply with Section 18.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, a reasonable number, but always at least one (1) of each, shall comply with Section 19.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27.

(8) Emergency lighting. Where emergency lighting in a building is required by Section 624 of the Kentucky Building Code, the emergency lighting shall be provided in accessible toilet rooms.

Section 23. Bathrooms, Bathing Facilities and Shower Rooms. (1) Minimum number. Bathrooms, bathing facilities, or shower rooms on an accessible route shall comply with this section. For bathrooms in accessible dwelling units, see Section 35(4).

(2) Doors. Doors to accessible bathrooms shall comply

with Section 13. Doors shall not swing into the floor space required for any fixture.

(3) Clear floor space. The accessible fixtures and controls required in subsections (4), (5), (6), (7), (8), and (9) of this section shall be on an accessible route. An unobstructed turning space complying with Section 4(3) shall be provided within an accessible bathroom. The clear floor space at fixtures and controls, the accessible route, and the turning space may overlap.

(4) Water closets. If toilet stalls are provided, then a reasonable number, but always at least one (1), shall comply with Section 17; its water closet shall comply with Section 16. If water closets are not in stalls, then a reasonable number, but always at least one (1), shall comply with Section 16.

(5) Urinals. If urinals are provided, then a reasonable number, but always at least one (1), shall comply with Section 18.

(6) Lavatories and mirrors. If lavatories and mirrors are provided, then a reasonable number, but always at least one (1) of each, shall comply with Section 19.

(7) Controls and dispensers. If controls, dispensers, receptacles, or other equipment is provided, at least one (1) of each shall be on an accessible route and shall comply with Section 27.

(8) Bathing and shower facilities. If tubs or showers are provided, then at least one (1) accessible tub that complies with Section 20 or at least one (1) accessible shower that complies with Section 20 or at least one (1) accessible shower that complies with Section 21 shall be provided.

(9) Medicine cabinets. If medicine cabinets are provided, at least one (1) shall be located with a usable shelf no higher than forty (40) [forty-four (44)] inches above the floor space. The floor space shall comply with Section 4(4).

Section 24. Sinks. (1) General. If accessible sinks are provided, they shall comply with this section. Sinks in kitchens of accessible dwelling units shall comply with Section 35(5)(e).

(2) Height. Sinks shall be mounted with the counter or rim no higher than thirty-four (34) inches from the floor.

(3) Knee clearance. Knee clearance that is twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided underneath sinks.

(4) Depth. Each sink shall be a maximum of six and one-half (6½) inches deep.

(5) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) shall be provided in front of a sink to allow forward approach. The clear floor space shall be on an accessible route and shall extend a maximum of nineteen (19) inches underneath the sink.

(6) Exposed pipes and surfaces. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered. There shall be no sharp or abrasive surfaces under sinks.

(7) Faucets. Faucets shall comply with Section 27(4). Lever-operated push-type, touch-type, or electronically controlled mechanisms are acceptable designs.

Section 25. Storage. (1) General. Accessible storage facilities such as cabinets, shelves, closets, and drawers shall comply with this section.

(2) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) that allows either a forward or parallel approach

by a person using a wheelchair shall be provided at accessible storage facilities.

(3) Height. Accessible storage spaces shall be within at least one (1) of the reach ranges specified in Section 4(5) and (6). Clothes rods shall be a maximum of *forty-eight* (48) [fifty-four (54)] inches from the floor.

(4) Hardware. Hardware for accessible storage facilities shall comply with Section 27(4). Touch latches and U-shaped pulls are acceptable.

Section 26. Handrails, Grab Bars and Tub and Shower Seats. (1) General. All handrails, grab bars, and tub and shower seats shall comply with this section.

(2) Size and spacing of grab bars and handrails. The outside diameter or width of the gripping surfaces of handrail or grab bar shall be one and one-fourth ($1\frac{1}{4}$) inch to one and one-half ($1\frac{1}{2}$) inch or the shape shall provide an equivalent gripping surface. If handrails or grab bars are mounted adjacent to a wall, the space between the wall and the handrail or grab bars shall be one and one-half ($1\frac{1}{2}$) inch (see Appendix A, Figure 18). Handrails may be located in a recess if the recess is a maximum of three (3) inches deep and extends at least eighteen (18) inches above the top of the rail (see Appendix A, Figure 18).

(3) Structural strength. Handrails, grab bars, tub and shower seats, fasteners, and mounting devices shall support a minimum concentrated load of 250 pounds and shall not rotate in their fittings.

(4) Eliminating hazards. A handrail or grab bar and any wall or other surface adjacent to it shall be free of any sharp or abrasive elements. Edges shall have a minimum radius of one-eighth ($1/8$) inch.

Section 27. Controls and Operating Mechanisms. (1) General. Controls and operating mechanisms in accessible spaces, along accessible routes, or as part of accessible elements (for example, light switches, dispenser controls) shall comply with this section.

(2) Clear floor space. Clear floor space complying with Section 4(4) that allows a forward or parallel approach by a person using a wheelchair shall be provided at controls, dispensers, receptacles, and other operable equipment.

(3) Height. The highest operable part of all controls, dispensers, receptacles, and other operable equipment shall be placed within at least one (1) of the reach ranges specified in Section 4(5) and (6). Except where the use of special equipment dictates otherwise, electrical and communications systems receptacles on walls shall be mounted no less than fifteen (15) inches above the floor.

(4) Operation. Controls and operating mechanisms shall be operable with one (1) hand and shall not require tight grasping, pinching, or twisting of the wrist. The force required to activate controls shall be no greater than five (5) pounds of force.

Section 28. Alarms. (1) General. If emergency warning systems are provided, they shall include both audible alarms complying with subsection (2) of this section and visual alarms complying with subsection (3) of this section. In facilities with sleeping accommodations, accessible sleeping accommodations shall have an auxiliary visual alarm system complying with subsection (4) of this section.

(2) Audible alarms. Audible emergency alarms shall produce a sound that exceeds the ambient room or space noise by at least fifteen (15) decibels or exceeds any maximum sound level with a duration of thirty (30) seconds by five (5) decibels, whichever is louder. Sound levels for alarm signals shall not exceed 120 decibels.

(3) Visual alarms. Electronically powered internally illuminated emergency exit signs or adjacent devices shall flash as a visual emergency alarm in conjunction with audible emergency alarms. The flashing frequency of visual alarm devices shall be less than five (5) Hz. If such alarms use electricity from the building as a power source, then they shall be installed on the same system as the audible emergency alarms.

(4) Auxiliary alarms. Accessible sleeping accommodations shall have a visual alarm connected to the building emergency alarm system or shall have a standard 110-volt electrical receptacle into which such an alarm could be connected. Instructions for use of the auxiliary alarm or connection shall be provided.

(5) Alarm activators. Alarm activators shall comply with Section 27 controls and operating mechanisms.

(6) Special alarm systems. Specialized alarm systems utilizing advanced technology will be considered on a case-by-case basis.

Section 29. Tactile Warnings. (1) General. Where tactile warnings are required, they shall comply with this section.

(2) Tactile warnings on walking surfaces. Tactile warning textures on walking surfaces shall contrast with that of the surrounding surface. Raised strips or grooves shall comply with Appendix A, Figure 19. Grooves may be used indoors only.

(3) Tactile warnings on doors to hazardous areas. Doors that lead to areas that might prove dangerous to a blind person (for example, doors to loading platforms, mechanical rooms, stages, and the like) shall be made identifiable to the touch by a textured surface on the door handle, knob, pull, or other operating hardware. This textured surface may be made by knurling or roughening or by a material applied to the contact surface. Such textured surfaces shall not be provided for emergency exit doors or any doors other than those to hazardous areas.

(4) Tactile warnings at stairs. All stairs (except those in dwelling units, in enclosed stair towers, or set to the side of the path of travel) shall have a tactile warning at the top of stair runs.

(5) Tactile warnings at hazardous vehicular areas. If a walk crosses or adjoins a frequently used vehicular way, and if there are no curbs, railings, or other elements detectable by a person who has a severe visual impairment separating the pedestrian and vehicular areas, then the boundary between the areas shall be defined by a continuous thirty-six (36) inch wide tactile warning texture complying with subsection (2) of this section.

(6) Tactile warnings at reflecting pools. The edges of reflecting pools shall be protected by railings, walls, curbs, or tactile warnings complying with subsection (2) of this section.

(7) Standardization. Textured surfaces for tactile warnings shall be standard within a building, facility, site, or complex of buildings.

Section 30. Signage. (1) General. All signage that provides emergency information of general circulation directions or identifies rooms and spaces shall comply with this section.

(2) Character proportion and contrast. Letters and numbers on sign systems shall:

(a) Have a width-to-height ratio of between 3:5 and 1:1.

(b) Have a stroke width-to-height ratio of between 1:5 and 1:10.

(c) Contrast in value with their backgrounds, preferably light letters on a dark background.

(d) Have a matte finish on a matte finish background.
 (3) Raised or incised characters. Provide numbers and letters that are:

(a) Raised or incised from the background surface one thirty-second (1/32) inch. Also incise or raise symbols and pictographs in this manner.

(b) Between five-eighths (5/8) inch and two (2) inches high.

(c) San serif with sharply defined edges.

(d) If incised, provided with at least one-fourth (1/4) inch stroke width.

(4) Mounting location and height. Signage shall be placed in a standardized location throughout a building or facility as follows:

(a) Interior signage shall be located on the door or alongside of the door on the latch side and shall be mounted at between four feet, six inches (4'6") and five feet, six inches (5'6") above finished floor.

(b) Exterior signage shall be installed at entrances and walks to direct individuals to accessible routes and entrances as required.

(c) Symbols of accessibility. If accessible facilities are identified, then the international sign of accessibility shall be used.

Section 31. Telephones. (1) General. If public telephones are provided, then they shall comply with this section.

(2) Clear floor or ground space. A clear floor or ground space at least thirty (30) inches by forty-eight (48) inches that allows either a forward or parallel approach by a person using a wheelchair shall be provided at telephones. The clear floor or ground space shall comply with Section 4(4). Bases, enclosures, and fixed seats shall not impede approaches to telephones by people who use wheelchairs.

(3) Mounting height. The highest operable part of the telephone shall be within reach ranges specified in Section 4(5) or (6). Telephones mounted diagonally shall have the highest operable part no higher than fifty-four (54) inches above the floor.

(4) Enclosures. If telephone enclosures are provided, they may overhang the clear floor space required in subsection (2) of this section within the following limits:

(a) Side reach possible: The overhang shall be no greater than nineteen (19) inches; the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(b) Full-height enclosures: Entrances to full-height enclosures shall be thirty (30) inches clear minimum.

(c) Forward reach required: If the overhang is greater than twelve (12) inches, then the clear width of the enclosure shall be thirty (30) inches minimum, if the clear width of the enclosure is less than thirty (30) inches, then the height of the lowest overhanging part shall be equal to or greater than twenty-seven (27) inches.

(d) Where telephone enclosures protrude into walls, halls, corridors, or aisles, they shall also comply with Section 5(3).

(5) Equipment for hearing impaired people. Telephones shall be equipped with a receiver that generates a magnetic field in the area of the receiver cap. If banks of public telephones are provided, a minimum of five (5) percent, but always at least one (1), in a building or facility shall be equipped with a volume control.

(6) Controls. Telephones shall have pushbutton controls where service for such equipment is available.

(7) Telephone books. Telephone books, if provided,

shall be located so that they can be used by a person in a wheelchair.

(8) Cord length. The cord from the telephone to the handset shall be at least twenty-nine (29) inches long.

Section 32. Seating, Tables, and Work Surfaces. (1) Minimum number. If fixed or built-in seating, tables, or work surfaces are provided in accessible spaces, a minimum of five (5) percent, but always at least one (1), of seating spaces, tables, or work surfaces shall comply with this section.

(2) Seating. If seating spaces for people in wheelchairs are provided at tables, counters, or work surfaces, clear floor space complying with Section 4(4) shall be provided. Such clear floor space shall not overlap knee space by more than nineteen (19) inches.

(3) Knee clearances. If seating for people in wheelchairs is provided at tables, counters, and work surfaces, knee spaces at least twenty-seven (27) inches high, thirty (30) inches wide, and nineteen (19) inches deep shall be provided.

(4) Height of work surfaces. The tops of tables and work surfaces shall be from twenty-eight (28) inches to thirty-four (34) inches from the floor to ground.

Section 33. Assembly Areas. (1) Minimum number. Assembly areas shall have a minimum of five (5) percent, but no less than two (2), of locations for wheelchair users in each assembly area that complies with this section. Assembly areas with audio-amplification systems shall have a listening system complying with subsections (6) and (7) of this section to assist a minimum of five (5) percent of people, but no fewer than two (2), with severe hearing loss in the appreciation of audio presentations.

(2) Size of wheelchair locations. Each wheelchair location shall provide minimum clear ground or floor space of sixty-six (66) inches wide by forty-eight (48) inches deep for forward or rear access and sixty-six (66) inches deep for side access and shall accommodate two (2) people in wheelchairs.

(3) Placement of wheelchair locations:

(a) Wheelchair areas shall be an integral part of any fixed seating plan and shall be dispersed throughout the seating area. They shall adjoin an accessible route that also serves as a means of egress in case of emergency and shall be located to provide lines of sight comparable to those for all viewing areas.

(b) Exception. In alteration work where it is structurally impossible to alter seating location to disperse seating throughout, seating may be located in collected areas, but must adjoin an accessible route.

(4) Surfaces. The ground or floor at wheelchair locations shall be level and shall comply with Section 5(2).

(5) Access to performing areas. An accessible route shall be provided to performing areas, including stages, arena floors, dressing rooms, locker rooms, and other spaces used by performers.

(6) Placement of listening systems. If the listening system provided serves individual fixed seats, then such seats shall be located within a fifty (50) foot viewing distance of the stage or playing area and shall have a complete view of the stage or playing area.

(7) Types of listening systems. Audio loops and radio frequency systems are two (2) acceptable types of listening systems.

Section 34. Hotels and Motels. Minimum Requirements. In hotel and motel buildings, lodging houses,

boarding houses, and dormitory buildings, providing sleeping accommodations for twenty (20) or more individuals, a minimum of five (5) percent of those accommodations shall be accessible to and shall comply with Section 3(1) and (2).

Section 35. Dwelling Units. Where multi-family housing projects are required to be accessible, a minimum of one (1) in twenty-five (25) dwelling units shall meet the requirements of this section.

(1) An accessible dwelling unit shall be on an accessible route. An accessible dwelling unit shall have the following accessible elements and spaces as a minimum:

(a) Common spaces and facilities serving individual accessible dwelling units (for example, entry walks, trash disposal facilities, and mail boxes) shall comply with Sections 3 through 33.

(b) Accessible spaces shall have maneuvering space complying with Section 4(2) and (3) and surfaces complying with Section 5(2).

(c) At least one (1) accessible route complying with Section 5(1) shall connect the accessible entrances with all accessible spaces and elements within the dwelling units.

(d) If parking spaces are assigned for use with individual dwelling units, then at least one (1) parking space per accessible dwelling unit shall comply with Section 6(3).

(e) If windows intended to be operated by occupants are provided, then they shall comply with Section 12.

(f) Doors to and in accessible spaces that are intended for passage shall comply with Section 13.

(g) All entrances to accessible dwelling units shall comply with Section 14.

(h) Storage in accessible spaces in dwelling units, including cabinets, shelves, closets, and drawers, shall comply with Section 25.

(i) All controls in accessible spaces shall comply with Section 27. Those portions of heating, ventilating, and air conditioning equipment requiring regular, periodic maintenance and adjustment by the resident of a dwelling shall be accessible to people in wheelchairs. If air distribution registers must be placed in or close to ceilings for proper air circulation, this specification shall not apply to registers.

(j) If emergency alarms are provided, alarm connections complying with Section 28(4), (5), and (6) shall be provided in the dwelling unit.

(k) If telephone connections are installed in the dwelling unit, a reasonable number, but always at least one (1), shall comply with Section 31(2) and (3).

(l) A reasonable number, but always at least one (1), of full bathrooms shall comply with subsection (4) of this section. A full bathroom shall include a water closet, a lavatory, and a bathtub or shower.

(m) The kitchen shall comply with subsection (5) of this section.

(n) If laundry facilities are provided, they shall comply with subsection (6) of this section.

(o) The following spaces shall be accessible and shall be on an accessible route:

1. The living area.

2. The dining area.

3. The sleeping area, or the bedroom in one (1) bedroom dwelling units, or at least two (2) bedrooms or sleeping spaces in dwelling units with two (2) or more bedrooms.

4. Patios, terraces, balconies, carports, and garages, if provided with the dwelling unit.

(2) Adaptability. The specifications of subsection (5) of this section are based on the concept of adaptability.

(3) Consumer information. To ensure that the existence of adaptable features will be known to the owner or occupant of a dwelling, consumer information shall be provided for each accessible dwelling unit for rent or sale.

(4) Bathrooms. Bathrooms shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Minimum dimensions. Accessible bathrooms shall accommodate wheelchair turning space in accordance with Section 4(3). Door operation shall not interfere with maneuverability.

(b) Water closets:

1. Clear floor space at the water closet shall be as shown in Appendix A, Figure 9. The water closet may be located with the clear area at either the right or left side of the toilet.

2. The height of the water closet shall be at least seventeen (17) to nineteen (19) inches measured to the top of the toilet seat.

3. Grab bars shall be installed as shown in Appendix A, Figure 10 and shall comply with Section 26.

4. The toilet paper dispenser shall be installed within reach as shown in Appendix A, Figure 10.

(c) Lavatory, mirrors, and medicine cabinets:

1. The lavatory and mirrors shall comply with Section 19.

2. If a medicine cabinet is provided above the lavatory, then the bottom of the medicine cabinet shall be located with a usable shelf no higher than forty-four (44) inches above the floor.

(d) Bathtubs. If a bathtub is provided, then it shall have the following features:

1. Floor space. Clear floor space at bathtubs shall be as shown in Appendix A, Figure 13.

2. Seat. An in-tub seat or a seat at the head end of the tub shall be provided as shown in Appendix A, Figures 13 and 14. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.

3. Grab bars. Grab bars shall be installed as shown in Appendix A, Figure 14 and shall comply with Section 26.

4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 14 and shall comply with Section 27(4). Single lever and mixing devices are acceptable designs.

5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(e) Showers. If a shower is provided, it shall have the following features:

1. Size and clearances. Shower stall size and clear floor space shall comply with Appendix A, Figure 15.

2. Seat. A seat shall be provided in the transfer shower stalls as shown in Appendix A, Figure 16. The seat shall be seventeen (17) inches to nineteen (19) inches high measured from the bathroom floor and shall extend the full depth of the stall. The seat shall be on the wall opposite the controls. The structural strength of seats and their attachments shall comply with Section 26(3). Seats shall be mounted securely and shall not slip during use.

3. Grab bars. Grab bars complying with Section 26 shall be provided as shown in Appendix A, Figure 17.

4. Controls. Faucets and other controls shall be located as shown in Appendix A, Figure 17 and shall comply with

Section 27(4). In transfer shower stalls, all controls, faucets, and the shower unit shall be mounted on the side wall opposite the seat.

5. Shower unit. A shower spray unit with a hose at least sixty (60) inches long that can be used as a fixed shower head at various heights or as a hand-held shower shall be provided.

(f) Bathtub and shower enclosures. Enclosures for bathtubs or shower stalls shall not obstruct controls or transfer from wheelchairs onto shower or bathtub seats. Enclosures on bathtubs shall not have tracks mounted on their rims.

(g) Clear floor space. Clear floor space at fixtures may overlap.

(5) Kitchens. Kitchens and their components shall be on an accessible route and shall comply with the requirements of this subsection.

(a) Clearance. Clearances between all opposing base cabinets, counter tops, appliances or walls shall accommodate wheelchair turning space in accordance with Section 4(3).

(b) Clear floor space. A clear floor space at least thirty (30) inches by forty-eight (48) inches complying with Section 4(4) that allows either a forward or a parallel approach by a person in a wheelchair shall be provided at all appliances in the kitchen, including the range or cooktop, oven, refrigerator/freezer, dishwasher, and trash compactor. Laundry equipment located in the kitchen shall comply with subsection (6) of this section.

(c) Controls. All controls in kitchens shall comply with Section 27.

(d) Work surfaces. At least one (1) thirty (30) inch section of counter shall provide a work surface that complies with the following requirements:

1. The counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface.

2. Base cabinets, if provided, shall be removable under the full thirty (30) inch minimum frontage of the counter. The finished floor shall extend under the counter to the wall.

3. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear area.

4. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow a forward approach to the counter. Nineteen (19) inches maximum of the clear floor space may extend underneath the counter. The knee space shall have a minimum clear width of thirty (30) inches and a minimum clear depth of nineteen (19) inches.

5. There shall be no sharp or abrasive surfaces under such counters.

(e) Sink. The sink and surrounding counter shall comply with the following requirements:

1. The sink and surrounding counter either shall be adjustable (or replaceable as a unit) to provide alternative heights of twenty-eight (28) inches to thirty-six (36) inches, or shall be fixed at thirty (30) inches measured from the floor to the top of the counter surface or sink rim. The total width of sink and counter area shall be thirty (30) inches minimum.

2. Where the sink is adjustable, rough-in plumbing shall be located to accept connections of supply and drain pipes for sinks mounted at the height of twenty-eight (28) inches.

3. The depth of a sink bowl shall be no greater than six and one-half (6½) inches.

4. Faucets shall comply with Section 27(4). Lever-operated or push-type mechanisms are two (2) acceptable designs.

5. Base cabinets, where provided, shall be removable under the full thirty (30) inch minimum frontage of the sink and surrounding counter. The finished flooring shall extend under the counter to the wall.

6. Counter thickness and supporting structure shall be two (2) inches maximum over the required clear space.

7. A clear floor space thirty (30) inches by forty-eight (48) inches shall allow forward approach to the sink. Nineteen (19) inches maximum of the clear floor space may extend underneath the sink. The knee space shall have a minimum clear width of thirty (30) inches and a clear depth of nineteen (19) inches.

8. There shall be no sharp or abrasive surfaces under sinks. If hot water exceeds 120 degrees Fahrenheit, hot water and drain pipes under sinks shall be insulated or otherwise covered.

(f) Ranges and cooktops. Ranges and cooktops shall comply with subsection (5)(b) of this section and Section 27. If ovens or cooktops have knee spaces underneath, then they shall be insulated or otherwise protected on the exposed contact surfaces to prevent burns, abrasions, or electrical shock. The clear floor space may overlap the knee space, if provided, by nineteen (19) inches maximum. The location of controls for ranges and cooktops shall not require reaching across burners.

(g) Ovens. Ovens shall comply with subsection (5)(b) of this section and Section 27. Ovens shall be of the self-cleaning type or be located adjacent to a counter with knee space below. For side-opening ovens, the door latch side shall be next to the open counter space, and there shall be a pull-out shelf under the oven extending the full width of the oven and pulling out not less than ten (10) inches when fully extended. Ovens shall have controls on front panels; they may be located on either side of the door.

(h) Refrigerator/freezers. Refrigerator/freezer type shall comply with Section 27. Refrigerators shall be:

1. Of the vertical side-by-side refrigerator/freezer type; or

2. Of the over-and-under type and meet the following requirements:

a. Have at least fifty (50) percent of the freezer space below fifty-four (54) inches above the floor.

b. Have 100 percent of the refrigerator space and controls below fifty-four (54) inches. Freezers with less than 100 percent of the storage volume within the limits specified in subsections (5) or (6) of this section shall be the self-defrosting type.

(i) Dishwashers. Dishwashers shall comply with subsection (5)(b) of this section and Section 27. Dishwashers shall have all rack space accessible from the front of the machine for loading and unloading dishes.

(j) Kitchen storage. At least fifty (50) percent of kitchen storage areas shall comply with Section 25. Door pulls or handles for wall cabinets shall be mounted as close to the bottom of cabinet doors as possible. Door pulls or handles for base cabinets shall be mounted as close to the top of cabinet doors as possible.

(6) Laundry facilities. If laundry equipment is provided within individual accessible dwelling units, or if separate laundry facilities serve one (1) or more accessible dwelling units, then they shall meet the requirements of this subsection.

(a) Location. Laundry facilities and laundry equipment shall be on an accessible route.

(b) Washing machines and clothes dryers. Washing

machines and clothes dryers in common-use laundry rooms shall be front loading.

(c) Controls. Laundry equipment shall comply with Section 27.

JOHN R. GROVES, JR, Commissioner
APPROVED: H. FOSTER PETTIT, Secretary
RECEIVED BY LRC: October 7, 1981

See Appendix A on the following pages.

APPENDIX A

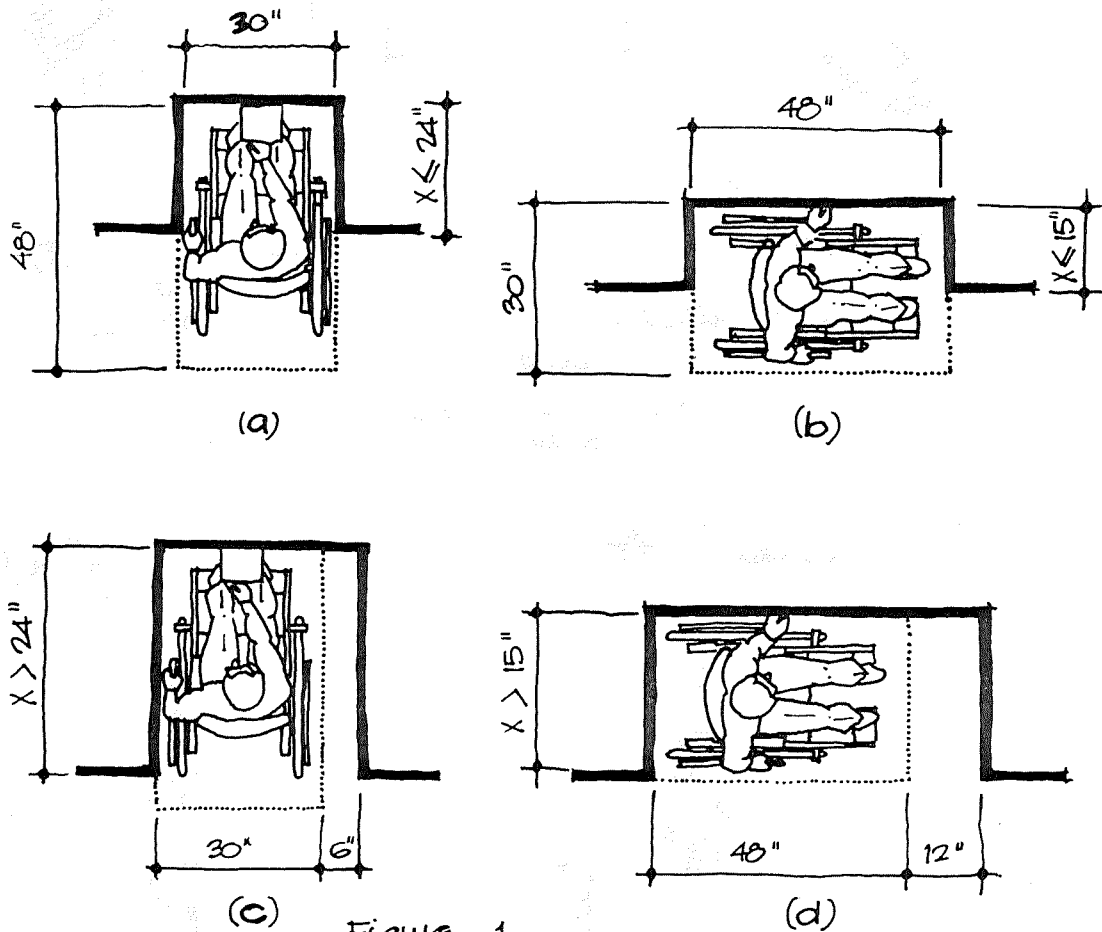


Figure 1
Clear Floor Space in Alcoves

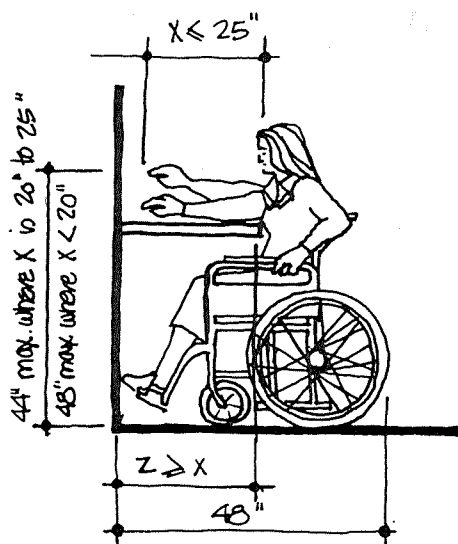


Figure 2
Maximum Forward Reach
Over an Obstruction

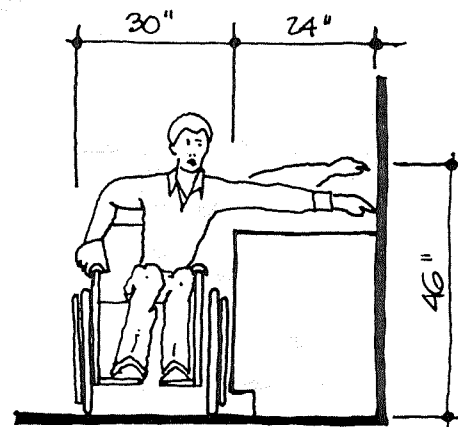
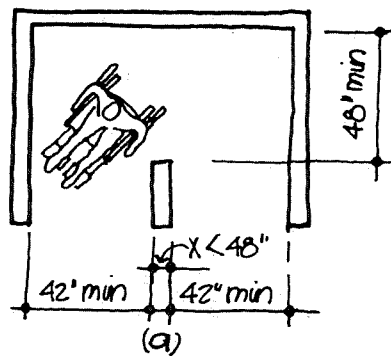
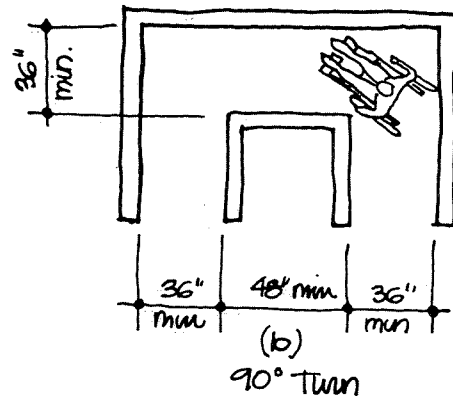
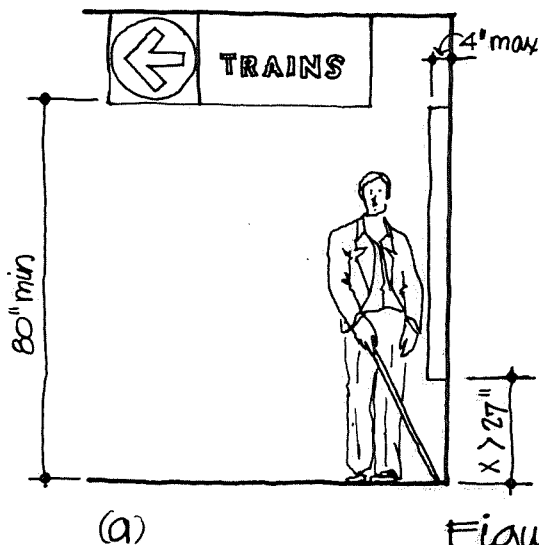
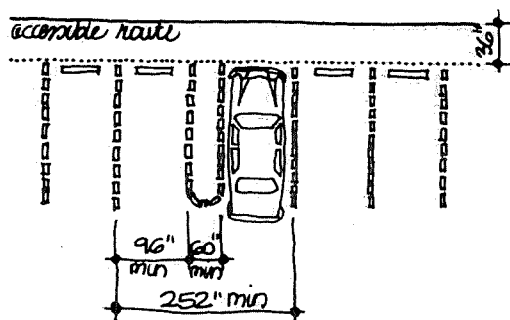
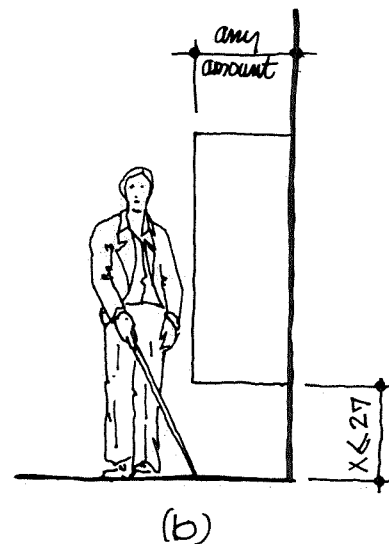


Figure 3
Maximum Side Reach
Over an Obstruction



Turns Around an Obstruction

Figure 4
Width of Accessible
RouteFigure 5
Protruding ObjectsFigure 6
Dimensions of Parking
Spaces

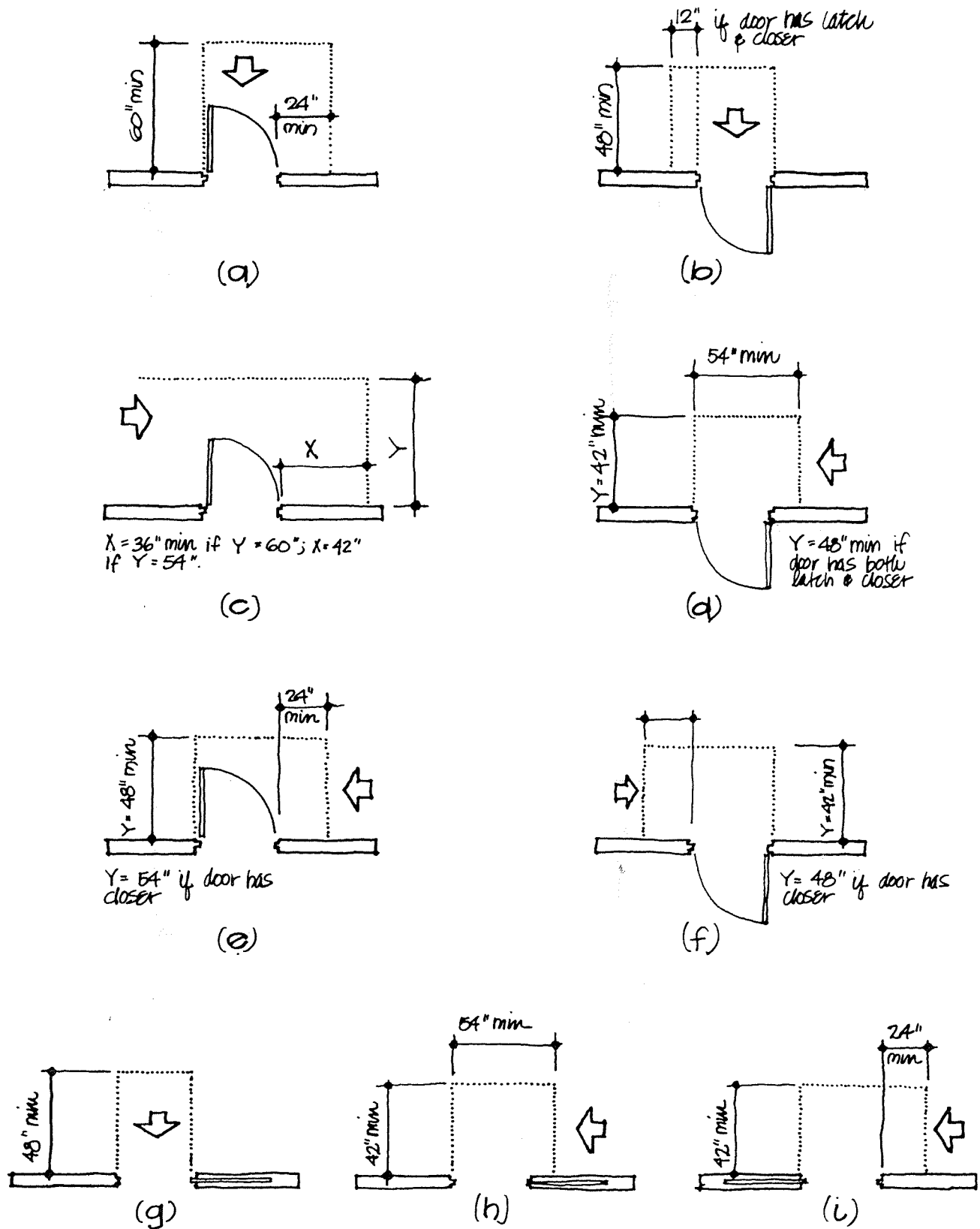
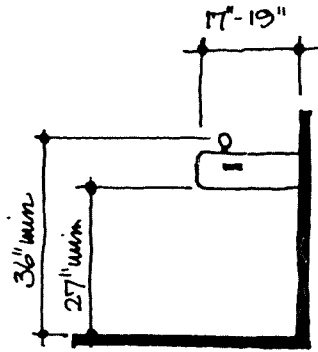
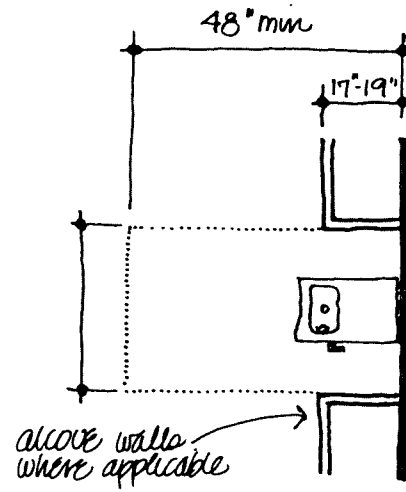


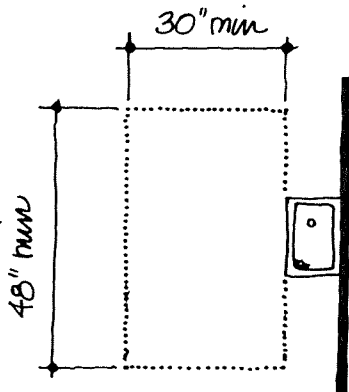
Figure 7
Maneuvering Clearances
at Doors



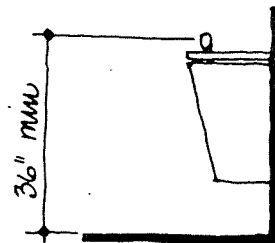
(a)
Spout Height and
Knee Clearance



(b)
Clear Floor Space



(c)
Free Standing
Fountain or Cooler



(d)
Free Standing
Fountain or Cooler

Figure 8
Drinking Fountains and
Water Coolers

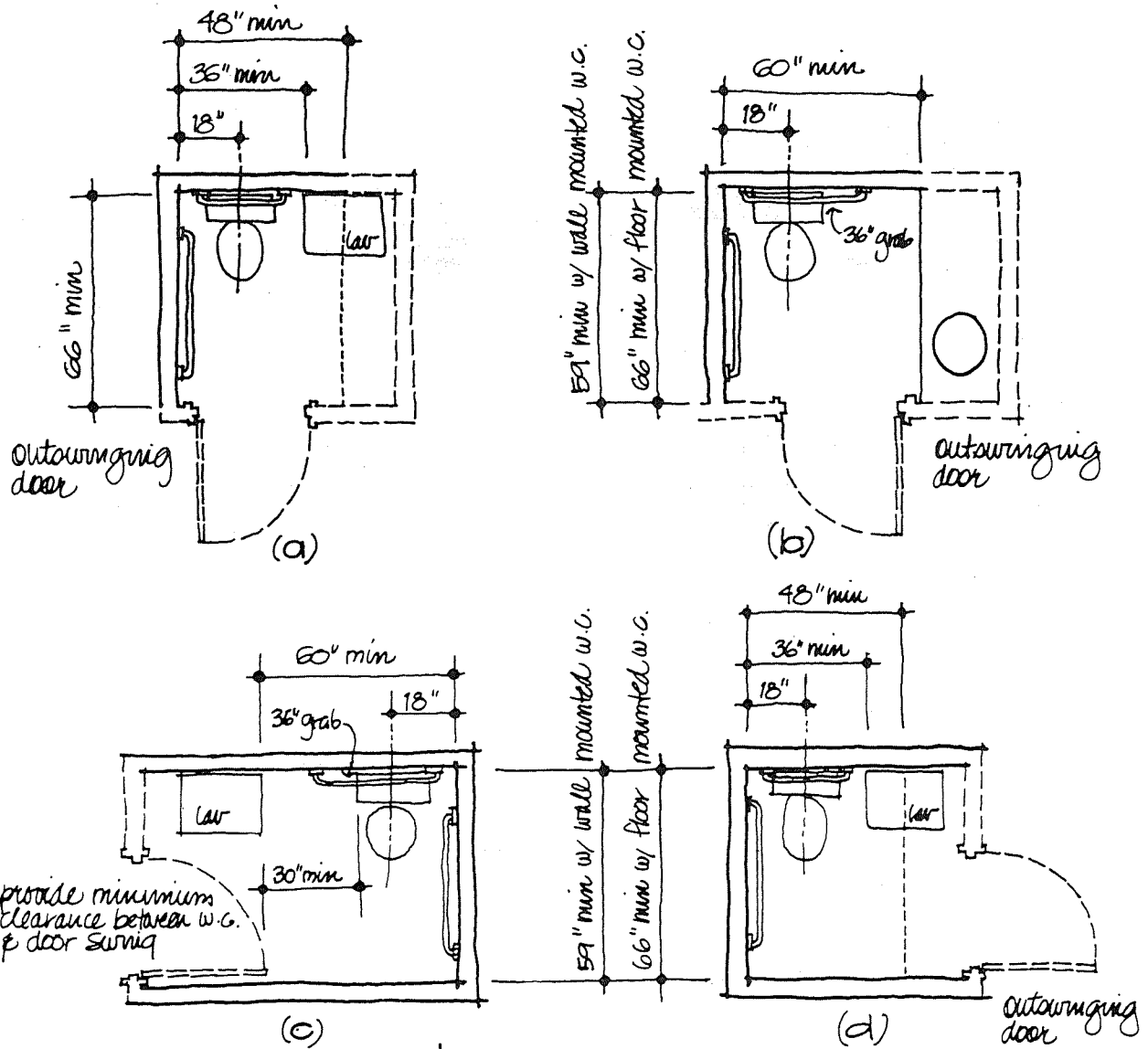


Figure 9
Clear Floor Space at Water
Closets

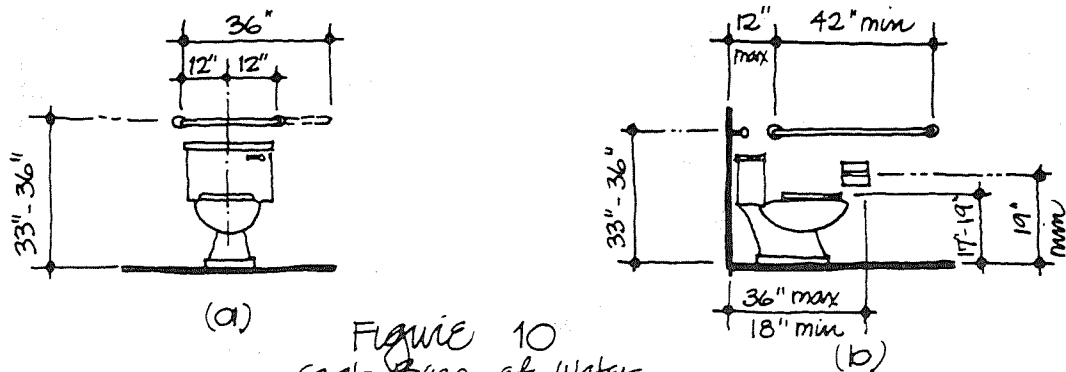
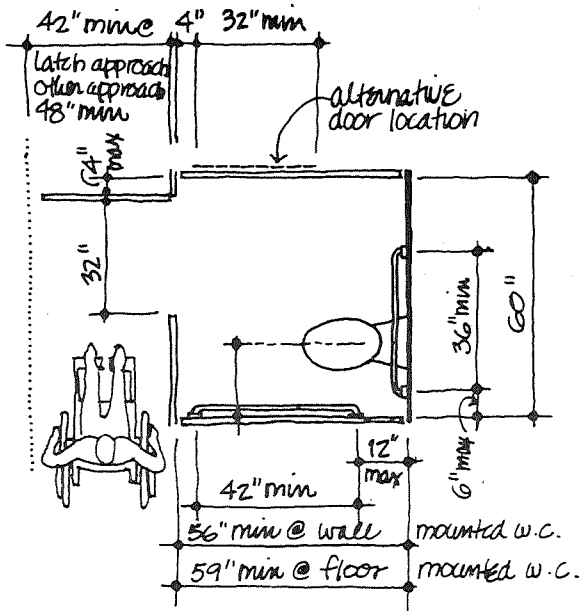
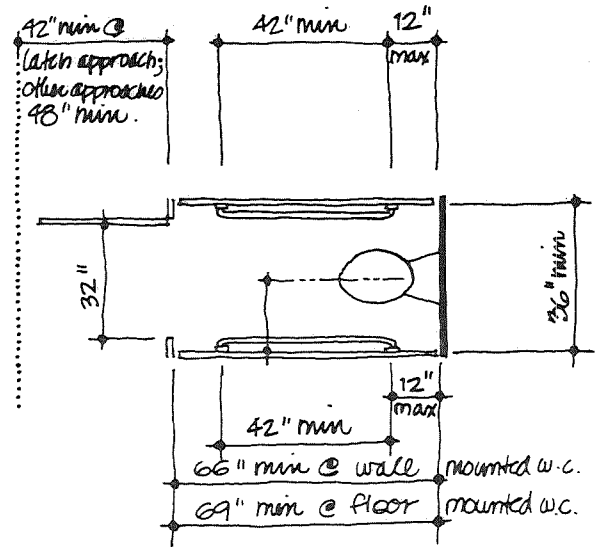


Figure 10
Grab Bars at Water
Closets

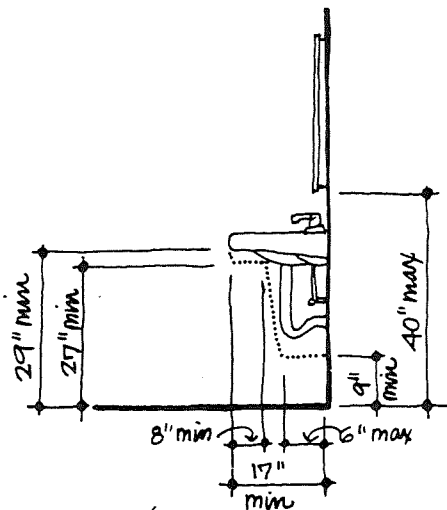


(a)
Standard Stall

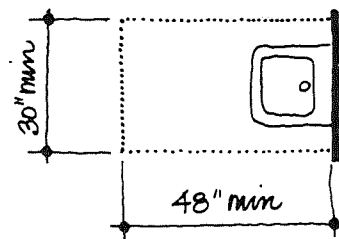


(b)
Alternative Stall
(Existing construction only)

Figure 11
Toilet Stalls



(a)
Lavatory Clearances



(b)
Clear Floor Space

Figure 12
Lavatories

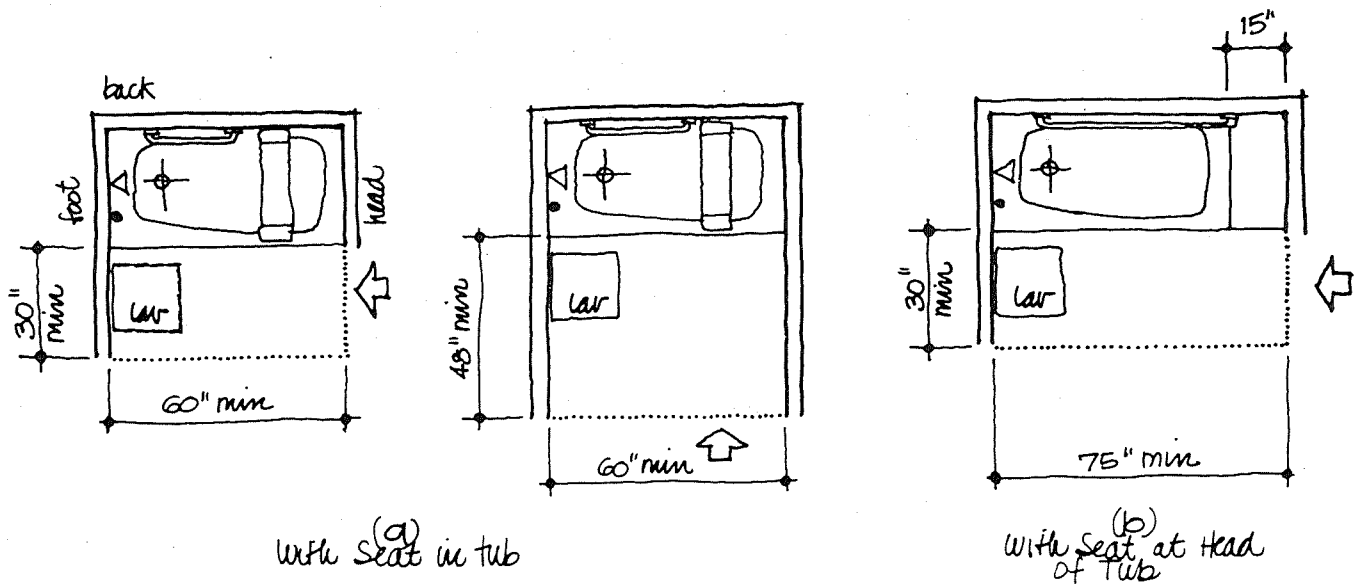


Figure 13
Clear Floor Space @ Bathtubs

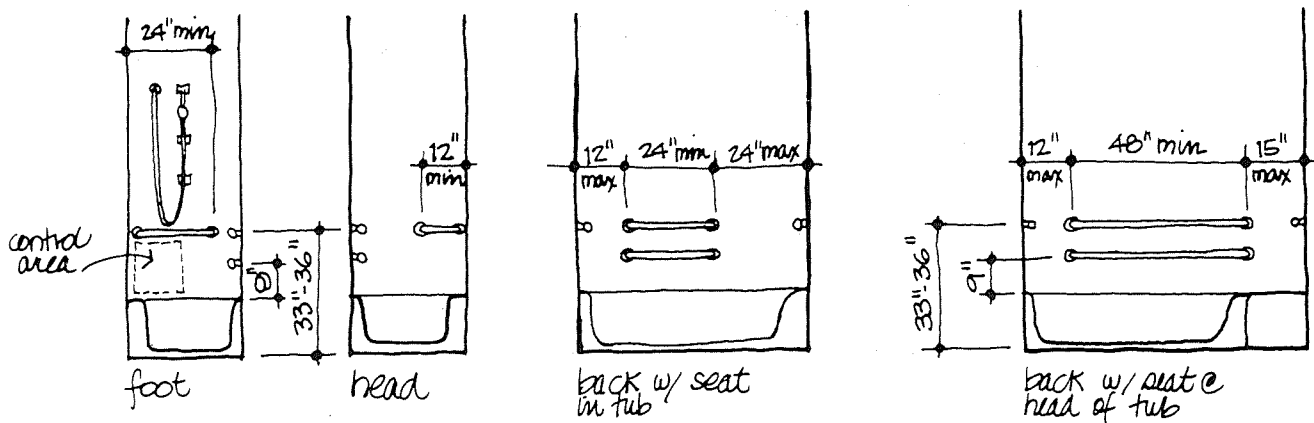


Figure 14
Grab Bars @ Bathtubs

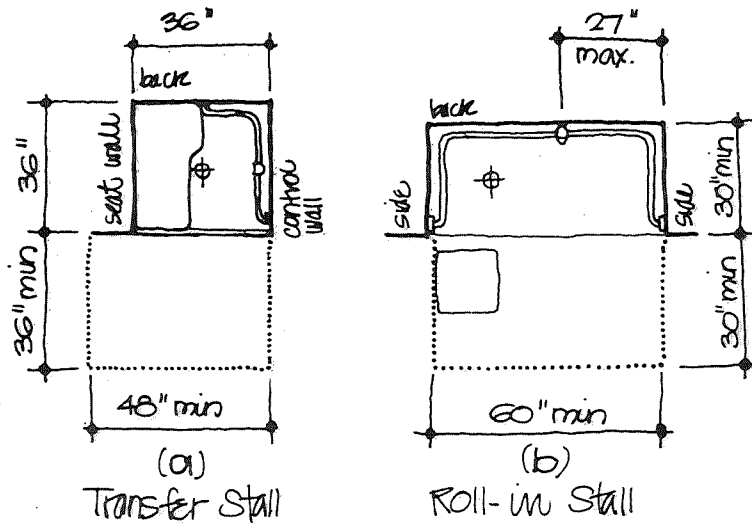


Figure 15
Shower Size and Clearances

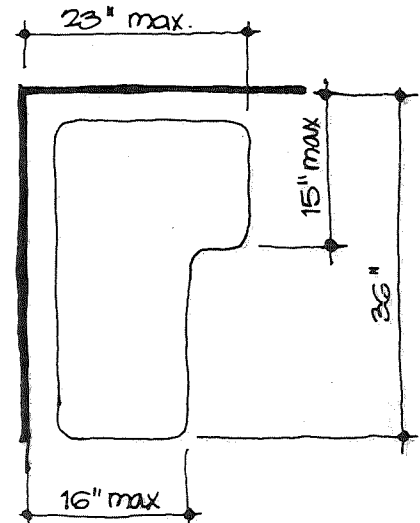


Figure 16
Shower Seat Design

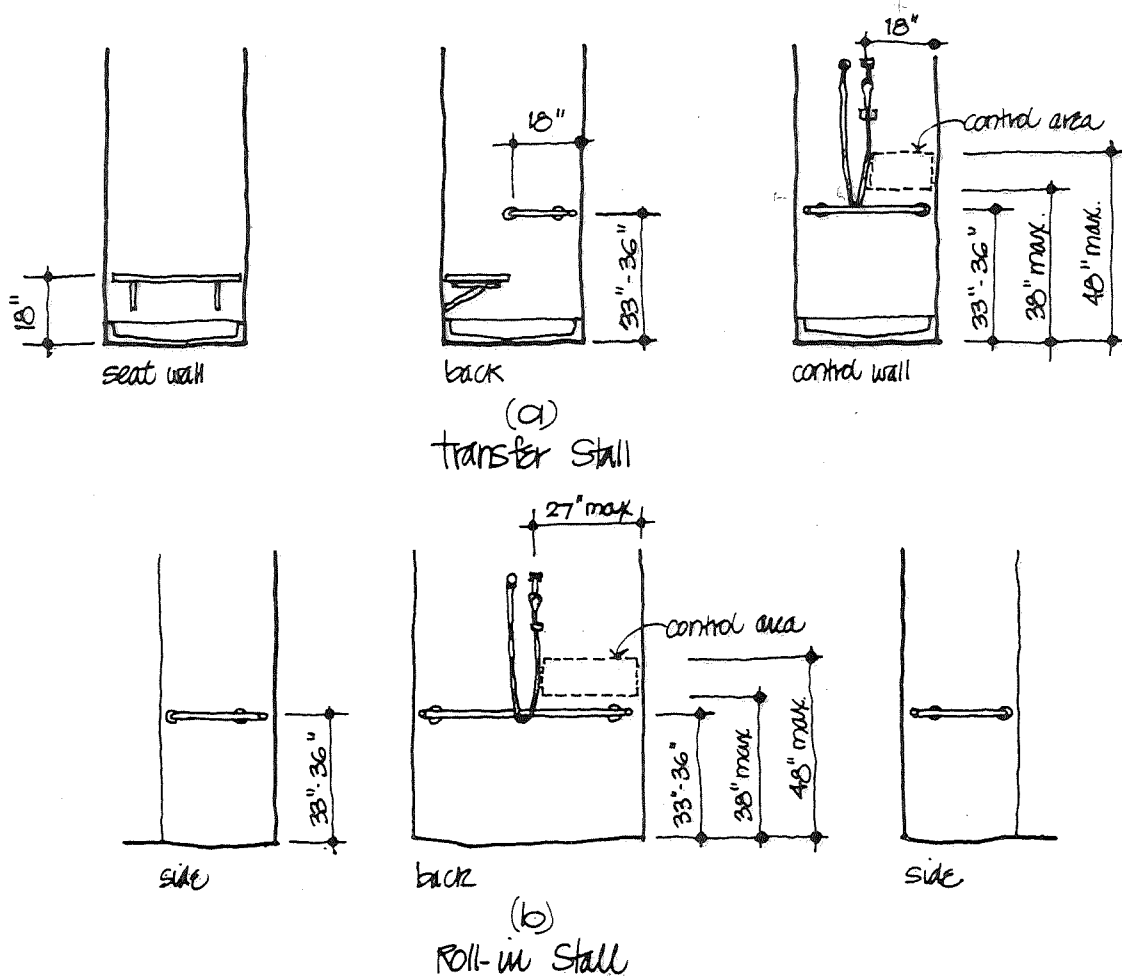


Figure 17
Grab Bars at Shower Stalls

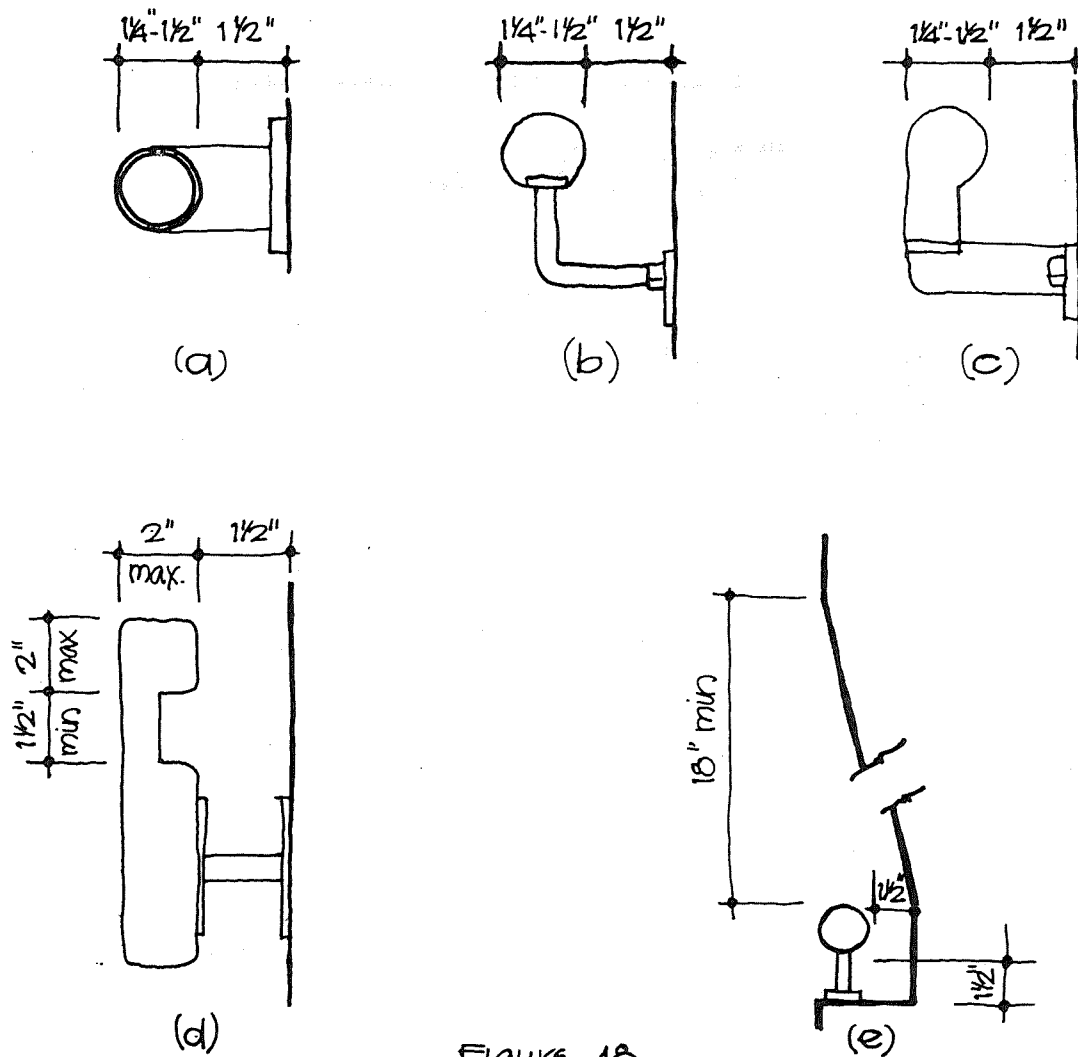


FIGURE 18
GRAB BARS AND HANDRAILS

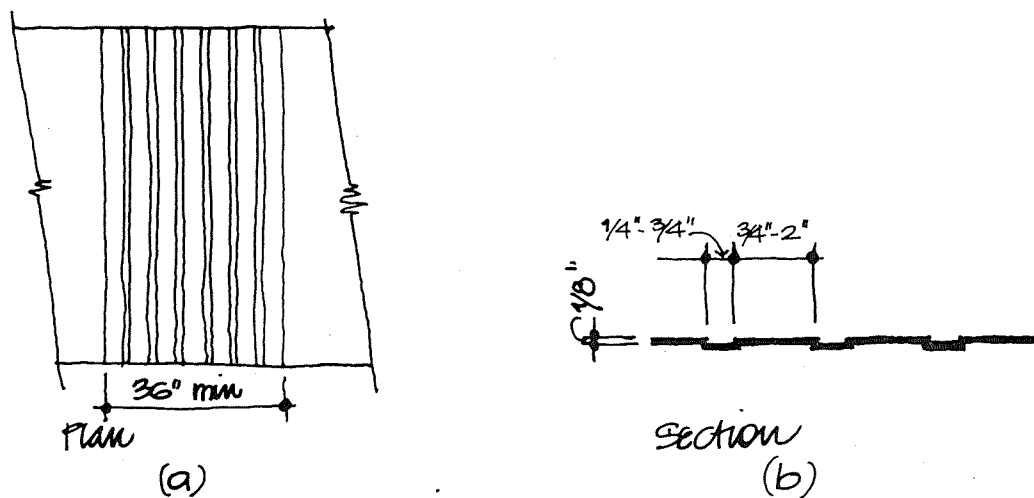


FIGURE 19
Tactile Warnings on
Walking Surfaces

Amended After Hearing

(Republished prior to Subcommittee consideration as required by KRS 13.085(4).)

**DEPARTMENT FOR NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
Bureau of Environmental Protection
Division of Air Pollution
Amended After Hearing**

401 KAR 61:132. Existing miscellaneous metal parts and products surface coating operations.

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 control of volatile organic compound emissions from existing miscellaneous metal parts and products surface coating operations.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the classification date defined below which is located:

(1) In an urban county designated non-attainment for ozone under 401 KAR 51:010; or

(2) In any county which is designated non-attainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

(3) The provisions of this regulation shall not apply to affected facilities in the following counties: Garrard, Graves, Hopkins, Laurel, Montgomery, Nelson, Pulaski, Scott, Taylor, Trigg, and Union prior to designation of such counties non-attainment for ozone under 401 KAR 51:010.

(4) *The provisions of this regulation shall not apply to affected facilities which are subject to local air pollution control district regulations which have been approved by the department and the U.S. EPA.*

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given to them in 401 KAR 50:010.

(1) "Affected facility" means a coating line located at job shops and original equipment manufacturing industries which apply coatings on metal substrates not [elsewhere] subject to a regulation, *other than 401 KAR 61:060, in this chapter.*

(2) "Applicator" means the mechanism or device used to apply the coating, including but not limited to: dipping, spraying, or flowcoating.

(3) "Flashoff area" means the space between the applicator and the oven.

(4) "Single coat" means only one (1) film of coating is applied to the metal substrate.

(5) "Prime coat" means the first of two (2) or more films of coating applied in an operation.

(6) "Topcoat" means the final film or series of films of coating applied in a two (2) coat (or more) operation.

(7) "Coating line" means a series of equipment and/or operations used to apply, dry, or cure any prime, topcoat or single coatings containing volatile organic compounds. This shall include, but is not limited to:

(a) Mixing operations;

(b) Process storage;

(c) Applicators;

(d) Drying operations including, but not limited to, flashoff area evaporation, oven drying, baking, curing, and polymerization;

(e) Clean up operations;

(f) Leaks, spills and disposal of volatile organic compounds;

(g) Processing and handling of recovered volatile organic compounds;

(h) For the purposes of determining compliance with this regulation, if any equipment or operation could be considered to be a part of more than one (1) coating line, its volatile organic compound emissions shall be assigned to each coating line of which it is a part proportionally to the throughput of volatile organic compounds it receives from or distributes to each coating line;

(i) If any portion of the series of equipment and/or operations qualify for an exemption according to Section 6, then that portion shall be considered to be a separate coating line.

(8) "Volatile organic compounds" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.

(9) "Process storage" means mixing tanks, holding tanks, and other tanks, drums, or other containers which contain surface coatings, volatile organic compounds, or recovered volatile organic compounds; but does not mean storage tanks which are subject to 401 KAR 59:050 or 401 KAR 61:050.

(10) "Miscellaneous metal parts and products" means items including but not limited to:

(a) Large farm machinery (harvesting, fertilizing and planting machines, tractors, combines, etc.);

(b) Small farm machinery (lawn and garden tractors, lawn mowers, rototillers, etc.);

(c) Small appliances (fans, mixers, blenders, crock pots, dehumidifiers, vacuum cleaners, etc.);

(d) Commercial machinery (computers and auxiliary equipment, typewriters, calculators, vending machines, etc.);

(e) Industrial machinery (pumps, compressors, conveyor components, fans, blowers, transformers, etc.);

(f) Fabricated metal products (metal covered doors, frames, etc.); and

(g) Any other industrial category not [otherwise] subject to a regulation, *other than 401 KAR 61:060*, in this chapter which coats metal parts or products.

(11) "Heat sensitive material" means materials which cannot be exposed to temperatures greater than eighty-two (82) to ninety-three (93)°C (180°-200°F).

(12) "Air or forced air-dried items" means parts that are too large or too heavy for practical size ovens; parts that are sensitive to heat; parts to which heat sensitive materials are attached; or equipment assembled prior to top coating for specific performance or quality standards.

(13) "Outdoor or harsh exposure or extreme environmental conditions" means exposure to any of the following: year round weather conditions, temperatures consistently above ninety-five (95)° Celsius, detergents, scouring, solvents, corrosive atmospheres; and similar environmental conditions.

(14) "Classification date" means *February 4, 1981* [the effective date of this regulation].

(15) "Volatile organic compounds net input" means the total amount of volatile organic compounds input to the affected facility minus the amount of volatile organic compounds that are not emitted into the atmosphere. Volatile organic compounds that are prevented from being emitted to the atmosphere by the use of control devices shall not be subtracted from the total for the purposes of determining volatile organic compound net input. When the nature of any operation or design of equipment is such as to permit more than one (1) interpretation of this definition, the interpretation that results in the minimum value for allowable emissions shall apply.

Section 3. Standard for Volatile Organic Compounds. No person shall cause, allow, or permit an affected facility to discharge into the atmosphere more than fifteen (15) percent by weight of the volatile organic compounds net input into the affected facility.

Section 4. Compliance. (1) In all cases the design of any control system is subject to approval by the department.

(2) Compliance with the standard in Section 3 shall be demonstrated by a material balance except in those cases where the department determines that a material balance is not possible. For those cases where a material balance is not possible, compliance will be determined based upon an engineering analysis by the department of: the control system design, control device efficiency, control system capture efficiency, and any other factors that could influence the performance of the system. If so requested by the department, *Kentucky Method 90 or 91, filed by reference in 401 KAR 50:015*, [performance tests as specified by the department] shall be performed [conducted] in order to determine the efficiency of the control device or demonstrate compliance with the standard.

(3) With the prior approval of the department, the owner or operator may elect to effect such changes in the affected facility as are necessary to qualify for an exemption under Section 6.

(4) Whenever deemed necessary by the department, the department shall obtain samples of the coatings used at an affected facility to verify that the coatings meet the requirements in Section 6. The following methods of analyses, filed by reference in 401 KAR 50:015, for coatings shall be used as applicable except in those cases where the department determines that other methods would be more appropriate:

- (a) ASTM D 1644-75 Method A;
- (b) ASTM D 1475-60(74);

(c) ASTM D 2369-73; or

(d) Federal Standard 141 a, Method 4082.1.

Section 5. Compliance Timetable. The owner or operator of an affected facility shall be required to complete the following:

(1) Submit a final control plan for achieving compliance with this regulation no later than *October* ~~April~~ 15, 1981.

(2) Award the control system contract or the exempt coatings and any other accompanying process change contracts no later than *[December 1,]* June 15, 1981.

(3) Initiate on-site construction or installation of emission control equipment or process changes for exempt coatings no later than *[June 1, 1982]* December 1, 1981.

(4) On-site construction or installation of emission control equipment or process changes for exempt coatings shall be completed no later than December 1, 1982.

(5) Final compliance shall be achieved no later than December 31, 1982.

Section 6. Exemptions. (1) Any affected facility shall be exempt from the provisions of Section 3 if the volatile organic compound content of *coating is:* ~~the~~

(a) Less than 0.52 kg/l of coating (4.3 lb/gal), excluding water, delivered to applicators associated with clear coat;

(b) Less than 0.42 kg/l of coating (3.5 lb/gal), excluding water, delivered to applicators associated with air or forced air-dried items or items subject to outdoor or harsh exposure or extreme environmental conditions;

(c) Less than 0.36 kg/l of coating (3.0 lb/gal), excluding water, delivered to applicators associated with color coat or first coat on untreated ferrous substrate; or

(d) Less than 0.05 kg/l of powder coating (0.4 lb/gal) delivered to applicators associated with no or infrequent color change, or a small number of colors applied.

(2) The surface coating of the following metal parts and products are exempt from this regulation:

(a) The exterior of airplanes and marine vessels, but not parts for the exterior of airplanes and marine vessels that are coated as a separate manufacturing or coating operation;

(b) Automobile refinishing; and

(c) Customized top coating of automobiles and trucks, if production is less than thirty-five (35) vehicles per day.

(3) Any affected facility shall be exempt from the provisions of Section 3 if the total volatile organic compound emissions from all affected facilities subject to this regulation are less than or equal to *thirty (30) [five (5)] [twenty (20)]* tons per year.

Section 7. Variances. Variation with the standards and limitations contained in this regulation, when supported by adequate technical information, will be considered by the department on a case-by-case basis to allow for technological or economic circumstances which are unique to a source.

JACKIE SWIGART, Secretary

ADOPTED: September 28, 1981

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

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
Amended After Hearing

902 KAR 20:115. [Emergency care;] Ambulance services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1)(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate[s] that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. This regulation provides for the licensure requirements for [the operation of emergency care] ambulance services [and the services to be provided by emergency care ambulance services].

Section 1. Definitions [and Essential Characteristics]:
(1) Emergency care ambulance service means health care and transportation provided by any individual or private or public organization having a vehicle or vehicles that are specially designed, constructed or that have been modified or equipped with the intent of using the same, or maintaining or operating the same for the health care and transportation of persons who are sick, injured, or otherwise incapacitated, except on-duty police and fire department personnel in counties containing cities of the first class assisting in emergency situations by providing first-aid or transportation when regulation emergency units licensed to provide first-aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(2) "Non-emergency health care transportation" means health care transportation provided on a routine scheduled basis [where health care is initiated, administered, monitored, or sanctioned during transit] to individuals whose impaired health condition requires special patient care, supervision or handling but does not indicate a need for emergency medical treatment during transit or upon arrival at the patient's destination.

Section 2. Licensure: No person shall provide [emergency care] ambulance services without having first obtained a license from the board. Licenses issued by the board for emergency care ambulance services shall include designation thereon of "conforming" or "non-conforming" with the standards set forth in this regulation.

(1) Existing services: An "existing service" is defined as an emergency care ambulance service in operation prior to January 1, 1973 and continuously thereafter.

(a) Upon submission of a properly completed application to the board, accompanied by the prescribed fee, an existing service in full compliance with the standards herein may be issued a license designated as "conforming." Any existing service not in full compliance, upon submission of properly completed application accompanied by the prescribed fee, may be issued a license designated as "non-conforming." [Those standards which are not met by the non-conforming service shall be identified and reported to the Regional Health Planning Council and responsible state and local officials.] An existing licensed non-conforming service may be redesignated as a conforming service upon full compliance with the standards herein.

(b) Licenses issued to existing services designated as "non-conforming" shall not be subject to renewal when

adequate services conforming to standards have been developed and are available to serve the community or area in which the non-conforming service is operating. *The license shall designate the geographical area served by the licensee.* [Delineation of such community or area shall be consistent with regional emergency medical services plans developed and adopted by the regional and state comprehensive health planning councils.]

(2) Newly developed services: A "newly developed service" is defined as an emergency care ambulance service beginning operation on or after January 1, 1973.

(a) Upon submission of a properly completed application to the board, accompanied by the prescribed fee, a newly developed service in full compliance with the standards herein may be eligible to receive a license designated as "conforming." A newly developed service not in full compliance with the standards herein may, upon submission of a properly completed application accompanied by the prescribed fee, be eligible to receive a license designated as "non-conforming," provided that reasonable assurances including a plan setting dates for compliance with standards is submitted by the applicant and is accepted by the board. Newly developed services shall not be eligible for licensure when adequate services conforming to the standards herein exist in the area to be served. A newly developed service licensed as "non-conforming" may be redesignated as "conforming" upon full compliance with the standards herein.

(b) Licenses issued to newly developed services designated as "non-conforming" shall not be subject to renewal when adequate services conforming to standards have been developed and are available to serve the community or area in which the non-conforming service is operating. *The license shall designate the geographical area served by the licensee.* [Delineation of such community or area shall be consistent with regional emergency medical services plans developed and adopted by the regional and state comprehensive health planning councils.]

Section 3. Standards for the Operation of Emergency Care Ambulance Services: To be issued a license designated as "conforming," the ambulance service shall comply with the following standards: (1) Vehicle design and maintenance:

(a) On and after January 1, 1976 all vehicles used in the provision of ambulance services shall be designed to provide adequately for the care and transportation of patients and shall conform to the following patient compartment minimum dimensions: width twenty-five (25) inches of unobstructed floor space between stretcher and squad bench for the technician to perform cardiopulmonary resuscitation on the primary patient when the technician is in a right angle, kneeling position to the side of the patient; length, 116 inches (twenty-five (25) inches at the head plus fifteen (15) inches at the foot of a seventy-six (76) inch litter); height, fifty-four (54) inches from floor to ceiling; provided however, that for some of the vehicles in use by the applicant reasonable variation in dimensions may be allowed where such vehicles are to be utilized only for designated limited purposes which are specified by the applicant and approved by the board. Effective January 1, 1980, all conforming vehicles utilized (except limited purpose units) shall comply fully with vehicle design criteria contained in GSA Federal Specifications KKK-A-1822, dated January 2, 1974. Vehicles licensed as conforming prior to January 1, 1980 shall continue to be considered conforming until such time as the vehicle is replaced.

(b) All vehicles shall be kept in optimum working order.

The interior of the vehicle and equipment shall be cleaned after each use, unless precluded by emergency conditions.

(2) Personnel:

(a) Ambulance services shall provide emergency service on a twenty-four (24) hour basis. This provision may be met through an adequate call system.

(b) Each emergency ambulance service shall be staffed to provide at least one (1) driver and one (1) attendant for each run. The attendant shall remain with the patient at all times during transport.

(c) Each employee shall receive pre-employment and annual physical examinations which shall include at least a chest x-ray (or recommended tuberculin testing procedure).

(d) All attendants utilized in the provision of ambulance services shall be trained to at least minimal level. Until such time as EMT-A training becomes mandatory, the following are acceptable: Red Cross Advanced, Red Cross Standard First Aid and Personal Safety, either to be supplemented by ten (10) hours Cardio-Pulmonary Resuscitation; Red Cross Advanced First Aid and Emergency Care Certification with ten (10) hours supplemental CPR instruction, EMT-A certification, and Medical Corpsman Training within the last five (5) years supersede the above listed programs. Certification must be current.

(e) Effective January 1, 1976, each attendant shall be certified as an EMT-A by the Department for Human Resources. All additional personnel utilized in the provision of EMS Transportation shall be trained to the minimal levels specified in paragraph (d) above. New personnel added after January 1, 1976, shall receive the minimal training within six (6) months from date of initial utilization.

(3) Equipment: All vehicles used in the provision of emergency care ambulance services shall have at least the following essential equipment or such equipment as is prescribed by the board, including:

(a) Suction apparatus (fixed or portable);

(b) Hand operated bag-mask ventilation unit with adult, child, and infant size masks (capable of use with oxygen);

(c) Oropharyngeal airways in adult, child, and infant sizes;

(d) Oxygen equipment (fixed or portable);

1. Pressure gauge and flow rate regulator;

2. Adaptor and tubing;

3. Transparent masks in adult, child, and infant sizes; and

4. Filled spare cylinder.

(e) Mouth gags (commercial or made from tongue blades);

(f) Universal dressing approximately ten (10) inches by thirty-six (36) inches, compactly folded and packaged;

(g) Sterile gauze pads, four (4) inches by four (4) inches;

(h) Soft roller self-adhering bandages, various sizes;

(i) Roll of aluminum foil, sterilized and wrapped;

(j) Adhesive tape, various size rolls;

(k) Two (2) sterile burn sheets;

(l) Hinged half-ring lower extremity traction splint, length forty-three (43) inches or substitute padded board splints four and one-half feet by three inches (4½' x 3");

(m) Inflatable air splints for arm, leg and foot as minimum or a suitable substitute (i.e., padded boards, etc.);

(n) Short and long spine boards with accessories (orthopedic "scoop" stretcher preferred over long spine board);

(o) Triangular bandages;

(p) Large safety pins;

(q) Shears for bandages;

(r) Sterile obstetrical kit; and

(s) Sphygmomanometer and stethoscope.

(t) Effective January 1, 1980, poison kit to contain at least one (1) bottle of Syrup of Ipecac and one (1) bottle of Activated Charcoal.

(4) Extrication equipment: Effective January 1, 1980, all conforming vehicles shall carry the full contingent of access and extrication equipment for ambulance use as stipulated in the Highway Safety Program Manual No. 11, date April 1974 except for, those ambulance services which have written agreements with rescue squads, fire departments or any emergency service agency that meets the requirements of the Highway Safety Program manual, for extrication service.

(5) Radio communications equipment: All ambulance services shall be equipped with two (2) way radio communications equipment compatible with the statewide ambulance-to-hospital emergency radio communications system. This requirement becomes effective upon implementation of the regional communications network for the region in which a particular ambulance service is located.

(6) Records and reports: All conforming and non-conforming ambulance services shall keep adequate reports and records, which are maintained at the ambulance base headquarters, and are available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(a) The Kentucky emergency medical service ambulance run report form. Completed forms shall be forwarded to the Department for Human Resources in accordance with submission dates established by that department.

(b) Employee records, including a resume of each employee's training and experience; shall be maintained; and]

(c) Health records of all drivers and attendants including evidence of pre-employment and annual physical examination, chest x-ray (or recommended tuberculin testing procedure) and records of all illnesses or accidents occurring on duty.

Section 4. Standards for the Operation of Non-emergency Health Transportation Services. (1) Non-emergency health transportation services may be provided in vehicles not conforming to the requirements of Section 3 of this regulation, and may be provided with only one (1) emergency medical technician per service run, who may also be the driver of the vehicle.

(2) All vehicles used in the provision of non-emergency health transportation services shall have at least the following essential equipment and accessories as prescribed by the Board, including:

(a) One (1) five (5) lb. dry chemical fire extinguisher.

(b) One (1) first aid kit.

(c) Oxygen equipment (portable) including:

1. One (1) "D" size oxygen cylinder.

2. One (1) pressure gauge and flow rate regulator.

3. Adaptor and tubing.

4. Transparent masks for adults and children. Nasal cannulas may be substituted.

(3) All vehicles used in the provision of non-conforming health transportation shall be kept in optimum order, with clean interiors and equipment, and shall be constructed to allow verbal communication between driver and patient during transit. There shall be adequate heating and air-

conditioning capability in both the driver and patient compartment.

(4) The requirements of Section 3(6)(a) and (b), regarding run forms and employee records shall apply to non-emergency health transportation services.

FRANK W. BURKE, SR., Chairman
ADOPTED: September 9, 1981
APPROVED: W. GRADY STUMBO, Secretary
RECEIVED BY LRC: September 28, 1981 at 1 p.m.

DEPARTMENT FOR HUMAN RESOURCES
Bureau for Health Services
Certificate of Need and Licensure Board
Amended After Hearing

902 KAR 20:120. Non-emergency health transportation services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)

PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) authorize the Certificate of Need and Licensure Board to regulate health facilities and health services. This regulation sets forth the requirements for non-emergency health transportation services.

Section 1. Scope. This regulation sets forth the requirements for non-emergency health transportation services. Non-emergency health transportation services provide health care transportation on a routine scheduled basis to individuals whose impaired health condition requires special patient care and handling but does not indicate a need for emergency medical treatment during transit. The intent of this regulation is to define minimum standards. Nothing in this regulation shall be construed as discouraging, limiting or prohibiting an increased level of non-emergency health transportation services pursuant to the discretion of the party responsible for the operation of the service.

Section 2. Definitions. (1) "Non-emergency health transportation" means health care transportation provided on a routine, scheduled basis [where health care is initiated, administrated, monitored, or sanctioned during transit] to individuals whose impaired health condition requires special patient care, supervision or handling but does not indicate a need for emergency medical treatment during transit or upon arrival at the patient's destination.

(2) "Emergency medical technician, EMT," means any person who is currently certified by the Kentucky Department for Human Resources under KRS 211.960 to 211.968.

(3) "Certificate of Need and Licensure Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Certificate of need" means an authorization by the Certificate of Need and Licensure Board to an applicant to construct, expand, or modify a health facility or initiate, expand or modify a health service.

(5) "License" means an authorization issued by the Certificate of Need and Licensure Board for the purpose of operating a non-emergency health transportation service.

Section 3. Certificate of Need, Licensure and Reports. (1) Except for non-emergency health transportation services provided by ambulance services licensed pursuant to 902 KAR 20:115, a non-emergency health transportation service shall not be established without first obtaining a certificate of need.

(2) No person nor any private or public organization shall provide non-emergency ambulance transportation services without having first obtained a license from the Certificate of Need and Licensure Board.

(3) Upon proper submission of an application accompanied by the prescribed fees to the Board, a service in full compliance with the standards herein may be issued a license designated as a non-emergency health transportation service. The license shall designate the geographical area served by the licensee.

(4) All applicants for license renewal shall have submitted inventory and utilization reports required by the Certificate of Need and Licensure Board.

Section 4. Standards for Operations. To be issued a license designated as a "non-emergency health transportation service," the service shall comply with the following standards:

(1) A non-emergency health transportation service shall not provide emergency transportation unless they are also licensed as an emergency care ambulance service pursuant to 902 KAR 20:115.

(2) Vehicle design and maintenance. All vehicles used in the provision of non-emergency health transportation services shall be designed to provide adequately for the transportation of patients. There shall be adequate heating and air conditioning capabilities in both the driver and patient compartments.

(a) All vehicles shall be kept in optimum working order. The interior of the vehicle and equipment shall be kept clean.

(b) Patient access. All vehicles utilized in the provision of non-emergency health transportation shall be constructed to allow verbal communication with the patient during transit.

Section 5. Equipment. (1) All vehicles used in the provision of non-emergency health transportation services shall have at least the following essential equipment/accessories as prescribed by the Board, including:

(a) One (1) five (5) lb. dry chemical fire extinguisher.

(b) One (1) first aid kit.

(c) Oxygen equipment (portable) including:

1. One (1) "D" size oxygen cylinder.

2. One (1) pressure gauge and flow rate regulator.

3. Adaptor and tubing.

4. Transparent masks for adults and children. Nasal cannulas may be substituted.

Section 6. Personnel. Each non-emergency health transportation vehicle shall be staffed by one (1) emergency medical technician per service run who may also be the driver of the vehicle.

Section 7. Records and Reports. All non-emergency health transportation services shall keep adequate reports and records, which are maintained at the base headquarters, and are available for periodic review as deemed

necessary by the Kentucky Certificate of Need and Licensure Board. Required records and reports are as follows:

(1) The Kentucky Emergency Medical Service Ambulance Run Report Form. Completed forms shall be forwarded to offices designated by the Department for Human Resources in accordance with submission dates and procedures established by the department.

(2) Employee records shall include documentation of certification.

FRANK W. BURKE, SR., Chairman

ADOPTED: September 9, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: September 28, 1981 at 1 p.m.

Proposed Amendments

COMMERCE CABINET Department of Fish and Wildlife Resources (Proposed Amendment)

301 KAR 1:055. Angling; limits and seasons.

RELATES TO: KRS 150.025, 150.470, 150.990

PURSUANT TO: KRS 13.082

NECESSITY AND FUNCTION: In order to perpetuate and protect the size and well being of fish populations, it is necessary to govern the size and numbers fishermen can harvest. The Commissioner, with the concurrence of the Commission, finds it consistent with established fish management practices to include hybrids under game fish protection. *This amendment is necessary to achieve management objectives for specific waters.*

Section 1. The statewide season, creel limits and size limits for taking fish by angling shall be as follows except as specified in Section 2 of this regulation for [on] specific bodies of water [by separate regulation]:

Species	Daily Creel Limits	Pos- session Limits	Size Limits Inches
Black bass (largemouth, smallmouth, Kentucky and Coosa bass)	10	20	12
Rock bass (known as goggle-eye or redeye)	15	30	None
Walleye and hybrids	10	20	15
Sauger	10	20	None
Muskellunge and hybrids	2[5]	2[10]	30
Northern pike	5	10	None
Chain pickerel	5	10	None
White bass and yellow bass	60	60	None
Rockfish and hybrids	5	5	15
Crappie	60	60	None
Trout (all species)	8	8	None
Bull frogs	15	30	None

Seasons for all species, except bull frogs, is year round. Bull frog season is May 15 to October 31, annually.

Section 2. The following limits apply to Grayson Lake only:

Daily Creel Limits	Pos- session Limits	Size Limits Inches
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Black bass (large mouth, small mouth,
Kentucky & Coosa bass)
Crappie

10 None	20 None	15 None
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All other angling limits and seasons apply as set forth in Section 1 above.

Section 3. [2.] All fish must be measured from the terminal end of the lower jaw to the tip of the longest tail fin. All fish caught that are smaller than those prescribed minimum lengths must be returned immediately to the waters from which they were taken in the best physical condition possible. Under no circumstances may a fisherman remove the head or the tail or part thereof of any of the above named fish while in the field and before he has completed fishing for the day.

CARL E. KAYS, Commissioner

CHARLES E. PALMER, JR., Chairman

ADOPTED: August 31, 1981

APPROVED: W. BRUCE LUNSFORD, Secretary

RECEIVED BY LRC: October 14, 1981 at 2:35 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

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

702 KAR 4:010. Construction project application.

RELATES TO: KRS 157.420[162.060]

PURSUANT TO: KRS 13.082, 156.070, [156.160,] 157.420

NECESSITY AND FUNCTION: KRS 157.420(3) provides that each school district's capital outlay allotment from the Foundation Program Fund and from local sources must be kept in a separate fund and used only for capital outlay projects approved by the Superintendent of Public Instruction in accordance with the requirements of law and based upon the Facilities Plan concept implemented by 702 KAR 1:010. This regulation sets forth procedures and criteria for a district to acquire the required approval of a proposed capital outlay project. [To provide information necessary for implementation of proposed school facility construction of the highest identified priority.]

Section 1. A local board of education shall submit for approval by the Superintendent of Public Instruction, applications on forms provided by the State Board of [for Elementary and Secondary] Education for proposed school construction projects. An application for each project containing the applicable information shall be submitted by the local district and a decision made by the Superintendent of Public Instruction within sixty (60) days. An application must be submitted for any project which uses foundation program capital outlay or special voted building tax funds. An application shall be submitted for a new building, addition, or alteration of an existing building regardless of the source of funds used.

Section 2. When a board of education votes to initiate a project listed in the facilities plan which does not follow the sequential order in the priority schedule of the plan, an amendment to the facilities plan must be requested by the local board of education. This request must be accompanied by a copy of the official board order and a letter from the local superintendent enumerating the circumstances which justify the change in priority. The deviation from the sequential order of the priority schedule may then be considered for approval by the Superintendent of Public Instruction.

Section 3. The local board of education shall adhere to the following procedure for minor projects not listed in the facilities plan, the need for which has arisen since compilation of the existing plan. An application (Form BG #1), along with a copy of the official board order and a letter from the local superintendent enumerating the circumstances justifying the request, shall be submitted for the following minor projects, thus allowing consideration for approval by the Superintendent of Public Instruction:

(1) Expansion of a permanent center to include as many as four (4) classrooms when the student population growth can be documented to support the request.

(2) Campus enlargement, maintenance or renovation of buildings and their systems, and additional support space at permanent centers when their need can be documented and justified.

(3) Projects in order to comply with statutes and regulations of other agencies having jurisdiction.

Section 4. Should an emergency requiring the expenditure of capital outlay or special voted capital outlay funds occur, the school district may take the necessary action to correct the problem. The local board shall then forward the board order declaring the emergency, with an application (Form BG #1), to the Superintendent of Public Instruction. It shall then follow the existing regulations as with any other project. An emergency shall be a loss of physical facilities suffered as a result of a fire or natural disaster or any other unanticipated loss of physical facilities which places in jeopardy the health or safety of the pupils of the school district or which disrupts the school program, and the reconstruction of which physical facilities does not require plans and specifications.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

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

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

702 KAR 4:020. Plans and specifications for construction.

RELATES TO: KRS 156.160, 162.060

PURSUANT TO: KRS 13.082, 156.070, 156.160, 162.060

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, and school buildings and classrooms; and KRS 162.060 requires approval of all [To prepare] plans and specifications for school building construction by the Superintendent of Public Instruction, in accordance with rules and regulations of the State Board. This regulation implements these statutory duties and prescribes the procedures and criteria for acquiring the requisite plan and specification approval.

Section 1. After approval by the Superintendent of Public Instruction of a construction project [, an] application of forms provided by the State Board of [for Elementary and Secondary] Education containing program and financial information, the architect shall prepare schematics of proposed construction from written educational requirements supplied by the local board of education. These schematics, approved by the local board of education, shall be submitted to the Superintendent of Public Instruction for review and approval along with an information copy of the educational requirements. Provided no action is taken by the local board of education within one (1) year from the date of approval and written notification given by [to] the Superintendent of Public Instruction, the approval is subject to review and/or rescission.

Section 2. Upon approval of the schematic plans, the design development plans shall be submitted to the Superintendent of Public Instruction for review and approval. The tentative specifications and the tentative cost estimate shall be submitted for review by the Superintendent of Public Instruction on forms provided by the State Board of [for Elementary and Secondary] Education.

Section 3. Design development plans shall include the type of construction, a general vicinity plan, and a plot plan which show the location of existing and proposed buildings, existing and proposed contour lines, utility lines and easements, driveways and highways, floor plan of building, preliminary design of mechanical, electrical and structural systems, sections through the building and elevations of the buildings. The architect shall include a one-fourth (1/4) inch scale drawing of all special areas after acceptable design development plans have been submitted as set forth in Section 2. These drawings shall show all equipment proposed in each special area. After approval of design development plans by the Superintendent of Public Instruction, the local board of education may authorize the architect or engineer to prepare the construction documents.

Section 4. Approval of the construction documents shall be given in writing by the Superintendent of Public Instruction prior to advertisement for bids. The construction documents shall include the provisions required in the design development plans plus detailed information concerning site development, plumbing, heating, ventilation, electrical and structural design. The specifications shall provide for contractual conditions; [,] insurance; [,] bid, performance and payment bonds; [,] prevailing wage scale; and technical specifications. *Bid, performance and payment bonds are required on contracts in excess of \$25,000.*

Section 5. Until such time that construction is finally completed and/or occupied by the local board of education, the contractors shall carry any and all insurance required by law and regulation to hold the board safe from loss as required by the contract documents. Such insurance shall include but not be limited to liability, builders' risk, including the perils of fire and extended coverage, vandalism, malicious mischief, and boiler and machinery insurance. The architect or engineer shall attest to the board in writing of the existence of coverage according to the law and contract documents. In the event the local board of education elects to carry a portion of the necessary insurance, a plan for such coverage shall be submitted to the Superintendent of Public Instruction for his approval.

Section 6. *Performance specification procedure may be used by local boards of education for proposed capital construction projects. The proposed performance specification as prepared by the local board shall be approved by the Superintendent of Public Instruction prior to advertisement for bids.*

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

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

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

702 KAR 4:040. Contract completion; changes; retainage.

RELATES TO: KRS 156.160, 162.060, 162.070

PURSUANT TO: KRS 13.082, 156.070, 156.160, 162.060

NECESSITY AND FUNCTION: *KRS 156.160 requires that the State Board of Education adopt a uniform series of forms, including contract forms, for use in the school districts; KRS 162.060 requires that approval of all plans and specifications for school building construction be granted by the Superintendent of Public Instruction, in accordance with rules and regulations of the State Board of Education, and that no contract for such construction be let prior to plan approval; and KRS 162.070 requires that contracts for school building construction be awarded to the lowest and best responsible bidder complying with the terms of letting. This regulation requires the local board of education to provide information to confirm a contract which is in accord with the approved completed plans and specifications and to insure that the contract is completed in accord with the plans and specifications.*

Section 1. A copy of the bids received based on approved plans and specifications with a copy of the proposed contract on the uniform construction contract forms provided by the State Board of [for Elementary and Secondary] Education, and incorporated herein by reference, said contract forms being obtainable from the Division of Buildings and Grounds, Department of Education, shall be submitted to the Superintendent of Public Instruction. No contract shall be awarded that is not in accord with the approved completed plans and specifications. The amount of the contract shall not exceed the funds approved by the Superintendent of Public Instruction for the proposed project. The local board of education shall submit to the Superintendent of Public Instruction a copy of the completed contract, a copy of the insurance documents, a copy of the bid bond, and a copy of the performance and payment bond.

Section 2. (1) Changes in contract, working drawings, specifications, and contract documents, which are within the scope of the project may be approved. A copy of any change order issued in connection with the project must be in writing and signed by the architect or engineer and the contractor as a recommendation and approved in writing by an authorized representative of the local board of education and incorporated in the official minutes of the local board of education. This document shall contain an explanation of the reasons for the change.

(2) Any such change order proposal involving an amount in excess of \$2,500 shall first be submitted for approval to the Superintendent of Public Instruction. This statement shall become a part of the contract document.

Section 3. The local board of education shall withhold ten (10) percent of the first one million dollars and five (5) percent of the completed performance above one million dollars of the contract price of the work until the work is substantially completed. Upon substantial completion of the work, the ten (10) percent retainage may be reduced to

five (5) percent with certification of the architect or engineer and approval of the local board of education. No part of the five (5) percent retainage shall be paid until the Superintendent of Public Instruction has made final inspection of the completed construction [in accordance with the contract document]. *However, after receipt of the punch list, reduction to a lump sum amount less than the five (5) percent retainage may be approved by the Superintendent of Public Instruction when deemed reasonable and advisable, if the reasons are certified in writing by the architect or engineer and approved by the local board of education. The minimum lump sum amount would be based on twice the estimated cost to correct the punch list items.* The local board of education shall request the required inspection upon approval of the architect's or engineer's certification of substantial completion. Any agreement or contract entered into by a local board of education involving any portion of the capital outlay fund and/or construction fund, especially the retainage fund for an approved project, may be invested in such a manner that any additional income from said investment will accrue only to the local board of education and to no other party or parties.

Section 4. (1) The architect or engineer shall furnish the local board of education the appropriate State Board of [for Elementary and Secondary] Education form with applicable information requesting final approval. The local board of education shall approve such form and forward the Superintendent of Public Instruction a completed copy or a letter stating why the board does not agree that the construction is completed.

(2) A written statement approving the completion or a list of items to be completed will be given to the local board of education, with a copy to the architect or engineer. Written approval by the Superintendent of Public Instruction authorizing full payment of the contract will be given when the building project is completed according to plans and specifications and approved change orders.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

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

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

702 KAR 4:060. Construction criteria.

RELATES TO: KRS 156.160, 162.060[, 162.160(1)]

PURSUANT TO: KRS 13.082, [156.030,] 156.070, 156.160[(5)], 162.060

NECESSITY AND FUNCTION: *KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to sanitary and protective construction of public school buildings, toilets, physical equipment of*

school grounds, and school buildings and classrooms; and KRS 162.060 requires approval of all plans and specifications for school building construction by the Superintendent of Public Instruction, in accordance with rules and regulations of the State Board. This regulation implements these statutory duties by prescribing various specifications to insure functional and safe operation, comfort and economical operation of the proposed educational facility.

Section 1. The design for construction of each new school building, building addition and remodeling shall be in conformance with applicable building codes and regulations and approved by authorities having jurisdiction, with special emphasis to energy code requirements. Compliance with the American National Standards Institute document A117.1 (specifications for making buildings and facilities accessible to, and usable by, physically handicapped), *incorporated in the Kentucky Building Code*, shall be required. The following conditions shall be provided in the design of each new school building:

(1) The minimum width for elementary school main corridors shall be eight (8) feet in the clear.

(2) The minimum width for a middle school, junior high school, or high school main corridors shall be nine (9) feet in the clear.

(3) Corridors shall terminate at an approved egress or at a stairway which leads directly to an approved egress. A corridor extension of six (6) feet will be permitted. In no case shall more than two (2) instructional areas empty into the corridor extension.

(4) The minimum width of secondary corridors shall be six (6) feet.

(5) All roofs shall be sloped, and the required slopes shall be built into the structural system of the buildings; all roofing systems shall be unconditionally warranted for a period of two (2) years by the roofing manufacturers and by the applicators from the date of final inspection and acceptance of the project.

(6) Walkways with a minimum width of twenty-two (22) inches shall be provided on the roof from the roof access point to and around each piece of major mechanical and electrical equipment.

Section 2. Each exterior door must swing out. Exterior doors from each room housing more than forty-five (45) people shall have panic hardware. Each building housing people shall be provided with no fewer than two (2) exits.

(1) Each exit door shall be either recessed or protected by a canopy, except exit doors from individual instructional areas not housing more than forty-five (45) people. A landing of not less than four (4) feet shall be provided from the door threshold to the first step.

(2) Each door and side light, when glazed, shall have either safety laminated glass, tempered glass panels, or approved equal.

(3) Each door to an instructional area shall be at least three (3) feet by six (6) feet and eight (8) inches. No other door shall be less than two (2) feet and eight (8) inches in width.

(4) Each door swinging into a corridor shall swing through 180 degrees or be recessed so it does not project into the minimum width of the corridor.

(5) In each room where there is a chance of panic by explosion such as a chemistry room, shops, etc., and in each room that houses more than forty-five (45) people, such as a library, cafeteria, etc., each exit door shall swing out.

Section 3. No fewer than two (2) stairways shall be provided in a multiple story building. The stairways shall be remote from each other.

(1) Each required stairway shall be enclosed and have doors that exit to the outside without passing through a corridor.

(2) Width of main stairways shall not be less than forty-four (44) inches between handrails. Each stairway must be provided with a handrail on each side.

(3) Risers for main stairways shall not exceed seven (7) inches in height, and treads shall not be less than eleven (11) inches in width.

(4) No door shall open immediately upon a flight of stairs or ramp. A landing at least the width of the open door plus three (3) feet shall be provided.

(5) No storage space shall be located in or under any stairwell.

(6) Each exterior stairway or ramp used as a primary building exit shall be covered and shielded from weather.

Section 4. Each standard elementary school instructional area shall provide:

(1) A minimum of 720 square feet of floor space.

(2) A minimum width of twenty-two (22) feet.

(3) A minimum of forty-eight (48) square feet of chalkboard.

(4) A minimum of forty-eight (48) square feet of tackboard.

(5) A storage space for children's clothing.

(6) A storage space for teaching materials and records.

(7) A minimum ceiling height of eight (8) feet and eight (8) inches with mechanical ventilation or nine (9) feet and eight (8) inches with natural ventilation.

Section 5. Each standard instructional area for middle school, junior high and high school shall provide:

(1) A minimum of 625 square feet of floor space.

(2) A minimum width of twenty-two (22) feet.

(3) A minimum of forty-eight (48) square feet of chalkboard.

(4) A minimum of forty-eight (48) square feet of tackboard.

(5) A minimum ceiling height of eight (8) feet and eight (8) inches with mechanical ventilation or nine (9) feet and eight (8) inches with natural ventilation.

Section 6. A minimum window, twenty-four (24) by thirty (30) inches, shall be required in each exterior instructional area.

(1) Each window installed in an instructional areas shall have a minimum of fifty (50) percent of operable sash.

(2) Each exterior window shall be double glazed or insulated glass.

(3) Operable sections of windows shall be no higher than sixty (60) inches.

(4) No clerestory window or skylight shall be approved in an instructional area.

(5) The height of a window sash or frame shall be a minimum of thirty (30) inches above the finished floor.

(6) In an instructional area approved without mechanical ventilation, the area of operable window shall be equal to ten (10) percent of the floor area.

Section 7. Toilet rooms, shower rooms and locker rooms in a school building shall be exhausted. Exhaust registers shall be located at or in the ceiling of each area and exhausted directly to the outside. Exhaust ducts serving rooms for opposite sexes shall not be connected to a

common exhaust duct unless adequate sound proofing is provided. There shall be a minimum of *fifteen (15)* [twenty (20)] air changes per hour of air provided for each area.

Section 8. Energy conservation requirements shall be:
(1) Each exterior wall shall have a maximum composite U-factor of .20 BTUH per square foot per degree Fahrenheit.

(2) A maximum composite U-factor for roofs shall be .10 BTUH per square foot per degree Fahrenheit.

Section 9. Standards for auxiliary spaces shall be as follows: (1) Auditoriums, gymnasiums, and multipurpose rooms shall be located on the ground level and regardless of size shall be provided with at least two (2) exits remote from each other.

(2) Noise producing areas shall be located remote and shielded from instructional areas.

(3) A principal's office, secretaries' space and reception area shall be provided in each school plant.

(4) Records storage room shall be provided in each school. This shall be a fireproof room with a two (2) hour rating.

(5) Locker space, properly ventilated, shall be provided for each middle, junior high, and high school student.

(6) A guidance area shall be provided in each school plant.

(7) A first aid room with toilet shall be provided in every school plant.

(8) A general storage area for equipment and material storage shall be provided in every school building.

(9) A custodial equipment storage room shall be provided in every school building, with custodial closets provided in each major area.

(10) Ceiling heights of *all* [each special instructional] areas shall be eight (8) feet and eight (8) inches or more relative to the area of the room. The corridor height shall be a minimum of eight (8) feet in the clear.

Section 10. Old buildings remodeled for instructional purposes shall insofar as practical, meet the requirements of new spaces that would be used for the same purposes. The plans and specifications shall be approved by the Superintendent of Public Instruction prior to the advertisement for bids for the project.

Section 11. The Superintendent of Public Instruction is authorized to waive any of the foregoing requirements upon the request of the local board for good cause, provided that it is further shown in writing that such a waiver does not constitute a violation of any other agency having jurisdiction.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

702 KAR 4:070. Mechanical, electrical, sanitary, heating and ventilation design.

RELATES TO: KRS 156.160, 162.060[, 162.160]

PURSUANT TO: KRS 13.082, 156.070, 156.160[(5)], 162.060

NECESSITY AND FUNCTION: *KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, and school buildings and classrooms; and KRS 162.060 requires approval of all plans and specifications for school building construction by the Superintendent of Public Instruction, in accordance with rules and regulations of the State Board. This regulation implements these statutory duties by prescribing various mechanical, electrical, sanitary, heating and ventilation design specifications to provide for healthy, safe and comfortable space for learning.*

Section 1. The design of the mechanical, ventilation or air conditioning system in schools shall be in accord with the recommendations and standards contained in the [latest edition of the] American Society of Heating, Refrigeration and Air Conditioning Engineers Guide, as incorporated in the *Kentucky Building Code*.

(1) (a) The mechanical room shall be planned to permit repair and replacement of equipment, satisfactory cleaning and care, and provide for combustion air. The mechanical equipment shall be remote from the instructional areas and shall be sufficiently soundproofed so that its operation will not disturb instruction in the classrooms. *Plans for new construction and renovation, when practical, shall provide that the furnace and its related equipment shall not be directly over, under or adjacent to an instructional area.*

(b) Where the roof areas are being used to house major mechanical and electrical components, a set of stairs or ships ladder shall be provided.

(2) The heating system shall be of ample capacity and so installed as to insure uniform temperature of seventy (70) degrees being maintained in all occupied rooms when the outside temperature is zero (0). The air conditioning system (if provided) shall be of ample capacity and so installed as to insure uniform temperature of seventy-five (75) degrees, fifty (50) percent relative humidity being maintained in all occupied rooms when outside temperature is ninety-five (95) degrees db, seventy-eight (78) degrees wb. *The thermostats shall be tamper proof.*

(3) Mechanical ventilation shall be provided in all new schools and additions having six (6) or more classrooms.

(4) Mechanical ventilation system in classrooms shall provide *twelve (12) [eight (8) air changes per hour or thirty (30)] cfm per pupil during occupied periods[, whichever is greater].* A minimum of ten (10) percent of this amount shall be outside air. Mechanical ventilation systems shall be capable of maximum utilization of outside air for ventilating and cooling purposes. Mechanical ventilation systems shall be provided with approved filters and automatic room temperature control. Air shall be introduced in such a manner as not to produce drafts.

(5) *Mechanical ventilation systems capacity for multipurpose rooms and cafeterias shall be based on fifteen (15) square feet per occupant with ten (10) cfm per oc-*

cupant; auditoriums and gymnasiums shall be based on the fixed seating capacity with ten (10) cfm per occupant. The ventilation system shall be capable of providing 100 percent outside air for ventilation unless the space is air conditioned. [Mechanical ventilation systems for all multipurpose rooms, auditoriums, gymnasiums and cafeterias shall provide a minimum of six (6) air changes per hour or fifteen (15) cfm per occupant, whichever is greater, a system shall be designed so that it is capable of providing 100 percent outside air for ventilation or cooling when required.]

(6) All interior instructional areas shall be air conditioned.

Section 2. All electrical work shall conform to the requirements of the National Electric Code, *incorporated in the Kentucky Building Code*, in effect at the time of approval of the plans or changes thereto, and installation must be approved by authorities having jurisdiction prior to acceptance of the project.

(1) Electrical service entrance lines to school buildings shall be remotely located from student traffic lanes and areas planned for outside activities.

(2) Artificial light at a minimum of fifty (50) footcandles at desk level shall be provided for a classroom.

(3) Artificial light at a minimum of twenty (20) footcandles shall be provided for all stairways and corridors.

(4) Light switches in shower and toilet rooms shall be remotely located from plumbing fixtures. Windowless shower and toilet rooms shall be keyed operated switches or a minimum of one (1) continuous lighted emergency fixture.

(5) A minimum of two (2) duplex convenience outlets located remote from each other shall be provided for each classroom. For ETV power supply, one (1) of the outlets shall be located not less than forty-eight (48) inches nor more than sixty (60) inches above the floor at the end of a chalkboard remote from the entrance to the classroom.

(6) A convenience outlet shall be provided at each drinking fountain location.

(7) Each corridor shall be provided with grounded convenience outlets of such capacity and at such intervals to accommodate floor cleaning machines in corridors and classrooms.

(8) A convenience outlet shall be located near all major entrances of school buildings.

Section 3. All plumbing shall conform to the requirements of the Kentucky plumbing code, *incorporated in the Kentucky Building Code*, in effect at the time of approval of the plans or changes thereto, and installation must be approved by authorities having jurisdiction prior to acceptance of the project.

(1) The sewage disposal plant, where required on school property, shall be remotely located from all developed areas. Natural or installed screening shall be provided for the disposal unit.

(2) Drinking fountains shall be provided in the ratio of one (1) to seventy-five (75) students. A minimum of one (1) drinking fountain on each floor and/or each wing shall be provided. [Not more than two (2) drinking fountains shall be permitted at each location.] Drinking fountains shall not be placed in toilet rooms.

(3) Physical education shower and locker rooms for each sex shall be provided in all schools housing seventh (7th) grade and above.

(4) Each school building shall provide access to one (1) toilet compartment, for each sex, that will accommodate a wheelchair.

(5) When an addition to an existing building is made, additional sanitary conveniences, when counted with the existing conveniences, shall be provided to meet the requirements for the total student capacity.

(6) A hose bib and floor drain shall be provided in all toilet rooms containing more than one (1) water closet. Hose bibs shall be a minimum of eighteen (18) inches above floor and readily accessible.

(7) The following schedule shall be used as a basis for installing the fixtures in toilet rooms. Consideration will be given to multiple type lavatories.

ELEMENTARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories	No. of Girls	Water Closets	Lavatories
25	1	1	1	25	2	1
50	2	2	2	50	3	2
100	2	4	3	100	6	3
200	3	6	5	200	8	5
300	4	8	6	300	10	6
400	5	10	8	400	12	8
500	6	12	9	500	14	9

MIDDLE, JUNIOR HIGH AND SECONDARY SCHOOLS

No. of Boys	Water Closets	Urinals	Lavatories	No. of Girls	Water Closets	Lavatories
25	1	1	1	25	1	1
50	1	2	1	50	2	1
100	2	4	2	100	5	2
200	3	6	4	200	7	4
300	4	8	5	300	9	5
400	5	10	7	400	11	7
500	6	12	8	500	13	8

(8) School buildings of six (6) classrooms or more shall be provided with two (2) exterior freeze-proof hose bibs.

(9) A custodial service sink and shelving shall be provided, in a custodial work room, on each floor level of the building.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

702 KAR 4:090. Property disposal.

RELATES TO: KRS 156.160, 160.476, 162.010

PURSUANT TO: KRS 13.082, 156.070, 156.160

NECESSITY AND FUNCTION: To provide for property disposal, leases and easements in accordance with an approved educational program.

Section 1. School property proposed for disposal shall be surplus to the need for the educational program as approved by the latest facilities survey or by an amendment thereto. Request for approval shall be submitted in writing to the Superintendent of Public Instruction. Disposal may be implemented upon approval.

Section 2. Any proposed lease agreement for, or easement upon, public school property shall be submitted to the local board of education for its consideration and forwarded to the Superintendent of Public Instruction for his review and approval as not affecting the integrity or usefulness of necessary school property prior to execution.

RAYMOND BARBER

Superintendent of Public Instruction

ADOPTED: September 22, 1981

RECEIVED BY LRC: September 30, 1981 at 2:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING

TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

DEPARTMENT FOR HUMAN RESOURCES

Bureau for Social Insurance
(Proposed Amendment)

904 KAR 1:049. Payments for family planning 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 family planning services.

Section 1. Family Planning Clinics. The department shall reimburse family planning clinics or agencies for covered services on the basis of a flat fee schedule.

Section 2. Amount of Payment. Reimbursement in accordance with the flat fee schedule shall be at the following rates:

(1) For services provided by a physician: initial clinic visit, thirty dollars (\$30); annual clinic visit, twenty-five dollars (\$25); follow-up visit with pelvic examination, fifteen dollars (\$15); and follow-up visit without pelvic examination, ten dollars (\$10) [; counseling visit, seven dollars (\$7); and, supply only visit, actual acquisition cost of contraceptive supplies dispensed].

(2) For services provided by an advanced registered nurse practitioner with appropriate training as specified by the department: initial clinic visit, twenty-two dollars and fifty cents (\$22.50); annual clinic visit, eighteen dollars and seventy-five cents (\$18.75); follow-up visit with pelvic examination, twelve dollars and twenty-five cents (\$12.25);

and follow-up visit without pelvic examination, seven dollars and fifty cents (\$7.50).

(3) The fee for the counseling visit shall be seven dollars (\$7); for a supply only visit, the fee shall be the actual acquisition cost of contraceptive supplies dispensed. The supply only visit fee may not be paid as an addition to a fee for another type of visit, since the fee for other types of visits includes an amount for contraceptives.

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: October 13, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: October 14, 1981 at 9:15 a.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, DHR Building, 275
East Main Street, Frankfort, Kentucky 40621.

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

904 KAR 3:040. Issuance procedures.

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 coupon issuance procedures used by the department in the administration of the food stamp program.

Section 1. Basic Issuance Requirements. The department is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the department must insure that:

- (1) Only certified households receive benefits;
- (2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;
- (3) Program benefits are distributed in the correct amounts; and
- (4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Parts 274.5 and 274.6 and accurately reported to the Food and Nutrition Service.

Section 2. Issuance System. The department shall arrange and choose one (1) of the following systems to issue food coupons to eligible households:

- (1) An authorization to participate (ATP) system in which an authorizing document is distributed to the household and surrendered to the coupon issuer when coupons are obtained; or
- (2) A direct coupon mail-out system.

Section 3. ATP Issuance. ATP's issued by the department shall contain at a minimum: serial number, case

name, address, case number, coupon allotment, expiration date, county for which the ATP is issued, and a signature space for the household member or the authorized representative.

(1) The department may stagger the issuance of ATP's to certified households through the 15th day of the month provided that each household receives its ATP on approximately the same day every month and that the household has an opportunity to obtain its coupons prior to the end of the month.

(2) The department shall mark each ATP with an expiration date. The ATP shall be valid for the entire month of issuance unless an ATP has been issued after the 25th day of the month. ATP's issued after the 25th day of the month are valid through the last day of the following month.

(3) The department shall void all ATP's mutilated or otherwise rejected during the preparation process. The voided ATP's shall either be filed for audit purposes or destroyed, provided destruction is witnessed by at least two (2) persons and the department maintains a list of all destroyed ATP's.

(4) The department shall mail ATP's to eligible households in such a manner as to prevent mail loss. Households which report two (2) consecutive mail losses must be provided with an alternate means of delivery.

(5) The department shall exercise the following security and controls for ATP's returned as undeliverable by the postal service:

(a) Record the ATP serial number, household name, and case number in a control log; [.]

(b) Keep the returned ATP's in secure storage with access limited to authorized departmental personnel while attempts are made to locate the household.

(6) The department shall produce and mail the household's ATP card no later than the close of business of the second working day following the date the application was filed for those households determined eligible for expedited services.

(7) The department shall issue an emergency replacement ATP only if the original ATP is reported lost in the mail or stolen and the report is made during the period for which the ATP is valid. Prior to authorizing the replacement ATP, the department shall:

- (a) Determine that the household is currently certified;
- (b) Determine that sufficient time has elapsed for delivery to have been completed. Sufficient time shall not exceed five (5) days from the mailing date;
- (c) Determine that the lost or stolen ATP was valid for the current month, including any ATP's issued after the 25th of the previous month;
- (d) Require the participant to sign an affidavit stating that the original ATP will be returned to the department if recovered by the household;
- (e) Report all losses to the postal authorities.

(8) The department shall provide the household with the means to designate in writing an emergency representative to obtain the household's allotment with a particular ATP. However, the household shall not be required to travel to a food stamp office to execute the designation. A separate written designation is needed each time an emergency authorized representative is used.

(9) The department shall clearly differentiate between initial, supplemental, and replacement ATP issuances in its accountability system.

Section 4. Redemption of the Authorization to Participate Card. When the ATP system is utilized, the depart-

ment shall provide each eligible household with the means to redeem his ATP card for coupons by over-the-counter issuance or by regular mail issuance.

(1) Prior to being issued coupons the eligible individual must present issuance personnel with proof of identity.

(2) Issuance personnel must examine the ATP card to verify its validity.

(3) The eligible individual and/or his/her authorized representative must sign the ATP card in the presence of the issuer unless the eligible individual and/or his/her authorized representative is participating in mail issuance. Persons utilizing mail issuance must sign their ATP card prior to mailing the card to the issuance site.

(4) Coupons are issued in accordance with a table for coupon issuance provided by Food and Nutrition Service.

(5) The department shall provide for the issuance of coupon replacements due to improper manufacture or mutilation.

(a) The department shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.

(b) If the department can determine the value of the improperly manufactured or mutilated coupons, the unusable coupons shall be replaced on a dollar-for-dollar exchange. After the exchange, the department shall destroy the coupons provided that:

1. It has been determined that the value of coupons does not exceed \$200 per coupon issuer or bulk storage point for any month; and

2. The department has determined that the coupons were in fact improperly manufactured.

(c) The department shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. Two (2) state officials shall witness and certify the destruction and forward the necessary documentation to FNS.

(d) If the value of the coupons to be destroyed exceeds \$200 per coupon issuer, the department shall request FNS approval prior to any destruction of the coupons.

(e) If either the coupon issuer, the bulk storage point, or the department cannot determine whether coupons or coupon books were in fact improperly manufactured or establish the value of the coupons involved, the department shall promptly forward a written statement of findings and the cancelled coupons(s) or coupon book(s) to FNS for a determination.

Section 5. Verification of ATP Issuance. When the ATP system is used the department shall verify the number of transmitted ATP's received from the coupon issuers and the total value of authorized issuances.

Section 6. Direct Coupon Issuance. When the direct mail system is used the department issues all or part of the coupon allotments through the mail. The department shall mail the coupons directly to the household without using an authorization document.

Section 7. Direct Mail Issuance Controls and Records. When the direct mail system is used the department shall record the date and amount of coupons issued.

(1) The department must provide for dual accountability during the stuffing and addressing operations and maintain a perpetual coupon inventory control and mail issuance log.

(2) The department shall consult with appropriate postal

officials concerning the schedule for mailing coupons, the approximate volume and values of the mailings, the type of envelopes to be used and maintain liaison with postal officials to facilitate prompt, efficient and safe delivery of coupon mailings to households.

(3) The department shall use at least first class mail in mailing the coupons to households. The coupons shall be mailed in sturdy nonforwarding envelopes.

(4) To minimize mail theft exposure, direct mail issuances shall be staggered through the tenth (10th) day of the month and may be staggered through the fifteenth (15th) day provided that each household will likely receive its coupons on the same date every month. The department shall insure that coupons are not mailed to concentrations of households with the same zip code on the same day.

(5) The department shall insure that participants receive allotments on a timely basis and can receive expedited issuance no later than the close of business of the second working day following the date the application was filed.

(6) The department must mail timely replacement issuances, if the household reports non-receipt of its coupons. Timely is defined as not later than five (5) days from the date the coupons are mailed from the issuance point.

Section 8. Coupons Lost in the Mail. When the direct mail system is used and a household reports the non-receipt of coupons issued through the mail, the department shall:

(1) Determine if the coupons were actually mailed;

(2) Determine that sufficient time has elapsed for the coupons to have been received by the participant which is not to exceed five (5) days from the mailing date;

(3) Review the mail issuance log for the return of undelivered coupons. *If the coupons were returned to central office, non-receipt did not occur;*

(4) Report all losses to the postal authorities;

(5) Prepare and have the participant sign an affidavit attesting to non-receipt;

(6) Mail the replacement coupons to the local office for pickup within five (5) days after the report of non-delivery has been received;

(7) Record the report of non-delivery and date of replacement on the mail issuance log;

(8) After two (2) consecutive reports of non-delivery from the same household, the department shall mail the household's coupons to the county office for pickup for a period of six (6) monthly issuances; and [four (4) months.]

(9) *For counties on a direct coupon mail-out system which are experiencing an excessive mail loss, as identified by the department, the following additional procedures shall be applied:*

(a) *Any household reporting one (1) mail loss is placed on local office pickup immediately and for the following six (6) monthly issuances;*

(b) *Any household reporting a loss after having been removed from direct mail in a previous period is placed on local office pickup for twelve (12) monthly issuances;*

(c) *When portions of a county experience a high mail loss, all recipients in that portion of the county will either receive their coupons by certified mail or be required to pick up their coupons at a specified location in the county.*

Section 9. Coupon Inventory Management. Whether it uses the ATP system or the direct mail system, the department shall establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with 7 CFR parts 274.4(a)1 and 2.

Section 10. Coupon Controls. Whether it uses the ATP or direct mail system, the department shall establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR part 274.4(b).

Section 11. Coupon Requisitioning. Whether it uses the ATP system or the direct mail system, the department shall arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR part 274.4(c).

Section 12. Receipt of Coupons. Whether the department uses the ATP system or direct mail system, coupon issuers and bulk storage points shall promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR part 274.5.

Section 13. Availability of Issuance Records. Whether it uses the ATP system or direct mail system, the department shall maintain issuance records for a period of three

(3) years from the month of origin as outlined in 7 CFR part 274.7.

Section 14. Control of Issuance Documents. Whether it uses the ATP system or direct mail system, the department shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR part 274.7(b).

Section 15. Accountable Documents. Whether it uses the ATP system or direct mail system, the department shall provide security and control for all issuance accountability documents pursuant to 7 CFR part 274.7(c).

WILLIAM L. HUFFMAN, Commissioner

ADOPTED: October 15, 1981

APPROVED: W. GRADY STUMBO, Secretary

RECEIVED BY LRC: October 15, 1981 at 4:30 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING
TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the October 7, 1981 Meeting

(Subject to subcommittee approval at the November meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Wednesday, October 7, 1981, at 10 a.m., in Room 103, Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senators James Bunning, Helen Garrett and William Quinlan; and Representatives James E. Bruce, Albert Robinson and Gregory D. Stumbo.

Guests: Representative Jerry Bronger; Representative Jim Yates; Ronda Paul, Department of Banking and Securities; Larry Schneider, Department of Mines and Minerals; Bill Criscillis and J. D. Wolfe, Department of Agriculture; J. H. Voige, Kentucky Board of Pharmacy; Mike Salyers, Department of Labor; Bob Arnold and Reba Page; Department of Natural Resources; Sidney Simandle, Russell Below, and Gary Bale, Department of Education; Donna Smith, Joseph Schureck, Ked Fitzpatrick, Diane Simmons and Sharon Rodriguez, Department for Human Resources; Judith Walden and Eugene Perkins, Department of Housing, Buildings and Construction; Dorothy Hagan, Jefferson County Office for Disabled Citizens; Raymond Burger and Frank Pfeiffer, Kentucky State Plumbing Code Committee; Elizabeth Atinay, Architectural Barriers Advisory Commission; Elwood Harris and Scott Akers, Department of Revenue; Nate Durham, Department of Finance; Commissioner Richard Lewis, John Crimmins, Edward Faris, and Catherin Stoib, Department of Alcoholic Beverage Control; Steve Hudman; Richard Sims; H. Foster Pettit; Jack Farley, Office for Public Advocacy; Delbert Butts, Temperance League; Patrick Dudgeon,

Kentucky Beverage Journal; Leon Shaikun and George Siemens, Kentucky Retail Liquor Association; Joseph Scott; Gary and Jan Nelson; David Lovelace, Lt. Governor's office; and John Leinenbach, Blue Grass Chapter, A.G.C.

LRC Staff: O. Joseph Hood, Susan Harding, Cindy De Reamer, Garnett Evins, Scott Payton and Mike Greenwell.

News Media: Brian Malloy, UPI; Jack Brammer, *The Lexington Leader*; Herb Sparrow, AP; Mark Allen, WKY; John Robb and Travis Shields, WLEX; Livingston Taylor, *Courier-Journal*.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Bruce, seconded by Senator Quinlan, the minutes of the September meeting were approved.

The following regulation was deferred at the request of the issuing agency:

DEPARTMENT OF EDUCATION

Bureau of Instruction

Instructional Services

704 KAR 3:281. Repeal of 704 KAR 3:280.

The following regulations were deferred by the subcommittee for further study:

DEPARTMENT OF FINANCE

Division of Occupations and Professions

Board of Examiners of Social Work

201 KAR 23:070. Specialty certification.

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Kentucky Building Code

815 KAR 7:050. Accessibility standards for the physically disabled.

On motion of Representative Bruce, seconded by Senator Quinlan, the subcommittee reviewed but took no action on the following emergency regulations. Senator Bunning expressed his objection to the regulations.

DEPARTMENT FOR HUMAN RESOURCES Bureau of Social Insurance

Medical Assistance

904 KAR 1:003E. Technical eligibility.

904 KAR 1:004E. Resources and income standard of medically needy.

904 KAR 1:010E. Payments for physician's services.

904 KAR 1:026E. Dental services.

904 KAR 1:027E. Payments for dental services.

904 KAR 1:040E. Payments for vision care services.

Public Assistance

904 KAR 2:005E. Technical requirements; AFDC.

904 KAR 2:010E. AFDC; standards for need and amount.

904 KAR 2:045E. Conditions under which adverse action is taken.

Food Stamp Program

904 KAR 3:010E. Definitions.

904 KAR 3:020E. Eligibility requirements.

904 KAR 3:030E. Application process.

904 KAR 3:035E. Certification process.

904 KAR 3:050E. Additional provisions.

Following testimony from proponents and opponents and questions posed by members of the subcommittee, Senator Quinlan moved that the following regulation be unacceptable as he feels that the General Assembly rather than the subcommittee should address the issue. Representative Robinson seconded the motion and stated the regulation did not conform to legislative intent. On a roll call vote the motion to reject the regulation failed by 3 yeas and 4 nays. (Yea: Senator Quinlan, Representatives Bruce and Robinson; Nay: Senators Bunning and Garrett, Representative Stumbo, and Chairman Brinkley.)

PUBLIC PROTECTION AND REGULATION CABINET

Department of Alcoholic Beverage Control

Quotas

804 KAR 9:010. Retail liquor limit.

Senator Bunning moved that proposed regulation 804 KAR 9:010 be accepted. Motion seconded by Senator Garrett and on a roll call vote of 4 yeas and 3 nays the motion carried. (Yea: Senators Bunning and Garrett, Representative Stumbo and Chairman Brinkley; Nay: Senator Quinlan and Representatives Bruce and Robinson.)

Representative Bruce moved that the following regulations be accepted by the subcommittee. Motion seconded by Senator Quinlan, and on a roll call vote of 3 yeas and 3 nays the motion failed. (Yea: Senator Quinlan, Representative Bruce and Chairman Brinkley; Nay: Senator Bunning, Representative Robinson and Stumbo.)

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Plumbing

815 KAR 20:030. License application, examination.

815 KAR 20:050. Installation permits.

Representative Stumbo moved that the vote on 815 KAR 20:050 be reconsidered, seconded by Senator Bunning. Motion carried.

Representative Stumbo moved that 815 KAR 20:050 be accepted, seconded by Senator Bunning. Motion carried by voice vote.

The following regulations were accepted by the subcommittee and ordered filed:

DEPARTMENT OF REVENUE

Income Tax; Corporations

103 KAR 16:141. Repeal of 103 KAR 16:140.

Income Tax; Withholding

103 KAR 18:030. Monthly reporting requirements.

DEPARTMENT OF FINANCE

Purchasing

200 KAR 5:308. Small purchase procedures.

Division of Occupations and Professions

Board of Pharmacy

201 KAR 2:050. Licenses and permits; fees.

Board of Examiners of Social Work

201 KAR 23:030. License renewal fee.

201 KAR 23:050. Termination of license, reinstatement.

CABINET FOR DEVELOPMENT

Department of Agriculture

Livestock Sanitation

302 KAR 20:010. Definitions.

DEPARTMENT OF EDUCATION

Bureau of Instruction

Instructional Services

704 KAR 3:005. Implementation plan.

Kindergartens and Nursery Schools

704 KAR 5:050. Public school programs. (As amended and subject to state board approval.)

Teacher Certification

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

PUBLIC PROTECTION AND REGULATION CABINET

Department of Labor

Occupational Safety and Health

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

803 KAR 2:032. Adoption of 29 CFR Part 1928.

Department of Mines and Minerals

Division of Explosives and Blasting

805 KAR 4:010. Licensing blasters. (As amended by subcommittee.)

DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

Mobile Homes and Recreational Vehicles

815 KAR 25:020. Recreational vehicles. (As amended.)

PUBLIC PROTECTION AND REGULATION CABINET**Department of Banking and Securities****Savings and Loans**

808 KAR 7:030. State-chartered savings and loan associations.

Securities

808 KAR 10:160. Definitions.

808 KAR 10:170. Exemption claims from securities registration; form.

808 KAR 10:190. Securities registration exemptions for certain business transactions.

DEPARTMENT FOR HUMAN RESOURCES**Bureau for Health Services****Milk and Milk Products**

902 KAR 50:040. Hauler requirements. (As amended.)

On motion of Senator Bunning, seconded by Representative Stumbo the meeting was adjourned at 3:45 p.m., to meet again in November on call by Chairman Brinkley.

Administrative Register ^{of} *kentucky*

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Locator Index—Effective Dates

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Administration
Program plans, annual; 705 KAR 1:010

WASTE MANAGEMENT

Certification for disposal facilities operators; 401 KAR 2:111
Definitions; 401 KAR 2:050
Disposal fees; 401 KAR 2:105
Disposal permit process; 401 KAR 2:090
Landfarming facilities; 401 KAR 2:101
Provisions, general; 401 KAR 2:055
Sanitary landfills; 401 KAR 2:095

WILDLIFE

(See Fish, Wildlife)

