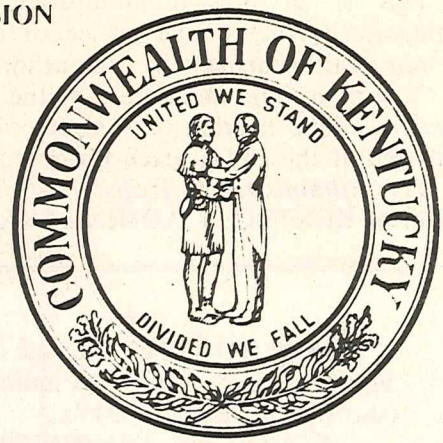
Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 9, NUMBER 7
SATURDAY, JANUARY 1, 1983



IN THIS ISSUE

Public Hearings Scheduled 765

Emergency Regulation:
Personnel 766

Amended Regulations Now in Effect:
Board of Elections 771
Board of Pharmacy 778
Education 779
Insurance 779

Amended After Hearing:
Agriculture—Weights and Measures. 780
Natural Resources and Environmental Protection:
Waste Management 782
Insurance 789

Proposed Amendments:
Legislative Research Commission 793
Personnel 794
Real Estate Commission 797
Natural Resources and Environmental Protection:
Water. 797
Labor—Occupational Safety and Health. 812
Housing, Buildings and Construction 815
Human Resources—Social Insurance 842

Proposed Regulations Received Through December 15:
Personnel 847
Energy 847
Real Estate Commission 850
Proprietary Education 850
Natural Resources and Environmental Protection:
Water. 852
Human Resources:
Health Services 886
Social Insurance. 887

Minutes of the Administrative Regulation Review Subcommittee. 889

CUMULATIVE SUPPLEMENT

Locator Index—Effective Dates . . . . . G 2
KRS Index. . . . . G 7
Subject Index . . . . . G 11

NOTE: The January meeting of the Administrative Regulation Review Subcommittee will be a ONE-DAY meeting—Wednesday, January 26, 1983, at 10 a.m. in Room 103 of the Capitol Annex.

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

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

The *Administrative Register of Kentucky* is the monthly advance sheets service for the 1983 Edition of KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.

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

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

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

---

Administrative Register of kentucky

(ISSN 0096-1493)

© 1982 Legislative Research Commission, All Rights Reserved

The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: $36 per volume of 12 issues, beginning in July and ending with the June issue of the subsequent year.

Second class postage paid at Frankfort, Kentucky.

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

KENTUCKY LEGISLATIVE RESEARCH COMMISSION

SENATOR JOE PRATHER, Senate President Pro Tem — Chairmen — REPRESENTATIVE BOBBY H. RICHARDSON, Speaker of the House

Senate Members

DELBERT MURPHY, Assistant President Pro Tem
DOUG MOSELEY, Minority Caucus Chairman
JOE WRIGHT, Majority Floor Leader
HELEN GARRETT, Majority Whip
EUGENE P. STUART, Minority Floor Leader
CLYDE MIDDLETON, Minority Whip
DAVID K. KAREM, Majority Caucus Chairman

House Members

DAVID THOMASON, Speaker Pro Tem
WILLIAM (BILL) DONNERMEYER, Majority Caucus Chairman
JIM LEMASTER, Majority Floor Leader
HERMAN W. RATTLIFF, Minority Caucus Chairman
ARTHUR L. SCHMIDT, Minority Floor Leader
JIM DUNN, Majority Whip
WOODY ALLEN, Minority Whip

VIC HELLARD, JR., Director

SAMUEL L. HENSLEY, Assistant Director for Education and Information

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Members

REPRESENTATIVE WILLIAM T. BRINKLEY, Chairman
SENATOR WILLIAM L. QUINLAN
SENATOR JAMES P. BUNNING
SENATOR PAT McCUISTON
REPRESENTATIVE ALBERT ROBINSON
REPRESENTATIVE JAMES E. BRUCE
REPRESENTATIVE GREGORY D. STUMBO

Staff

SUSAN C. HARDING, Regulations Compiler
JUNE Q. MABRY
SHIRLEY W. HART
O. JOSEPH HOOD, Counsel for the Subcommittee
DAN RISCH, Co-Counsel

Public Hearings Scheduled

CABINET FOR HUMAN RESOURCES

A public hearing has been scheduled on January 1, 1983, at 9 a.m. in the 2nd Floor Conference Room, DHR Building, 275 East Main Street, Frankfort, Kentucky, on the following regulation:

900 KAR 2:040. Citations and violations; criteria and specific acts. [9 Ky.R. 756]

DEPARTMENT OF INSURANCE

A public hearing has been scheduled on January 5, 1983, at 9:30 a.m. at 151 Elkhorn Court, Frankfort, Kentucky, on the following regulation:

806 KAR 38:070. Health maintenance organization subscriber fee filings. [9 Ky.R. 754]

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

A public hearing has been scheduled on January 11, 1983, at 10 a.m. in the Main Auditorium, Capital Plaza Tower, Frankfort, Kentucky, on the following regulation:

401 KAR 6:015. Public and semi-public water supplies. [9 Ky.R. 797]

A public hearing has been scheduled on February 4, 1983, at 10 a.m. in the Main Auditorium, Capital Plaza Tower, Frankfort, Kentucky, on the following regulations:

401 KAR 5:050. Definitions and general provisions. [9 Ky.R. 852]
401 KAR 5:055. Scope and applicability. [9 Ky.R. 854]
401 KAR 5:060. KPDES application requirements. [9 Ky.R. 858]
401 KAR 5:065. KPDES permit conditions. [9 Ky.R. 866]
401 KAR 5:070. Provisions of the KPDES permit. [9 Ky.R. 872]
401 KAR 5:075. Cabinet review procedures. [9 Ky.R. 874]
401 KAR 5:080. Criteria and standards for KPDES system. [9 Ky.R. 879]
401 KAR 5:085. Discharge permit and variance fees. [9 Ky.R. 885]

Emergency Regulation Now In Effect

(NOTE: Emergency regulations expire upon being repealed or replaced.)

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 82-1069
December 15, 1982

EMERGENCY REGULATION
Department of Personnel
Personnel Board

WHEREAS, in order to implement statutory amendments enacted by the 1982 General Assembly relating to the compensation of state employees, amendments to Personnel regulation 101 KAR 1:055 were made on an emergency basis pursuant to Executive Order 82-550; and

WHEREAS, following public hearing on proposed permanent amendments to 101 KAR 1:055, various revisions were made in the pending version of that regulation, including a revision to enable "red-circled" employees to participate in the pay-for-performance program that is to be implemented by the Department of Personnel on January 1, 1983; and

WHEREAS, the statutory review process of the pending version of 101 KAR 1:055 will not be concluded by January 1, 1983; and

WHEREAS, emergency regulation 101 KAR 1:055E does not include provisions to enable "red-circled" employees to participate in the pay-for-performance program; and

WHEREAS, the Department of Personnel and the Personnel Board have determined and find that an emergency exists and that it is necessary to amend the existing emergency regulation 101 KAR 1:055E to include the revisions which have been made;

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by Section 13.088(1) of the Kentucky Revised Statutes, hereby acknowledge the findings of the Department of Personnel and the Personnel Board that an emergency exists and direct that the attached regulation become effective upon being filed in the Office of the Legislative Research Commission.

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

FINANCE AND ADMINISTRATION CABINET
Department of Personnel
Amended After Hearing

101 KAR 1:055E. Compensation plan, pay for performance.

RELATES TO: KRS *18A.030, 18A.075, 18A.110, 18A.165* [18.170, 18.190, 18.210, 18.240]
PURSUANT TO: KRS 13.082, *18A.075, 18A.110* [18.170, 18.210]
EFFECTIVE: December 15, 1982
NECESSITY AND FUNCTION: KRS *18A.110* [18.210] requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a pay plan for all employees in the classified service, taking into account such factors as the relative level of duties and responsibilities of various classes, rates paid for comparable positions elsewhere, and the state's financial resources. This rule is to assure uniformity and equity in administration of the pay plan in accordance with statutory requirements.

Section 1. Preparation, Approval, and Maintenance of the Plan. (1) After consultation with appointing authorities and the Secretary of the Finance and Administration Cabinet, and after conducting an annual wage and salary survey of relevant labor markets, the Commissioner shall prepare a compensation plan for all classes of positions based on the concepts of internal job equity, external market competitiveness, and individual employee merit. The plan shall provide salary grades or specific salary rates as appropriate for the various classes. Each job class shall be assigned an appropriate pay grade or rate with consideration given to internal job evaluation data and external market conditions. All rates of pay for classes shall be consistent with the functions outlined in the classification plan. The compensation plan shall reward individual employee work performance in accordance with a performance increase chart to be developed by the Commissioner.

(2) When the Commissioner determines through relevant salary surveys that the state's overall compensation position is inadequate in relation to that of other employers, he may authorize, *upon certification of the State Budget Director and the Office for Policy and Management as to the availability of funds,* a general adjustment of all salary grades in the pay structure to a position which is comparable to the external market. Additional surveys may be conducted as necessary to determine market conditions for specific classes.

(3) The Commissioner shall submit the plan to the board for its approval. The board shall present the plan, through the Secretary of the Finance and Administration Cabinet, to the Governor for his final approval. The Commissioner shall review the plan annually.

Section 2. Appointments. Initial appointments to state service shall be made at the minimum rate of the pay range established for the class unless the Commissioner authorizes appointment of a highly qualified applicant at a rate above the minimum, not to exceed the middle rate of the range. Such exception shall be based on the outstanding and unusual nature of the applicant's education, experience or ability over and above the minimum requirements set for the class. Such additional qualifications must be in the same or related area to that of the job duties of the class to which the appointment is to be made. Employees possessing similar qualifications employed in the same class, by the same agency, in the same locality shall have their salaries adjusted to the same rate granted in the in-range appointment if that rate is higher than their current salaries.

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

(1) Reinstatement to *a class having* the same [pay grade] or lower *pay grade that is currently assigned to the employee's former class*:

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

(b) Request a salary higher than that paid at the time of separation due to salary structure or grade adjustments occurring pursuant to Section 8 or Section 9.

(c) Request a lower salary than that earned at the time of separation if such a salary is within the current pay grade.

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

(2) Re-employment or probationary appointment of former employees to the same, lower, or higher pay grade:

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

(b) Request a salary higher than that paid at the time of separation due to salary structure or grade adjustments occurring pursuant to Section 8 or Section 9.

(c) Request a lower salary than that earned at the time of separation if such salary is within the current pay grade.

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

(3) Former employees who were separated from state service by lay-off and who are reinstated or re-employed in the same or a similar class within one (1) year from the date of lay-off may receive the salary they were receiving at the time of lay-off, even if such salary is above the maximum of the new salary range.

(4) [(3)] Employees re-employed *or reinstated or former employees probationarily appointed to a salary below the mid-point of the grade* [in the same class series, or employees reinstated to the same class or a lower class in the same series, at the same or higher salary earned prior to separation] shall be considered for a performance increase *in accordance with Section 5(1) below* [when they have completed twelve (12) months service since the date they last received a performance increase. A maximum of six (6) months of that twelve (12) months of service may have been earned during the last period of service in which they held status]. Employees re-employed, *reinstated, or former employees probationarily appointed to a salary which equals or exceeds the mid-point of the grade at the time of completion of the probationary period may* [in the same class series at a lower rate of pay than that earned at the time of separation shall] be considered for a *performance* [probationary] increase in accordance with Section 5(1) below. *If such employee is not considered for a performance increase in accordance with Section 5(1), he shall be considered for a performance increase at the beginning of the month following completion of twelve (12) months service from the date of re-employment, reinstatement or appointment.* [Employees re-employed or reinstated to a class in a different series shall be considered for a probationary performance increase in accordance with Section

5(1) below. Former employees probationarily appointed shall be considered for probationary performance increases in accordance with Section 5(1) below.]

Section 4. Salary Adjustments. (1) Promotion. An employee who is promoted [*may*] shall receive a salary increase of five percent (5%) *upon promotion [, or after successful completion of the probationary period following promotion, or both,* except that in no case shall the employee's salary after such increase be below the minimum or above the maximum of the higher grade] *; if an employee's salary is above the maximum of the salary range for the class to which he is promoted, the employee shall receive a lump-sum payment of five percent (5%) of his annual base salary. An employee may receive an additional promotional increase of five percent (5%) on the first of the month following successful completion of the probationary period following promotion; if an employee's salary is above the maximum of the salary range for the class to which he is promoted, the employee may receive a lump-sum payment of five percent (5%) of his annual base salary. In no case shall the employee's salary be below the minimum of the higher grade following promotion.* If the promotion is to a classification which constitutes an unusual increase in the level of responsibility, the appointing authority, with the prior written approval of the Commissioner, may grant *upon promotion* a ten percent (10%) or fifteen percent (15%) salary increase over the employee's previous salary [, provided the proposed salary is within the salary grade for the position] *; if an employee's salary is above the maximum of the salary range for the class to which he is promoted, the appointing authority, with the prior written approval of the commissioner, may grant upon promotion a lump-sum payment of ten percent (10%) or fifteen percent (15%) of the employee's annual base salary. [In those cases where the full amount of promotional increase cannot be granted due to the proximity of the grade maximum, only the portion needed to bring the employee's salary to that maximum rate shall be granted.] A promotional increase shall not change the employee's regular performance increase date.*

(2) Demotion. An employee who is demoted *may* [shall] have his salary reduced to a rate which is in the grade for the new class; this rate shall not exceed the rate which the employee was receiving prior to the demotion.

(3) Transfer. An employee who is transferred to a job class having the same pay grade shall be paid the same salary that he received prior to transfer.

(4) Reclassification. An employee who is advanced to a higher pay grade through a reclassification of his position shall receive a salary increase of five percent (5%) except that in no case shall the employee's salary after such increase be below the minimum or above the maximum of the higher grade. *In those cases where the employee's salary is above the maximum of the grade for the new class, the employee shall receive a lump-sum payment of five percent (5%) of his annual base salary rate. [In those cases where the full amount of increase cannot be granted due to the proximity of the grade maximum, only the portion needed to raise the employee's salary to that maximum rate shall be granted.]* An employee *whose position* [who] is *placed in* [reduced to] a lower pay grade through [a] reclassification [of his position] shall receive the same salary he was receiving prior to reclassification, even if that salary is above the maximum of the *new* [lower] pay grade. [An employee whose salary is [at or] above the maximum of the lower grade shall not receive additional performance increases until such time the salary falls within the grade due to an adjustment pursuant to Section 8 or Section 9. [The employee shall return to his original increase date upon return of his salary to the grade.] An employee in a position which has been reclassified to a lower pay grade *on or* after *June 16, 1983* [July 1, 1983], shall have his salary reduced to a rate within the grade applicable to the new class of position.]

(5) Reallocation. An employee who is advanced to a higher pay grade through a reallocation of his position may receive a salary increase of five percent (5%) except that in no case shall the employee's salary after such increase be below the minimum [or above the maximum] of the higher grade. *In those cases where the employee's salary is above the maximum of the grade for the new class, the employee may receive a lump-sum payment of five percent (5%) of his annual base salary rate. [In those cases where the full amount of increase cannot be granted due to the proximity of the grade maximum, only the portion needed to raise the employee's salary to that maximum shall be granted.]* An employee whose current salary exceeds the grade maximum assigned to his class *following reallocation of his position* [due to the *June 16, 1982* [July 1, 1982] salary schedule adjustment] shall retain that current salary. [following reallocation of his class to a higher grade. An employee who is reduced to a lower pay grade through a reallocation of his position shall receive the same salary received prior to reallocation, even if that salary is above the maximum of the lower grade. An employee whose salary is [at or] above the maximum of the new grade shall not receive additional performance increases until such time the salary falls within the grade due to an adjustment pursuant to Section 8 or Section 9. [The employee shall return to his original increase date upon return of his salary to the grade.] An employee in a position which has been reallocated to a lower [or higher] pay grade *on or* after *June 16, 1983* [July 1, 1983], shall have his salary reduced to a rate within the grade applicable to the new class of position.]

(6) Detail to special duty. An employee who is approved for detail to special duty as provided by 101 KAR 1:110, Section 4, may receive a five percent (5%) increase upon detail to a higher class except that in no case shall the employee's salary after such increase be below minimum [or above the maximum] of the higher grade. [*In cases where the full amount of such increase cannot be granted due to the proximity of the grade maximum, only the portion needed to raise the employee's salary to that maximum rate shall be granted.* Annual performance increases shall not be permitted while an employee is on detail to special duty to a class in a higher pay grade.]

(7) Reversion.

(a) An employee who is returned to his former class after failure to complete the probationary period following promotion, or following detail assignment to a higher class, shall have his salary reduced to a salary rate received prior to such promotion or detail assignment and is entitled to all salary advancements and adjustments, pursuant to Section 8 or Section 9, he would have received had he not left the class *even if these advancements place his salary above the maximum of the grade applicable to the class to which the employee is returning.*

(b) *An employee* [Employees] who *is* [are] returned to *a position* [their former class] in the classified service following transfer or promotion to the unclassified service shall have *his* [their] salary reduced to the rate received prior to the promotion or transfer and *is* [are] entitled to all salary

advancements and adjustments *he* [they] would have received had *he* [they] not left the class *even if these advancements place his salary above the maximum of the grade applicable to the class to which the employee is returning.*

Section 5. Salary Advancements. (1) Probationary performance increases. The amount of an employee's probationary performance increase shall be based upon individual employee work performance as evidenced through systematic performance appraisal conducted in accordance with 101 KAR 1:140, Section 10, and *the pay plan* [other guidelines which the Commissioner shall develop]. Full-time employees, and [those] part-time employees [who work at least 100 hours a month] who complete their probationary period with at least a satisfactory performance level shall be granted a performance increase at the beginning of the month following such completion of the probationary period. The service may be provisional or probationary. *Employees completing a probationary period following promotion shall not be eligible for a probationary performance increase under this section.* [Employees completing the probationary period with below standard or unsatisfactory performance levels shall be considered for an annual performance increase in accordance with Section 5(2)(d) below.]

(2) Annual performance increases.

(a) The amount of an employees annual performance increase shall be based upon individual employee work performance as evidenced through systematic performance appraisal conducted in accordance with 101 KAR 1:140, Section 10, and *the pay plan* [other guidelines which the Commissioner shall develop]. Performance increases shall be limited to *permanent* full-time [status] employees and [those] part-time [status] employees [who work at least 100 hours a month]. Employees who are on educational leave with pay shall *not* receive performance-based increases [in accordance with Section 7(1) below]. Employees in classes assigned specific salary rates shall not be eligible to receive performance increases. Employees whose salaries are above grade maximum[s] *rates* pursuant to Sections *3(3), 4(1), 4(2), 4(3),* 4(4), *4*(5), *4(6), 4(7), 5(2)(b), 5(7) and 9(2)* [and 9(3)] shall [not] be eligible to receive *the same* performance increases *provided for employees whose salaries are within the grades except that such increases shall be calculated and paid in a lump-sum amount on the employee's performance increase date* [until such time the salary falls within the grade due to an adjustment pursuant to Section 8 or Section 9].

(b) An employee having at least a satisfactory performance level shall receive a performance increase at the beginning of the month following completion of twelve (12) months service since last receiving a performance or probationary increase. An employee *whose combined annual increment payment, required under Section 5(7), and* [receiving a] performance increase [which] would place his salary above the maximum of the *grade* [range] shall *receive the full amount of increase due* [have his salary adjusted to the maximum of the range with the excess of the performance increase amount awarded as a lump sum payment]. [*Thereafter,* such employee shall not receive additional performance increases until such time the salary falls within the grade due to an adjustment pursuant to Section 8 or Section 9. The employee shall return to his original increase date upon return of his salary to the grade.] Employees having below *satisfactory* [standard or unsatisfactory] performance levels shall be considered for annual performance increases in accordance with *Section 5(2)(c)* [paragraphs (c) or (d) of this subsection].

(c) An employee whose below standard performance level does not warrant a performance increase on his regularly scheduled increase date *shall be considered for such increase twelve (12) months following his regularly scheduled date* [may be eligible to receive a performance increase three (3) months following his regularly scheduled date. A three (3) month re-evaluation period, beginning immediately following the determination of the employee's performance level, shall be used for the purpose of improving the employee's performance at least to a satisfactory level. An employee whose performance remains below standard following this re-evaluation period shall be considered for an increase twelve (12) months following his regularly scheduled date].

[(d) An employee whose unsatisfactory performance level does not warrant an increase on his regularly scheduled increase date shall be considered for an increase twelve (12) months following his regularly scheduled date.]

(3) Service computation. In computing service for the purpose of determining annual performance increase eligibility, [for full-time employees, only those months for which an employee earned annual leave or was on educational or military leave with pay shall be used except as provided under Section 7(1).] in those cases where an employee is changed from part-time to full-time, part-time service [which would be counted in determining increase eligibility for a part-time employee] shall be counted in determining increase eligibility for a full-time employee; [.] in those cases where an employee is changed from full-time to part-time, full-time service [which would be counted in determining increase eligibility for a full-time employee] shall be counted in determining increase eligibility for a part-time employee.

(4) Performance increase *and annual increment* dates will be established [or changed]:

(a) Following completion of probation, *except probation following promotion,* with at least a satisfactory performance level, *or following completion of twelve (12) months service from the date of appointment, reinstatement, or re-employment, pursuant to Section 3(3)* [due to appointment, reinstatement, re-employment, or promotion].

(b) [Following completion of a three (3) month re-evaluation period with at least a satisfactory performance level, described in Section 5(2) above.

(c)] When an employee is on leave without pay for more than *thirty (30) working days pursuant to Section 7(2) of this regulation* [one-half (½) the scheduled work days in any month].

[(d) When the employee returns from leave with pay where an absence of six (6) months or more in the performance cycle is involved as described in Section 7(1) below.]

(5) Performance increase *and annual increment* dates will not change when an employee:

(a) Is in a position in a job class which is assigned a new or different salary grade.

(b) Receives a salary adjustment as a result of his position being reallocated or reclassified.

(c) Is transferred.

(d) Receives a demotion.

(e) Is approved for detail to special duty as provided by 101 KAR 1:110, Section 4.

(f) Receives an educational achievement *increase* [salary advancement] under Section 6.

(g) Returns from military leave.

(h) *Has his salary advanced above the maximum of the grade or has his salary returned to the grade pursuant to Section 8 or Section 9.* [Returns from leave with pay involving less than six (6) months absence in the performance cycle.]

(i) Is promoted or receives a promotional increase after completion of probation following promotion.

(6) No employee shall have his salary advanced to a rate above the maximum of the salary grade applicable to the class of his position *except as provided in Sections 3(3), 4(1), 4(4), 4(5), 4(6), 4(7), 5(2)(b) and 5(7).* An employee may retain a rate of pay above the maximum of the range as provided in Section *3(3), 4(1), 4(2), 4(3),* 4(4) [and (5)] *4(5), 4(6), 4(7)* and Section *9(2)* [9(3)] of these rules.

(7) Annual increment. All employees shall receive statutory annual increment of five (5) percent on the employee's regularly scheduled performance increase date. The commissioner shall assign increase dates to employees not having performance increase dates. For purposes of calculating the statutory annual increment of five percent (5%), educational achievement increases under Section 6 of this regulation, employee suggestion systems awards under 101 KAR 1:150, and overtime and/or compensatory leave payments shall not be included in "gross annual salary or wages;" a lump-sum payment made to an employee pursuant to Sections 4(1), 4(4), 4(5), and 5(2)(a) of this regulation, and previous regulatory provision providing for a continuous service award shall be included in "gross annual salary or wages" in calculating the statutory five percent (5%) annual increment following such payment.

(8) [(7)] Transition provisions.

(a) All provisions in Section 5*(8)* [(7)] shall be superseded by provisions described in Section 5(1) through *(7)* [(6)], January 1, 1983.

(b) Probationary increments. Full-time employees and [those] part-time employees [who work at least 100 hours a month] who were probationarily appointed, or former employees probationarily appointed or re-employed or reinstated prior to *June 16, 1982* [July 1, 1982], *to a salary that is below the mid-point salary of the grade shall receive an increment limited to a five (5) percent salary advancement at the beginning of the month following successful completion of the probationary period. Full-time employees and part-time employees who were probationarily appointed, or former employees probationarily appointed or re-employed or reinstated prior to June 16, 1982, to a salary that equals or exceeds the mid-point salary of the grade at the time of completion of probation shall [may] receive an increase limited to a five (5) percent salary increment following completion of either the probationary period or twelve (12) months service from the date of appointment, reinstatement, or re-employment* [shall be eligible and may be given consideration by the appointing authority for a five percent (5%) salary advancement at the beginning of any month following successful completion of the probationary period; however, in no case shall a five percent (5%) salary advancement be awarded under this section after December 31, 1982. The service may be provisional or probationary. A former employee who was reinstated or re-employed at the same or higher salary prior to July 1, 1982 may be considered for a five percent (5%) salawry advancement when he has completed twelve (12) months service since the date he received a probationary or annual increment; however in no case shall a five percent (5%) increase be awarded under this section after December 31, 1982. A maximum of six (6) months of that twelve (12) months service may have been earned during the last period of service in which he held status]. *This five (5) percent limitation is in effect until December 31, 1982. Service may be provisional or probationary.*

(c) Annual increments. *Permanent full-time and part-time employees who have assigned annual increment dates which occur prior to December 31, 1982, shall receive an increase limited to the statutory five (5) percent salary increment on that assigned increment date.* [Annual increments shall be based upon length of service until December 31, 1982. Full-time employees having status, and those part-time employees who work at least 100 hours a month whose annual increment date occurs prior to December 31, 1982 shall be given a five percent (5%) salary advancement at the beginning of the month following completion of twelve (12) months service since last receiving an annual or probationary increment. Employees who are on educational leave with pay shall receive such annual increments until December 31, 1982. For the purpose of determining annual increment eligiblity, service computation shall be done in accordance with Section 5(3) above. Employees whose salaries are at or above range maximums due to salary schedule adjustment July 1, 1982 shall receive their five percent (5%) annual increments if they would have received such increment has not this salary schedule adjustment occurred. Employees whose salaries are within five percent (5%) of the range maximum following such schedule adjustment shall receive the full benefit of their annual increment even if such increase places their salary above the range maximum.]

(d) Outstanding merit increment. [*Unless otherwise noted,*] Any permanent full-time employee who has served for one (1) year immediately preceding the recommendation and who has not received an outstanding merit advancement within twelve (12) months is eligible for a five percent (5%) outstanding merit advancement in his present grade in addition to any other salary advancements to which he might be entitled if:

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

2. His job performance is outstanding. The appointing agency must submit written justification to the Commissioner and the personnel action form must be approved by the agency head and the Commissioner to be effective. In a fiscal year, an agency with sufficient budgeted funds may grant as many outstanding merit salary advancements as thirty percent (30%) of the number of its employees at the close of the prior fiscal year. [This provision expires December 31, 1982.]

[(e) Continuous service award. An employee who has served (12) months at or above the maximum of the salary grade applicable to his class prior to December 31, 1982 shall be given a continuous service award of five percent (5%) of his current annual salary rate. Service at the maximum rate of the grade applicable to the class of position held by the employee prior to July 1, 1982 adjustment shall be counted toward his twelve (12) month period. Employees whose salaries were at the maximum of the salary range prior to July 1, 1982 but whose salaries are returned to the range following the July 1, 1982 schedule adjustment, shall receive their regular annual increments in accordance with Section 5(7)(c). This continuous service award shall be given as a lump sum payment. The service shall be computed in accordance with Section 5(3).]

Section 6. Educational Achievement Increase. Subject to the approval of the Commissioner, any permanent, full-time employee who, after completion of his initial probationary period, satisfactorily completes 260 classroom hours (or the equivalent as determined by the Commissioner) of job related instruction is eligible for a lump-sum educational achievement increase of five percent (5%) of his annual base salary the first of the month following the approval of the increase.

Section 7. Return from Leave. *(1) Leave with pay. The appointing authority shall grant an employee on leave with pay or returning to duty from leave with pay a performance increase on the employee's regularly scheduled increase date if such increase is warranted and the employee's performance level can be properly documented.* [Following January 1, 1983, an employee returning to duty from leave with pay where an absence of six (6) months or more in the performance cycle is involved shall have his performance increase date established four (4) months following his regularly scheduled increase date. Where an employee's increase date occurs while the employee is on leave with pay, and an absence of six (6) months or more in the perfromance cycle is involved, the employee shall have his increase date established four (4) months following the date of his return. Where an absence of less than six (6) months in the performance cycle is involved, the employee shall be considered for his performance increase on his regularly scheduled increase date.]

(2) Leave without pay. [Employees returning to duty from leave without pay lasting less than one (1) year shall have their increase dates established in accordance with Section 5(3) above.] Employees returning to duty from leave without pay in excess of *thirty (30) working days* [one (1) year] shall *be considered for a performance increase when they have completed twelve (12) months service since the date they last received an annual increase. A maximum of six (6) months of that twelve (12) months of service may have been earned during the last period of service in which they held status prior to the leave period* [have their increase dates established in accordance with Section 3(3)].

(3) Military Leave. An employee returning to duty from military leave without pay, or from military service in accordance with KRS 61.373, shall receive the same or similar pay (same salary plus grade changes) and all other increases he would have received. Satisfactory performance shall be assumed when computing the amount of performance increase(s) due.

Section 8. General Schedule Adjustment. When the Commissioner authorizes a general adjustment of all grades in the pay structure, employees *who are below the new minimum rates* shall have their salaries adjusted at least to the minimum rates of grades in all cases. All salary adjustments shall be made in accordance with standards established by the Commissioner.

Section 9. Class Re-evaluation and Grade Adjustment. (1) Class re-evaluation is the assignment of a different salary grade to a class based upon a change in relation to other classes or to labor market conditions.

(2) Change in salary grade. Whenever it becomes necessary to assign a class in different salary grade due to changes defined in Section 9(1) above, the Commissioner may make a new or different salary grade applicable to a class of position. Persons employed in positions of that class at the effective date of the change in salary grade shall have their salary placed at least at the minimum salary of the higher grade. In no event shall an employee's salary be placed at a rate which provides a salary rate less than the employee received prior to the change in the salary grade. Employees whose salaries are already within the higher grade shall retain their current salaries following the adjustment. Employees in a class or classes assigned to a lower pay grade through class re-evaluation shall retain their current salary even if that salary is above the maximum rate of the lower grade. [Such employees shall not be eligible to earn annual performance increases until such time as the employee's salary falls within the grade. The employee shall return to his original increase date upon return of his salary to the grade.] The Commissioner shall review the use of this provision for retaining employees' salaries above grade maximums and report to the Board July 1, 1984 [, to determine the need for continuing such provision].

(3) Recruitment difficulties. Whenever the Commissioner determines that it is not possible to recruit qualified employees at the established entrance salary in a specific area or for a specific class, he may at the request of the appointing authority, authorize the recruitment for a class of position at a higher rate in the pay grade, provided that all other employees in the same class of position in the same agency in the same locality are adjusted in salary to the same rate. When the Commissioner determines that it is not possible to relieve salary inadequacies using this provision, Section 9(2) shall apply.

(4) Increases resulting from this section shall not affect an employee's [annual] performance increase date.

Section 10. Paid Overtime. Overtime for which pay is authorized shall have the approval of the Commissioner of Personnel and the Secretary of the Finance and Administration Cabinet.

Section 11. Maintenance and Maintenance Allowance. In each case where an employee or the employee and his family are provided with full or part maintenance, consisting of one (1) or more meals per day, lodging or living quarters, and domestic or other personal services, such compensation in kind shall be treated as part payment and its value shall be deducted from the appropriate salary rate in accordance with the schedule promulgated by the Commissioner after consultation with appointing authorities and the Secretary of the Finance and Administration Cabinet.

Section 12. Supplemental Shift Premium. Upon request of the appointing authority, the Commissioner may authorize the payment of a supplemental shift premium for those employees directed to work an evening or night shift. However, no employee shall receive a supplemental shift premium subsequent to a transfer to a position that is ineligible for a shift differential premium payment. The employee's loss of shift differential pay shall not be a basis for an appeal to the Personnel Board.

Section 13. 101 KAR 1:050, Compensation plan, is hereby repealed.

PHILIP TALIAFERRO, Chairman
ADOPTED: December 9, 1982
APPROVED: DEE MAYNARD, Commissioner
RECEIVED BY LRC: December 15, 1982 at 3:45 p.m.

Amended Regulations Now In Effect

STATE BOARD OF ELECTIONS
As Amended

31 KAR 2:010. Electronic voting systems.

RELATES TO: KRS 64.300, 65.170, [66.050,] 67.260, 67A.020, 68.540, 81A.030, 81A.420, 81A.430, 83A.100, 83A.120, 83A.170, 96.183, 96.360, 96.540, 96.543, 96.640, 96,860, 96A.350, 97.610, 107.360, 108.100, 108.160, 116.025, 116.065, 117.075, 117.255, 117.375, 117.377, 117.379, 117.381, 117.383, 117.385, 117.387, 117.389, 117.391, 117.393, 118.015, 118A.010, 119.005, 132.120, 132.380, 160.220, 160.230, 160.250, 160.260, 160.470, 160.597, 165.175, 173.470, 173.610, 173.620, 173.630, 212.080, 212.720, 215.120, 215.140, 216.317, 216.318, 242.050, 242.070, 242.080, 242.120, 242.125, 242.129, 242.1292, 242.1294, 247.487, 247.560, 247.660, 247.760, 247.860, 262.120, 262.130, 262.220, 262.370, 262.540, 262.730, 262.735, 262.748, 262.778, 424.290, 436.165

PURSUANT TO: KRS 117.383

EFFECTIVE: December 1, 1982

NECESSITY AND FUNCTION: KRS Chapter 117.383 requires the State Board of Elections to prescribe rules and regulations to achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting. KRS Chapter 117 also permits the use of automatic tabulating equipment or data processing equipment during elections. This regulation sets forth the rules to be followed to comply with KRS Chapter 117.

Section 1. Definitions. An expansion of definitions offered by KRS 117.375 and additional definitions required by this regulation follows:

(1) "Absent voter ballot card" means a ballot card attached to a backing that aids a voter to punch out the scored position on the ballot card.

(2) "Absent voter card" means a ballot card with the names of candidates, issues and questions to be voted on, printed on the card.

(3) "Accuracy test" means a test conducted to determine that the program and the computer being used to tabulate the results of the election count the votes in the manner prescribed by the act.

(4) "Act" refers to Chapter 360 of the Kentucky Acts 1982, which sets forth all of the statutes which this regulation relates to.

(5) "Approved computer" means a manufacturer model which has been approved by the State Board of Elections to tabulate ballot cards in this state.

(6) "Ballot card" means a data processing card approved by the State Board of Elections.

(7) "Ballot label assembly" means the assembled unit containing ballot labels and mask.

(8) "Chad" means the scored portion of the ballot card which is punched out of the ballot card by the voter when casting a vote.

(9) "Computer" means one (1) or more pieces of automatic tabulating equipment which examines, tabulates, and counts votes recorded on ballot cards or magnetic tapes and prints results.

(10) "Console log" means a listing of the computer responses to program instructions and of instructions to the computer by the operator.

(11) "Correction tape" means a tape designed solely for use in correcting errors on data processing cards.

(12) "Demonstration ballot card" means a ballot card of a distinctive color used to instruct voters on the use of the voting device. The card shall have the word "DEMONSTRATION" printed or stamped on it.

(13) "Demonstrator model" means a voting device on which voters are instructed in the use of the device.

(14) "Duplicate ballot card" means a ballot card on which the word "DUPLICATE" is printed, stamped, or written and which is used to transfer a voter's valid selections from the original ballot card.

(15) "End card" means a data processing card which instructs the computer that all ballots of a precinct have been counted.

(16) "Header card" means a data processing card which contains the necessary data to identify a precinct to the computer. A header card may be an end card for the preceding precinct.

(17) "Mask" means a piece of material with defined areas for each voting position, into which holes are punched corresponding only to the voting positions appearing on the ballot label.

(18) "Overvote" means a combination of votes, including write-in votes, which exceeds the number for which the elector is entitled to vote.

(19) "Program" means the operating instructions for a computer by which it examines, counts, tabulates and prints the results of the votes cast on a ballot card.

(20) "Receiving station" means a site which is located at a building or place other than where the counting center is located.

(21) "Specialized computer" means automatic tabulating equipment constructed primarily for the purpose of tabulating ballots and printing results.

(22) "Spoiled ballot" means a ballot card which has been returned by a voter and for which a new ballot card has been issued.

(23) "Template" means a piece of material containing precisely located holes, conical in shape and positioned so that a stylus tip can penetrate only the scored areas of the ballot card.

(24) "Transfer case" means a metal container used for transporting and storing voted ballot cards. The container shall be capable of being sealed with a metal seal and be approved.

(25) "Valid punch" means a punch of a ballot card such that the chad is completely removed or is hanging by one (1) or two (2) corners.

(26) A term defined in the act has the same meaning when used in these rules.

Section 2. General Provisions. (1) The procedures in the general election laws shall be applicable in elections in which electronic voting systems are used, except where such laws are superseded by specific provisions of the act or these rules.

(2) *When electronic voting systems are used throughout the county, the size of the precincts is not limited by the mechanical constraints of voting machines.* [A precinct in which electronic voting systems are used may contain more than the number or registered voters recommended by statute in precincts using voting machines.]

(3) Nothwithstanding any other provisions of these rules, the county board of elections and local units of government may enter into a mutual agreement for the joint use of a computer. Such an agreement shall state that the county clerk has control of the programs to be used for election purposes.

Section 3. Ballot Preparation. (1) The ballot cards used after the effective date of these rules, shall have the words "OFFICIAL BALLOT CARD" printed on the face of the stubs.

(2) One (1) corner of the ballot card shall be cut.

(3) The following statement may be printed or stamped on the back of the stub on official ballot cards in bold face capital letters:

STOP
WRONG SIDE
TURN CARD OVER

(4) A combination ballot card and write-in ballot to be used in an election shall be approved by the State Board of Elections.

(5) A ballot envelope to be used in an election shall be approved by the State Board of Elections and shall satisfy all of the following requirements:

(a) Be of sufficient size, weight, and design to preserve the secrecy of the ballot card.

(b) Have an inner pocket into which the ballot card shall be inserted.

(c) Display printed instructions as to the method of inserting the ballot card after voting, and if the ballot envelope is to be used for write-ins, shall display instructions and space for casting a write-in vote.

(6) The number of ballot cards and envelopes required to be printed and distributed to each precinct shall:

(a) For the general election, be a number equal to the number of registered voters as of the close of registration.

(b) For a primary election, be not less than a number equal to the total number of votes cast in the most recent corresponding primary election.

(c) For a special or local election, be a number determined by the local clerk.

(7) A question, proposal, or proposition shall be placed last on the ballot label following the names of candidates and shall be placed in the following order: state, county, local. An exemption from this requirement may be obtained prior to the election from the State Board of Elections in writing.

(8) For a general election, the name of the party which a candidate represents shall be printed along with the name of the candidate.

(9) Voting instructions shall be printed on the first page of the ballot label. The ballot label shall contain instructions as to where the voter is to continue voting. Additional instructions which conform with the act may be printed on the ballot label.

Section 4. Absentee Ballots: Issuance, Processing and Tabulation. (1) In a community in which electronic voting devices are used and absentee votes are cast on regular paper ballots, the absentee ballots shall be counted by absent voter counting boards as paper ballots.

(2) In a community in which electronic voting devices are used and absentee votes are cast on absent voter ballot cards, the absentee ballots shall be sent to the county clerk to be tabulated with the precinct ballot cards or to an absent voter counting board to be processed and tabulated.

(3) In a county using voting machines, absentee votes may be cast on absent voter ballot cards. The absentee ballot cards shall be sent to county clerk, tabulated, and added to the other precinct returns.

(4) If the voter is to vote by means of an absent voter ballot card, the clerk shall prepare and issue an absent voter ballot packet consisting of the following, when required by the system being used:

(a) Absentee voter ballot card;

(b) Punching tool;

(c) Absent voter instruction ballot;

(d) Ballot envelope for the voter to insert the voted portion of the ballot card after voting;

[(e) Return envelope as required in Section 761 of the Act;]

[(f) A copy of Section 758 of the Act; and]

(e) [(g)] Absent voting instructions prescribed by the State Board of Elections.

(5) Absent voter instruction ballots where used in conjunction with a ballot card shall be printed in plain, clear type and contain instructions for voting. There shall be printed in boldface type alongside each candidate's name and the choice for each measure, a number which corresponds to the respective position number on the ballot card. The words "ABSENT VOTER INSTRUCTION BALLOT" shall appear at the head of the absent voter instruction ballot. An absent voter instruction ballot may be a facsimile of the ballot label used in the absent voter's precinct. Arrows placed on the ballot labels may be omitted from the absent voter instruction ballot.

Section 5. Preparation of Program. (1) A program shall be written so as to accurately tabulate a voter's choice for each candidate, office, and measure for which the voter is lawfully entitled to vote, in conformity with the act and these rules.

(2) A program shall include an instruction requiring that a header card precede the deck of ballot cards for each precinct. In programs to be used on a specialized computer, one (1) header card is required, unless the function of the header card is performed by the program.

(3) An end card shall follow the ballots of each precinct. The program may provide that if a header card contains instructions to the computer that all ballots of the preceding precinct have been counted, a separate end card is not required. In a program to be used in a specialized computer, an end card is not required.

(4) A program may be maintained by a generally accepted method, within the computer industry, of input or output or a combination of methods.

(5) Two (2) edit listings shall be prepared and, not less than three (3) days before the preliminary accuracy test, shall be delivered to the county board of elections responsible for supplying the program.

(6) The county board of elections responsible for supplying the program shall provide necessary information to the person or company designated to write or prepare the program.

(7) The program for an election and a duplicate copy shall be completed and delivered to the county board of elections responsible for supplying the program not less than three (3) days before the preliminary accuracy test. A duplicate is not required where a specialized computer is used.

(8) If a program is written to be used on a general purpose computer, the person or company providing the program shall, at the time the program is delivered, submit to the county board of elections a certificate stating that the program was prepared from all relevant input data, describing the procedures which were used to determine its

accuracy, and stating that the program has been written pursuant to the act and these rules.

(9) The person preparing the program shall submit to the county board of elections, responsible for supplying the program, instructions containing the information and procedures required to operate the program. The county board of elections shall make the instructions available to the computer operators.

(10) The vote tabulation portion of the program shall be written:

(a) In statewide races to reflect the rotation sequence of the candidate's names and ballot position numbers (when required by the system being used) as they appear on the ballot labels in the various congressional districts.

(b) To count valid votes cast by a voter for candidates of an office.

(c) To count valid votes cast by a voter for or against any question.

(d) So as not to count votes cast by a voter for an office or question if the number of votes cast by a voter exceeds the number which the voter is entitled to vote for on that office or question.

(e) To ignore punches in a ballot card in positions where a candidate's name or questions do not appear on the official ballot. These punches shall not have effect on the ballot.

(f) So that the partisan, nonpartisan, and proposal sections of the ballot are considered separate sections of the ballot. The action of a voter in one (1) section on the ballot shall not affect the voter's action on another section of the ballot.

(11) For a partisan primary election, the vote tabulation section of the program shall be written to determine if a voter has cast votes for candidates of more than one (1) political party.

(12) For a general election, the vote tabulation section of the program shall be written so that a vote shall be counted for each candidate of the political party indicated by the voter's straight ticket vote.

Section 6. Preparation of Official Test Deck. (1) The county board of elections providing the program or its authorized assistant shall prepare a test deck with predetermined results.

(2) The test deck shall consist of ballot cards of the same type to be used in the election.

(3) A document, record, chart or listing shall be prepared indicating the punches, recorded in the test ballot card. This documentation shall indicate each valid or invalid vote.

(4) A duplicate of the test deck shall be prepared. The duplicate of the test deck may consist of standard data processing cards.

(5) The approved test deck by the company providing the services may be used for this purpose.

Section 7. Preliminary Accuracy Test. (1) The county board of elections providing the program or its authorized assistant shall conduct a preliminary accuracy test of the computers and programs for all precincts prior to the accuracy test.

(2) The preliminary accuracy test shall be conducted using the test decks prepared under the direction of the board. For the purpose of this test, the test deck may be reproduced onto standard data processing cards.

Section 8. Accuracy Test. (1) The county board of elections providing the program shall designate a time and place for an accuracy test, which shall be held not less than five (5) days before the election.

(2) The accuracy test shall be conducted by an accuracy board, which shall be the county board of elections supplying the program. A member of the board may designate a person to serve in his or her place on the accuracy board. A member of the county board of elections who so designates a person to serve at the accuracy test shall notify the clerk before the test. The clerk or the designated representative of the clerk shall be chairperson.

(3) The clerk in charge of the program may limit the number of persons who may be in the computer room and the duration of their stay in the computer room.

(4) The initial testing of the computers and programs shall be with the test deck prepared under the direction of the county board of elections. The number of precincts to be tested shall be determined by the accuracy board. The members of the accuracy board may prepare or cause to have prepared additional ballot cards to be included in the test deck.

(5) Each program and test deck shall be tested on the computer on which it is to be used for the election.

(6) After demonstrating the accuracy of the programs and computers, the following persons may prepare test ballot cards for testing:

(a) The county chairperson of each political party appearing on the ballot or a designated representative.

(b) A candidate whose name appears on the ballot or a designated representative.

(c) A representative from each group interested in a proposal or measure who has informed the board in writing of that person's intent to participate in the testing procedure.

(7) The number of cards each eligible person is allowed to prepare shall be determined by the board, except that an eligible person shall not be limited to less than ten (10) cards.

(8) The county board of elections supplying the program shall provide the following items at the accuracy test:

(a) An edit listing.

(b) Test ballot cards.

(c) At least one (1) set of ballot labels for sample ballots for each precinct.

(9) If an error is detected in the testing, the cause shall be ascertained, the error shall be corrected, and an errorless count shall be made for all precincts. If determined by the board, the meeting may be adjourned to a time and date certain.

(10) The State Board of Elections or designated representative may provide a test deck for a program. If so, it shall be delivered at the accuracy test. At the discretion of the State Board of Elections, it may be used in place of, or in addition to, the test deck prepared by the county board of elections.

(11) The county board of elections shall certify the accuracy of the test. The certification may be attached to, or written on, the computer results of the accuracy test.

(12) The county board of elections shall secure all programs, test decks, certified computer results of the test and the predetermined results in a metal container which shall be sealed with a metal seal in a manner so that the container cannot be opened without breaking the seal. Attached to or inside the container shall be a certificate describing its contents and on which the number of the seal has been recorded. The certificate shall be signed by the members of the board and, if attached to the container in a plastic envelope, it shall be attached in such a manner that it cannot be removed without breaking the seal.

(13) The board shall immediately deliver to the clerk in

charge of the election the metal case containing the programs and the test decks. The clerk shall retain and secure the programs.

Section 9. Preparation of Voting Device. The following rules apply to those systems which require a special voting device to be used during the election:

(1) The clerk or an authorized assistant shall prepare each voting device pursuant to the provisions of these rules.

(2) A voting device shall be identified with the precinct number in which it shall be used.

(3) A ballot label page used in the voting device shall be firmly attached for insertion and positioning in the ballot frame. A person shall not attach a ballot label by tape to a rod, or place a ballot label into a clear plastic envelope through which a rod is inserted.

(4) The ballot label assembly shall be inserted and sealed into each voting device so that the ballot label assembly cannot be removed without breaking the seal.

(5) The ballot label of each voting device of a precinct shall be compared against the edit listing and instruction ballot for the precinct to ascertain that the offices, candidates' names, and ballot position numbers are the same and appear in the same position.

(6) The ballot labels of each device shall be examined to ascertain that holes in the mask appear directly opposite each arrow, that other holes do not appear in the mask, and that the ballot labels are in proper sequence.

(7) An assembled voting device shall be tested to determine if it is operating properly.

(8) The identifying number of the voting device and the seal number used to seal the ballot label assembly to the device shall be recorded on the certificate in the poll book for the precinct in which the device is to be used. The clerk or an authorized assistant who sealed the device shall sign the certificate.

(9) When a voting device has been prepared for the election, the county board of elections shall execute a certificate in writing, which shall be filed with the county board of elections of the jurisdiction in which they are authorized to act. The certificate shall contain the precinct number, the identifying number of the device, and the number of the seal or seals used to seal the device, and state that the ballot labels have been compared against the edit list for that precinct and that the candidates' names and ballot numbers agree and appear in the same position and that the device has been properly prepared and tested. If the certificate is signed by other than the county board of elections, the county board of elections shall be offered an opportunity to inspect the voting devices to determine whether they are properly prepared.

(10) If a system is being used which has the candidates' names, issues and questions printed on the ballot, in such instances the ballot itself will be inspected prior to issuing the ballots to the precincts, in lieu of inspecting the voting device.

Section 10. Preparation and Delivery of Election Supplies. (1) The clerk of the unit of government providing the voting devices or an authorized assistant may place into a transfer case the ballot cards, envelopes and ballot frames for each precinct. The transfer case shall be secured with a seal and contain a certificate signed by the clerk or an authorized assistant setting forth the number of ballots in the case and that the ballots were counted and sealed by the clerk or by an authorized assistant. Ballot cards not issued to a precinct or assigned for absentee voting shall be secured and accounted for by the clerk. The clerk shall maintain a record of the number of ballot cards and serial numbers issued to each precinct. The ballot cards shall be delivered to a member or judge of the precinct election officers in the proper precinct.

(2) Precinct supplies shall include the following items:

(a) A specimen ballot for posting.

(b) A pencil for each voting device.

(c) A set of instructions for operating the precinct on election day.

(d) An envelope labeled "SPOILED BALLOT CARDS."

(e) An envelope labeled "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" if the duplication is to be done at the precinct.

(3) If the precinct header card is sent to the precinct, it shall be contained in an envelope for that purpose and included in the transfer case for the precinct.

(4) The voting devices, demonstration voting devices, voting booths, ballot cards, ballot envelopes, transfer case, and all other necessary supplies shall be delivered to the precinct not later than 5:45 a.m. on election day.

(5) A ballot box shall be provided to each precinct for the deposit of voted ballot cards. The ballot box shall be capable of being locked or sealed during elelction day.

Section 11. Precinct Election Officers' Duties Prior to Opening the Polls. (1) Voting devices shall be used in voting booths or in self-contained voting stations.

(2) If voting devices are used in self-contained voting stations, the stations shall be arranged so that the secrecy of the ballot is not violated.

(3) The precinct election officers shall do all the following if it is applicable to the system being used in the precinct:

(a) Compare the seal number and identifying numbers on the devices with the numbers recorded in the poll book.

(b) Compare the names, proposals, and ballot position printed on the ballots or ballot labels, edit listing, and precinct instruction ballot to ascertain that the offices, proposals, and candidate names are the same.

(c) Verify that the ballot label pages are in the proper order.

(d) Check the mask to see that holes only appear directly opposite each arrow and that the arrow points directly to the hole opposite it.

(e) On a mechanical punch system, a sufficient number of votes shall be voted with demonstration cards to assure that the machine is functioning properly.

(f) Verify that there is a pencil or pen provided for each device for general elections only.

(g) If a stylus is used, check each stylus to assure that it is not broken.

(h) Determine that there is adequate lighting.

(4) In the event of a discrepancy, the election inspectors shall notify the clerk immediately and the voting device shall not be used until the discrepancy is resolved.

(5) The demonstration voting device shall be placed so as to afford each voter an opportunity to use it prior to voting.

Section 12. Conduct of Election and Manner of Voting. (1) Before being issued a ballot, each voter shall be instructed by the use of a demonstration ballot on the device to be used in that particular precinct. Training instructions shall also be displayed for the voters to see.

(2) The precinct election officers having charge of the

ballots shall deliver to the voter an official ballot card and envelope or folder.

(3) The ballot card number issued to the voter shall be placed beside the voter's name in the poll book or precinct roster.

(4) Upon being issued a ballot card and envelope, the voter shall enter a voting station and record his or her selections on the ballot card. Before leaving the booth, the voter shall insert the ballot card in the ballot holder with the detachable stub on the outside in such a manner that the voting portion of the ballot card is not exposed.

(5) The precinct election officers designated to receive the ballot from the voter may ascertain by comparing the number on the ballot with the number recorded on the precinct list whether the ballot given to the precinct election officer/or deposited is the same ballot furnished to the voter. If it is the same ballot, the voter or the precinct election officer shall remove the detachable stub and in the presence of the voter deposit the ballot into the ballot box or insert it in the counter for tallying.

(6) The precinct election officers shall frequently check the seals and ballot label pages of the voting devices to ensure that none have been altered or defaced. If the officers find that the ballot pages of a device have been altered, multilated, or damaged in such a manner that the precinct election officers cannot correct them without doing damage to the offices, names and proposals appearing on the pages, the device shall not be used until the condition is corrected. A note of the occurrence shall be made in the remarks section of the precinct roster.

(7) A ballot card found in a booth or device shall be marked with the words "FOUND IN BOOTH." The card shall be placed in an envelope which shall be placed in the transfer case. A note of the occurrence shall be made in the remarks section of the precinct roster.

Section 15. Precinct Election Officers; Duties After Polls are Closed. (1) The ballot labels and seals of each voting device shall be inspected to ensure that they have not been altered and are intact and that seal numbers agree with the numbers as verified at the opening of the polls. A discrepancy shall be noted in the remarks section of the poll book.

(2) If the votes are tabulated at the precincts, the precinct election officers shall open the ballot box and remove the ballots. Prior to removing the ballots from their envelopes, they shall be counted to determine the total number. If the number of ballots counted is less than the number of voters according to the poll lists, the reason for the discrepancy shall be noted in the remarks section of the poll book. If the precinct election officers are unable to explain the discrepancy, they shall so state in the remarks section of the poll book. The inspectors' determination shall constitute conclusive and sufficient explanation for purposes of recount.

(3) At an election where a candidate's name has been written in on the ballot, the election inspectors shall identify each ballot card and its corresponding official ballot envelope.

(4) At the discretion of the county board of elections in charge of the election, the examination of ballot cards for damage, hanging chads, distinguishing marks made by the voter, and for indications of write-in votes may be done at the precinct or at the counting center.

(5) When the ballot cards have been processed and checked, the precinct election officers shall determine that the number of ballot cards which they are submitting to the counting center for tabulation agrees with the number of names recorded on the precinct roster less discrepancies for which notations have been made in the precinct roster. The number of ballot cards which are being submitted for tabulation shall be entered in the appropriate place on the certification prepared by the precinct election officers.

(6) The precinct election officers shall prepare a certificate indicating the number of ballot cards issued to the precinct, number of ballot cards issued to the voters, number of spoiled ballot cards, and the number of unused ballot cards. The certificate shall be placed in the transfer case or included on the precinct roster.

(7) The precinct election officers shall place into the transfer case and/or ballot box for delivery, as directed, all of the following, if required by the system being used:

(a) Voted ballot cards.

(b) Ballot envelopes used in the election, unless they are placed and sealed in a separate metal container at which time they may be delivered to a place other than the counting center at the direction of the clerk.

(c) An envelope marked "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON" and containing those ballots, if used.

(d) An envelope containing spoiled ballot cards.

(e) Envelopes with notations and contents, containing any other issued ballot cards which are not to be counted.

(f) A certificate signed by the precinct election officers indicating the number of ballot cards issued, spoiled, and unused, unless included in the precinct roster.

(g) The write-in tally return sheet, unless included in poll book or precinct roster.

(h) Unused ballot cards, unless sealed in a separate container.

(8) All of the precinct election officers shall sign a certificate stating the following if it applies to the system being used in their precinct:

(a) The number of voters who voted as shown by the poll list.

(b) That the challenged and disable voter list is correct.

(c) That prior to opening the polls, each device was examined and found to be sealed with metal seals bearing the same number as certified by the county board of elections.

(d) That the ballot labels were in their proper places and conformed to the instruction ballots.

(e) That the position of candidate names and ballot numbers on the ballot labels was the same and appeared in the same position as indicated on the edit listing.

(f) That at the close of the polls, each device was examined and found to be sealed with the same numbers as verified at the opening of the polls and that the ballot labels were in their correct position.

(g) The number of ballot cards submitted for tabulation.

(h) That if the number of ballots being submitted for tabulation does not agree with the number of voters as indicated by the precinct roster, the discrepancy is noted in the remarks section of the precinct roster.

(i) That ballot cards with write-in votes have been identified to their corresponding ballot envelopes.

(j) That ballot cards required to be duplicated by the precinct election officers have been properly duplicated.

(k) That write-in votes if counted at the precinct have been properly recorded, that ballot cards, duplicated cards, and ballot envelopes used in the election have been placed in the transfer case and/or ballot box and that the case or box was securely sealed with an official metal seal in such a manner as to render it impossible to open the case without breaking the seal.

(l) The number of the seal used to seal the transfer case and/or ballot box.

(9) The precinct election officers shall either place the precinct roster in the envelope, seal it with a red paper seal, and deliver it with the transfer case or insert the precinct roster into the transfer case for delivery.

(10) If the space in one (1) transfer case is inadequate, a second transfer case or metal container of a type approved by the county board of elections for the storage of ballots shall be used and the sealing and security handled in the same manner as the transfer case.

(11) The transfer case shall be sealed with a metal seal in a manner as to render it impossible to open the case or insert or remove ballots without breaking the seal. The seal number shall be recorded in the certificate of the precinct election officers in the poll book.

(12) The poll book and the transfer case containing the required items shall be delivered by two (2) precinct election officers to the location designated by the clerk.

Section 16. Hanging Chads. (1) A ballot card with a hanging chad shall be processed by not less than two (2) precinct election officers of differing political party preference.

(2) A ballot card with a hanging chad shall be processed as follows:

(a) When a chad is found attached to the card by one (1) or two (2) corners, the chad shall be removed by the election officer and the ballot card placed with the other ballot cards to be tabulated.

(b) The vote will not be counted, when a chad is found attached to the card by three (3) corners, the number not punched shall be circled on the original card. The original ballot card shall then be placed in the envelope for "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON;" and the duplicate ballot card, if made, placed with the other ballot cards to be tabulated. A chad hanging by three (3) corners may be covered with a piece of correction tape instead of being duplicated. The originial ballot card, after being corrected, shall be placed with the other ballot cards to be tabulated.

Section 17. Processing Write-In Ballots. Write-in ballots shall be processed by not less than two (2) precinct election officers of differing political party preference.

Section 18. Duplication of Ballot Cards. (1) When a ballot card is duplicated, the duplication process shall be performed by not less than two (2) precinct election officers of differing political party preference.

(2) A duplicate ballot card shall be marked "DUPLICATE #_____." The number to be recorded on the duplicate card shall be the same identifying number recorded on the original card by the precinct election officer. The precinct number shall be recorded on the duplicate card.

(3) A duplicate ballot card shall be compared against the original ballot card to ensure that it has been accurately duplicated.

(4) An original ballot card which required duplication shall be placed in the envelope marked "ORIGINAL BALLOT CARDS FOR WHICH DUPLICATES HAVE BEEN MADE FOR ANY REASON." The duplicate ballot cards shall be placed with the ballot cards to be tabulated.

Section 19. Receiving Station. (1) At the option of the clerk in charge of the election, a transfer case and/or ballot box may be delivered by the precinct election officers to a receiving station instead of directly to the counting center. If a receiving station is used, the clerk shall appoint at least one (1) receiving board.

(2) The county board of elections in charge of the election shall determine the number of precincts which may be received by a receiving station (stationary or mobile).

(3) Upon receipt of the transfer case and/or ballot box from the precinct election officers, the receiving board shall verify that the seal number on the transfer case and/or ballot box is the same as that recorded by the precinct election officers.

(4) The receiving board shall issue a receipt for the transfer case and/or ballot box to the precinct election officers delivering the case. The receipt shall indicate in general terms the condition of the transfer case and be made in duplicate. The original copy shall be given to the precinct election officers delivering the transfer case and/or ballot box and the duplicate retained for delivery to the clerk in charge of the election.

(5) The receiving board shall deliver the transfer case and/or ballot box to the counting center.

(6) The transfer case and/or ballot box identification tag shall be attached to the transfer case or ballot box by the seal.

(7) The receiving station certificate section of the precinct roster shall read substantially as follows:

RECEIVING STATION CERTIFICATE

We hereby certify that the transfer case and/or ballot box properly sealed, for this precinct was received by the receiving board. The seal number agreed with the number recorded in the precinct roster.

We further certify that after examining the transfer case and/or ballot box the original seal was attached to the transfer case and/or ballot box.

Section 20. Canvass. (1) The county board of elections may, for reasonable cause, require the person who prepared the program to appear before the board, to bring documents pertinent to the program, and to answer questions relevant to the program.

(2) The county board of elections may, for reasonable cause, require the person having the custody of the program to appear with the program before the board. A board of canvassers may conduct a test to determine the accuracy of the program.

(3) After testing, if it is found that the program which was used to tabulate the ballots produced incorrect returns, a board of elections may require the person who prepared and supplied the program to correct the portions of the program found to be in error and submit to it a corrected program to be used to retabulate the ballots. In that event, an accuracy test shall be held under the direction of the board of elections at which time the corrected program shall be tested and certified as provided in these rules. The ballots of the precincts shall be retabulated using the corrected program in the same manner as prescribed. A board of elections may summon the certifying board which originally certified the returns to retabulate the ballots and make correct returns. The board of elections shall canvass the votes from the corrected returns.

(4) When an examination of documents or programs is completed or the ballots have been counted or retabulated, they shall be returned to the transfer case or containers and shall be sealed and delivered to their legal custodian. The number of the seal shall be recorded on a certificate to be filed with the clerk of the board of elections.

Section 21. Challengers/Party Inspectors. Challengers designated pursuant to KRS 117.315(5) may be at the counting center and a receiving station, including one (1)

challenger for each separate receiving, ballot inspection, duplicating and certifying board for each computer being used to tabulate the ballots.

Section 22. Counting Center; Election Inspectors; Appointment. (1) If a counting center is used, the county board of elections of a local unit of government using that counting center shall appoint not less than one (1) receiving board and one (1) certifying board.

(2) If the county owns the devices and supplies the program, and when more than one (1) local unit of government shares a computer center and a mutual agreement exists with the county, the county board of elections shall appoint not less than one (1) receiving board and one (1) certifying board. In this case, the county clerk shall be in charge of the counting center.

(3) The county board of elections may appoint a separate board for the purpose of examining, processing and duplicating ballot cards. The board shall consist of not less than two (2) members of differing political party preference.

(4) The county board of elections in charge of the computer counting center may appoint the same persons to the receiving, certifying and other boards.

(5) The county board of elections supplying the program shall appoint a person knowledgeable and capable of operating the computer on which the ballots shall be tabulated. They may, in addition, appoint another person to observe the operation of the computer. These persons shall be considered election officials. When more than one (1) local unit of government shares a computer and an agreement has been made with the county as provided, the county board of elections shall make the appointment.

(6) A member of the county board of elections which certifies all or part of the election shall not serve on any board established under this rule.

Section 23. Counting Center; Receiving, Tabulating and Certifying Ballots. (1) The county board of elections shall determine that the seal number on the container containing the programs, official test deck, and predetermined results agree with those recorded in the certificate of the accuracy board.

(2) The county board of elections shall test the program and computer as to accuracy prior to the tabulation of ballots and again after the last precinct has been counted, and shall certify the results. The accuracy test shall be conducted using the official test deck prepared under the direction of the county board of elections and certified by the accuracy board. The county board shall use the same test as was conducted by the accuracy board. The county board of elections shall ascertain that the results agree with the results as certified by the accuracy board. The computer results of the county board of elections accuracy test shall be identified as to date and time they were conducted. The county board of elections shall certify that the required tests have been performed. This certification shall be placed under seal with the program, test deck results, and other required materials and shall be delivered to the clerk in charge of the election.

(3) The county board of elections at least once during the tabulation of ballots must test the program and computer using the official test deck.

(4) A console log of the ballot tabulation shall be maintained and, at the completion of the count and accuracy test, certified by the computer operator and any observer appointed by the county board of elections. The console log shall be delivered to the clerk in charge of the election. If the computer used to tabulate the ballots is not capable of generating a console log, then a manual log of any abnormal events shall be maintained.

(5) Upon receipt of the transfer case and/or the ballot box from the stationary or mobile receiving board, the inspectors shall verify that the seal number on the transfer case and/or ballot box is the same as that recorded by the precinct election officers. The case or box shall then be opened and the computer center receiving board shall determine whether it contains ballot cards and other required items. A discrepency in the seal number or contents shall be noted and explained in the remarks section of the precinct roster by the election inspectors delivering the transfer case and/or ballot box.

(6) The computer center receiving board shall issue a receipt for the transfer case and/or ballot box to the election inspectors delivering the case. The receipt shall indicate in general terms the contents of the transfer case or box and shall be made in duplicate. The original copy shall be given to the inspectors delivering the transfer case or box and the duplicate retained for delivery to the clerk in charge of the election.

(7) The computer center receiving board shall place the metal seal with which the case was sealed inside the transfer case or ballot box. The receiving board shall complete the certificate in the poll book, which shall read substantially as follows:

RECEIVING BOARD CERTIFICATE

We hereby certify that the transfer case and/or ballot box, properly sealed, containing the ballot cards for this precinct was received by the counting center receiving board. The seal number agreed with the number recorded on the transfer case or ballot box identification tag and in the precinct roster.

(8) The computer center receiving board shall place the cards in a sealed file.

(9) The clerk in charge of the election, the designated representatives of the clerk, the observer appointed by the county board of elections, computer personnel, data processing installation employees, authorized challengers, and the certifying board shall be allowed in the immediate area of the computer. The immediate area of the computer shall be defined by the clerk, but the clerk shall provide the public with a means of observing the computer.

(10) The clerk in charge of the election or the designated representative of the clerk shall be present in the computer room until the count is completed and all items required to be sealed have been sealed.

(11) The certifying board shall determine if the number of ballot cards tabulated by the computer agrees with the number of ballot cards submitted by the inspectors as indicated by the poll book. If a discrepancy exists, the board shall endeavor to correct it. If the discrepancy cannot be resolved, a notation of the pertinent facts shall be made in the remarks section of the poll book.

(12) The certifying board shall complete and certify a statement of returns in duplicate. The certificate of the statement of returns shall read substantially as follows:

STATEMENT OF RETURNS CERTIFICATE

We hereby certify that this is a statement of votes cast in this precinct as indicated by the tabulating equipment and that upon completion of the count, all ballots were placed in the transfer case or ballot box, that the case was sealed with seal number _____, and that the seal number was recorded in the poll book.

(13) County board of election members may serve as members of the certifying board at the discretion of the clerk in charge of the election.

(14) Upon the completion of the count of a precinct, the ballot cards shall be returned to a transfer box or ballot box. The transfer case or ballot box shall be either secured by a metal seal or placed in a secured place so as to render it impossible to open the case or box, to insert or remove ballots without breaking the seal, or impossible to enter the secured area where the ballots are stored. If the transfer case or ballot box is identified as to political unit and precinct, the identification tag shall be placed in the transfer case or ballot box or attached to the case or box in some manner.

(15) The precinct statement of returns and precinct roster shall be delivered to the persons authorized by statute to receive them. If permitted by the clerk of the board of elections, precinct statements of returns from one (1) or more precincts and poll books may be included in a single envelope or package.

(16) The clerk in charge of the counting center may require that a manual count of one (1) or more proposals in a precinct be conducted by the certifying board prior to certification of the computer tabulated results for that precinct.

(17) If the manual count and the computer count tabulated results do not agree, the certifying board shall not certify the results until the discrepancy has been reconciled.

(18) After the last precinct has been counted and the final accuracy test has been conducted, the certifying board shall secure all programs, test decks, certified results of accuracy tests, and other related material in a metal container, or in a secured place that cannot be entered by anyone without authority to do so. If these documents are placed in a container, the container must be sealed and have a certificate, signed by the certifying board, attached to it describing the contents. If these documents are placed in a secured place other than a sealed metal container, a certificate shall be attached to the container and the secured place shall not be entered unless two (2) members of the county board of elections of differing political parties are present.

(19) The clerk in charge of the election shall secure the container containing the programs, test decks, accuracy test results, and other related materials, and the original edit listing until fifteen (15) days following the certification of the election if a recount has not been requested or until a date prescribed by the State Board of Elections.

(20) Ballots used at an election may be destroyed after fifteen (15) days following the final determination of the county board of elections with respect to the election, unless their destruction has been stayed by an order of the court. Ballots shall not be released for examination, review or research unless prior approval is obtained by the county board of elections.

BRADY A. MIRACLE, Executive Director
ADOPTED: September 20, 1982
RECEIVED BY LRC: September 23, 1982 at 3:30 p.m.

FINANCE AND ADMINISTRATION CABINET
Kentucky Board of Pharmacy
As Amended

201 KAR 2:160. Licenses; inactive status.

RELATES TO: KRS Chapter 315
PURSUANT TO: KRS 13.082, 315.065, 315.110, 315.120, 315.191(1)
EFFECTIVE: December 1, 1982
NECESSITY AND FUNCTION: Senate Bill 241 of the General Assembly, Commonwealth of Kentucky, Regular Session 1982, provided for changes in KRS Chapter 315. This necessitated requirements for licensees to be issued inactive status and for those who desire to apply for renewal of a license to return to active practice.

Section 1. A pharmacist may apply for inactive status by:
(1) Completing annual renewal application; and
(2) Paying annual fee for inactive status.

Section 2. Pharmacists maintaining an active license to practice in another state or jurisdiction are ineligible for inactive status in Kentucky.

Section 3. Pharmacists seeking relicensure from inactive to active status must fulfill the following requirements:
(1) If the pharmacist has been inactive for no more than *five (5)* [three (3)] consecutive years, he must:
(a) Provide written notice to the board requesting their consideration to active status. The board shall act upon such request within sixty (60) days.
(b) Satisfy the board's continuing education requirements for each year of inactive status.
(c) Successfully complete a jurisprudence examination given by the board.
(d) Pay all cumulative annual renewal fees required of active licensees.
(2) If a pharmacist has had inactive status for more than *five (5)* [three (3)] consecutive years, he must:
(a) Provide written notice to the board requesting their consideration to active status. The board shall act upon such request within sixty (60) days.
(b) Successfully complete a satisfactory examination before the board.
(c) Pay all cumulative annual renewal fees required of active licensees.

J. H. VOIGE, Executive Director
ADOPTED: September 15, 1982
RECEIVED BY LRC: October 13, 1982 at 4:25 p.m.

EDUCATION AND ARTS CABINET
Department of Education
Bureau of Administration and Finance
As Amended

702 KAR 3:030. Insurance requirements [on mortgaged buildings].

RELATES TO: KRS *160.105* [162.140, 162.300]
PURSUANT TO: KRS 13.082, 156.070[, 156.130, 156.160]
EFFECTIVE: December 1, 1982
NECESSITY AND FUNCTION: *KRS 160.105 directs the State Board of Education to require by regulation that each school district provide for fire and extended insurance coverage on non-surplus buildings, at not greater than replacement cost but allowing for co-insurance and deductible features. This regulation implements that function by providing for a level of insurance coverage on school district buildings and/or structures sufficient to protect both the local school districts and any school revenue bond holders, as their interests may appear.* [To provide protection to holders of school building revenue bonds.]

Section 1. Each local board of education shall *submit* [report annually]to the Superintendent of Public Instruction *for his approval, not less than sixty (60) days nor more than 120 days prior to the date of awarding insurance coverage,* [on the Annual Financial Report, Department of Education, Form F-55,] *a schedule of values which reflects the estimated replacement cost, actual cash values, and* the amount of *fire and extended* insurance provided for each building *and its contents owned by the local board of education which is not surplus to its needs as shown by the approved facilities plan. Each such building and its contents shall be insured for an amount equal to 100 percent of the replacement cost thereof as shown on the aforesaid schedule of values, and each policy covering such buildings and contents shall provide an agreed amount endorsement [verified by an appraisal of the building by the insurance carrier.] Despite the required insuring of individual buildings and contents at 100* of replacement cost, a blanket limitation on an insurance carrier's liability per occurrence may be approved by the Superintendent of Public Instruction if an individual district's schedule of values exceeds $100,000,000 and if the blanket limitation equals at least $100,000,000 and, in addition, at least fifty (50) percent of total replacement costs as reflected by the accrued schedule of values.* [which has been mortgaged for the security of outstanding revenue bonds. The amount of insurance coverage provided for each mortgaged building shall be at least an amount equal to the amount of the revenue bonds outstanding against the school building.]

Section 2. Insurance on property specified in Section 1 shall be provided by carriers licensed to do business in the State of Kentucky and shall have features that [at least] provide for a minimum of eighty percent (80%) co-insurance, a per occurrence deductible on all perils not to exceed $2,500 and a replacement cost endorsement.

Section 3. Buildings requiring insurance and containing steam boilers shall have boiler and machinery coverage having a limit of liability equal to the total value of the real and personal property in the building in which the steam boiler is located.

Section 4. School districts may cover property in a self-insurance pool providing coverage at least equal to the standard of coverage specified in Sections 2 and 3. Such a self-insurance pool must be adequately reinsured by a carrier(s) approved to do business in the state of Kentucky and must provide facilities for insuring all of the property of an individual district to which this regulation applies.

Section 5. In the event a school building cannot be insured on a replacement cost basis, the policy insuring the building shall carry an agreed amount endorsement, and a certification signed by the local superintendent and board chairman shall be attached to the policy stating that it would not be fiscally responsible to provide replacement cost coverage for the building being insured.

Section 6. Insurance coverage provided for in Sections 2 and 3 shall be obtained by local school districts by bids submitted on standard bid forms provided by the Superintendent of Public Instruction after having advertised for bids, where bids are required by KRS Chapter 45A or 424 as applicable.

RAYMOND BARBER
Superintendent of Public Instruction
ADOPTED: September 14, 1982
RECEIVED BY LRC: September 15, 1982 at 4 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
As Amended

806 KAR 9:060. Identification cards.

RELATES TO: KRS 304.9-390
PURSUANT TO: KRS 13.082, 304.2-110
EFFECTIVE: December 1, 1982
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation *permits* [requires] agents and solicitors to have identification cards.

Section 1. *(1)* Every agent and solicitor *licensed pursuant to KRS Chapter 304.9 may obtain from the commissioner* [who solicits business outside the confines of his principal place of business shall have upon his person] an identification card issued by the Department of Insurance indicating that he is a qualified insurance representative in Kentucky.

(2) Insurance agents and solicitors who obtain identification cards pursuant to this regulation shall pay to the commissioner in advance a fee of five (5) dollars per application for each card.

(3) The purpose of identity cards obtained pursuant to this regulation is to identify insurance agents and solicitors as qualified insurance representatives while soliciting outside of their principal places of business.

DANIEL D. BRISCOE, Commissioner
ADOPTED: October 13, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: October 15, 1982 at 12:45 p.m.

Amended After Hearing

(Republished prior to Subcommittee consideration as required by KRS 13.085(4).)

ENERGY AND AGRICULTURE CABINET
Department of Agriculture
Division of Weights and Measures
Amended After Hearing

302 KAR 35:060. Contracts.

RELATES TO: KRS 251.480
PURSUANT TO: KRS 13.082, 251.420
NECESSITY AND FUNCTION: Establishes the minimum provisions for forward pricing and storage contracts used by grain storage establishments licensed under KRS Chapter 251.

Section 1. (1) All contracts under which grain is [stored or] sold on a forward pricing (delayed pricing) basis shall be in writing and in a form approved by the Kentucky State Department of Agriculture, Division of Weights and Measures. Such forms shall at a minimum provide:

(a) Terms sufficient to comply with relevant requirements of KRS Chapter 355.

(b) The following language in bold type not less than twelve (12) points in size located on the face of *all forward pricing (delayed pricing)* [the] contracts:

"In selling commodities under this agreement, I, the seller, fully understand that I am transferring title to the undersigned buyer upon delivery, and that after delivery I *may be held to be* [am] an unsecured creditor of the buyer for the market value of commodities so delivered until the price is established and settlement is completed. If the buyer defaults in his obligation for settlement I *may be held to be* [am] a common unsecured creditor of the buyer for the value of commodities not settled for."

(2) Forward pricing (delayed pricing) contract means a contract used between a producer and a buyer of grain, soybeans, and oilseed which provides that title to the commodity passes with delivery to the buyer and that payment will be in the form of a sum certain or a sum determined later to be due and payable in the future at a time certain or a time to be specified.

Section 2. Contracts for the cash sales of grain, soybeans and oilseed by a producer to a buyer, other than the contract described in Section 1(2) shall at a minimum specify the type, grade and quantity of grain, soybeans and oilseed sold under the contract and clearly disclosed the time and method of payment and the time that title to such grain, soybeans and oilseed passes from the producer to the seller.

Section 3. [(2)] Applicants for a grain storage establishment license or renewal of a grain storage establishment license shall submit with the application all forms of contracts used by the grain storage establishment for storage or forward pricing (delayed pricing) of grain unless the only contracts utilized for storage or forward pricing (delayed pricing) of grain are standard forms approved and supplied by the Kentucky Department of Agriculture.

Section 4. [(3)] A grain storage establishment may store grain, *soybeans and oilseed* under a warehouse receipt as defined in KRS 355.7-101 et seq. without such prior approval of such contract or receipt.

Section 5. Contracts for the storage of grain, soybeans and oilseed shall at a minimum identify the type, grade and quantity of grain, soybeans and oilseed stored under the contract and disclose all charges that will be or may be applied to such stored grain, soybeans and oilseed and any time limitations specified in the contract period.

Section 6. [(4)] A grain storage establishment may until June 30, 1983, comply with the provisions of *Section 1(1)(b) of this regulation* [paragraph (b) of subsection (1)] by attaching *securely* [security] to the statement required in *Section 1(1)(b) of this regulation* [paragraph (b) of subsection (1)] to a preprinted contract otherwise approved by the department under the provisions of *Section 1(1)(a) of this regulation* [paragraph (a) of subsection (1)].

Section 7. [(5)] Forms appended hereto are approved for use in storage or forward pricing (delayed pricing) of grain and need not be submitted for approval.

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 2:30 p.m.

(See Appendix A on the following page)

APPENDIX A

DELAYED PRICE AGREEMENT

DATE: _____ Agreement No. _____

Commodities under agreement: _____

It is hereby agreed that I, the undersigned seller, may from time to time, by my own choice, sell and deliver to the undersigned buyer, agricultural commodities as listed above, on which the price is to be established at a later date. I pledge that the commodities delivered pursuant to this agreement shall be free of any lien or encumbrance.

In selling commodities under this agreement, I, the seller, fully understand that I am transferring title to the undersigned buyer upon delivery, and that after delivery I am a creditor of the buyer for the market value of commodities so delivered until the price is established and settlement is completed. If the buyer defaults in his obligation for settlement I am a common (unsecured) creditor of the buyer for the value of commodities not settled for.

Upon demand by the seller, the buyer is obligated to pay his regular bid price upon the date of demand for the commodities being priced by the seller which have been delivered under this agreement, less any service charge which is due and payable to the buyer. The buyer shall pay the same price as he is bidding for like commodities being delivered to him for sale on that date by other sellers.

For services rendered in connection with this agreement the seller shall be liable to the buyer for delayed price charges as printed on the back of the scale ticket.

Each scale ticket, which is marked for delayed price, hereby becomes a part of this agreement.

_____	_____
Seller	Buyer
_____	_____
Address	Address
_____	_____
Authorized Signature	Authorized Signature

ENERGY AND AGRICULTURE CABINET
Department of Agriculture
Division of Weights and Measures
Amended After Hearing

302 KAR 35:070. Bookkeeping.

RELATES TO: KRS 251.480
PURSUANT TO: KRS 13.082, 251.420
NECESSITY AND FUNCTION: The General Assembly enacted legislation in 1982 which requires all grain storage establishments to utilize the bookkeeping system approved by the Department of Agriculture. This regulation implements that law.

Section 1. All books and records of grain storage establishments located within the Commonwealth of Kentucky and licensed by the Commonwealth of Kentucky *be* [must] maintain*ed* [all books and records] utilizing generally accepted accounting principles as determined by generally accepted auditing standards.

Section 2. The books and records of grain storage establishments maintained under these regulations shall accurately state, if any, the liens or encumbrances upon grain *owned by the grain storage establishment, including all grain held under a delayed pricing contract.*

Section 3. A grain storage establishment shall furnish the Department of Agriculture annually a financial statement certified by the owner or an officer of the grain storage establishment as accurately disclosing the financial condition of the establishment.

Section *4.* [3.] *Upon request* a grain storage establishment located within and licensed by the Commonwealth of Kentucky shall furnish the Department of Agriculture [, as an attachment to its application for licensure or renewal licensure,] a [certified] financial statement *in a form specified by the department* [accurately disclosing the financial condition of the grain storage establishment].

Section *5.* [4.] A grain storage establishment located

within and licensed by the Commonwealth of Kentucky, where grain is sold under a forward price (delayed pricing) contract shall post at or near any scale used to weigh grain received for purchase, a notice describing the legal rights of the seller which shall be provided by the Department of Agriculture.

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 2:30 p.m.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
Amended After Hearing

401 KAR 2:180. General planning and management provisions for solid waste.

RELATES TO: KRS *109.011, 109.041, 109.071, 109.190, 224.005,* [224.255,] *224.835, 224.842,* [224.880,] 224.887, 224.888
PURSUANT TO: KRS 13.082, [109.190, 224.005(37),] 224.033, *224.868,* 224.886, 224.887
NECESSITY AND FUNCTION: KRS 224.033(24), 224.886, and 224.887 require the Natural Resources and Environmental Protection Cabinet to adopt regulations for counties, combinations of counties and waste management districts in creating solid waste management areas for the purpose of planning for solid waste management and recovery activities. This regulation defines essential terms and sets forth general provisions which apply to all counties, combinations of counties and waste management districts seeking designation as solid waste management areas. *This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.*

Section 1. Applicability. *(1)* The solid waste management planning regulations shall apply to all counties, combinations of counties, urban-county governments and waste management districts.

(2) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations as provided in KRS 109.041(4).

Section 2. Definitions. Unless otherwise defined in this section, the definitions in 401 KAR 2:050 shall apply. Whenever the following terms appear in the Solid Waste Management Planning Regulations (401 KAR 2:180 to 2:190) unless context requires otherwise, they shall have the meanings given in this section. *Statutory definitions in this section have the statute citation after the definition.*

(1) "Action of the fiscal court" means any action or deed, including but not limited to a resolution or ordinance, which legally binds a fiscal court or, in the case of an urban-county government, the body in which chief legislative power is vested.

(2) "Agreement" means a legally binding document or contract evidenced by a writing which establishes a waste management district or a proposed solid waste management area. The agreement may be between a single county, or two (2) or more counties, and an agency or office which has been assigned responsibility for area plan development by a fiscal court.

(3) "Area solid waste management plan" or "area plan" means the plan required by KRS 224.888 which sets forth a comprehensive program of solid waste management developed for implementation at the local government level.

(4) "Collection" means the gathering of solid wastes at or near the source of generation. Sources of generation include, but are not limited to, residences, commercial establishments, institutions, and industrial plants.

(5) [(4)] "Designation as a solid waste management area" or "designation" means the approval from the cabinet of the application for designation as a solid waste management area as specified in 401 KAR 2:190.

(6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters (KRS 224.005(8)).

(7) [(5)] "Implementation" means the actual performance of planned activities.

(8) [(6)] "Kentucky Waste Management Plan" means the comprehensive, statewide solid waste management plan submitted to and approved by the U.S. Environmental Protection Agency.

(9) [(7)] "Planning periods" means the intervals of time designated for the accomplishment of area solid waste management planning goals:

(a) "Short-term" means the planning period from the first through the fifth year after the most recent plan revision.

(b) "Mid-term" means the planning period from the sixth through the tenth year after the most recent plan revision.

(c) "Long-term" means the planning period from the eleventh through the twentieth year after the most recent plan revision.

(10) "Processing" means any solid waste material recovery, energy recovery, incineration, pulping, shredding, baling, compacting, any other method or technique to alter the physical or chemical composition of the solid waste, or any combination thereof.

(11) [(8)] "Regional" means of or pertaining to more than one (1) county.

(12) "Resource conservation" means reduction of the amounts of solid waste that are generated, reduction of overall resource consumption, and utilization of recovered sources.

(13) [(9)] "Revision" means an amendment to any part of an application for area designation, including the approved area plan, required by the cabinet. The cabinet shall require a revision upon determining that deficiencies exist in the application for area designation or the area plan or upon finding that the approved area plan is not being implemented.

(14) [(10)] "Solid waste activity" or "activity(ies)" means any manner of solid waste management including collection, source separation, storage, transportation, transfer, processing, treatment and disposal.

(15) "Source separation" means the act by which a person sorts the solid waste to make the solid waste amenable for material recovery.

(16) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes (KRS 224.055(21)).

(17) [(11)] "Substantial revision" means a revision to an application for area designation which will significantly affect the plan, including but not limited to changes to local laws and regulations; delays in implementation; reordering or other changes to established, approved priorities; changes to the acquisition schedule for solid waste management activities or facilities; or changes in budgeting that will delay or prohibit implementation of the area plan.

(18) "Transfer" means any off-site movement of solid waste by any mode and any loading, unloading or storage incidental thereto, or any movement of solid waste to a larger receptacle.

(19) "Transportation" means any off-site movement of solid waste by any mode, and any loading, unloading, or storage incidental thereto once the collection vehicle is ready to move the solid waste to any facility.

(20) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous (KRS 224.055(23)).

Section 3. Notification of Intent to Apply for Area Designation. (1) Identification of lead agency. Application for designation as a solid waste management area must conform to the requirements in 401 KAR 2:190, Designation as a solid waste management area. After a county decides to join with another county or counties or to independently submit an area plan, the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested, or such other office or agency responsible for area plan submittal shall notify the cabinet in writing within forty-five (45) days of the effective date of this regulation of the intent to apply for area designation. The cabinet will transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area. The notification shall state:

(a) Whether the county or counties are acting independently, jointly or as a waste management district;

(b) The agency which will have primary responsibility for plan development;

(c) The name and title of a designated contact person; and

(d) The name and title of each person who is on the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested or such other agency or office assigned responsibility for plan development.

(2) Changes to information submitted. Should a county, counties or waste management district decide to enter into a new agreement or amend, modify, or dissolve an existing agreement, the cabinet shall be notified in writing within thirty (30) days of such decision. The cabinet shall transmit copies of the notification to all counties in Kentucky contiguous to the proposed solid waste management area.

Section 4. Establishment of Waste Management Districts. (1) Garbage and refuse districts. Garbage and refuse districts established pursuant to KRS Chapter 109 prior to June 17, 1978 shall be deemed waste management districts by the cabinet pursuant to KRS 109.190. Garbage and refuse districts which elect to be considered waste management districts shall petition the cabinet by submitting the information required in Section 3 of this regulation. Upon approval of the petition by the cabinet, the name of the garbage and refuse district will be changed to reflect the new status as a waste management district. An existing garbage and refuse district may dissolve the district to apply for designation as a solid waste management area independently or in conjunction with any county.

(2) Formation of waste management districts. A single county or two (2) or more counties which elect to become a waste management district under KRS 109.071 shall notify the cabinet. In addition to the notification required by Section 3 of this regulation, the waste management district shall submit:

(a) The agreement which establishes the district;

(b) The rules, regulations, by-laws or other documents which govern the actions of the board of directors; and

(c) A list of the members of the board of directors and their official titles.

The cabinet will confirm receipt of the notification in writing to the individual identified as the contact person.

Section 5. Requests for Information. (1) Documents provided by the cabinet. A county, group of counties or waste management district may request copies of documents prepared by the cabinet to assist local governments in preparing the area plan. The cabinet will provide at no charge one (1) copy of each document listed in subsection (2) of this section to the fiscal court of each county, board of directors or other duly authorized office or agency. Additional copies will be provided upon request, at cost.

(2) Documents available. The following documents may be requested:

(a) Kentucky Solid Waste Management Regulations;

(b) Kentucky Solid Waste Management Planning Regulations;

(c) Guidelines for Landspreading;

(d) Kentucky Waste Management Plan; and

(e) Kentucky Solid Waste Management Plan-Executive Summary for the Area Development District which contains the county or two (2) or more counties joined by agreement or which contains a solid waste management district.

(3) Additional information available.

(a) The cabinet may provide access to computerized data on solid waste management in each county at cost to the fiscal court of each county, the waste management district or the office or agency assigned responsible for area plan development. A request for data services shall be in writing on a form provided by the cabinet. Processing of data requests will be subject to the discretion of the cabinet.

(b) The cabinet will provide, upon request by any person, agency or office, copies of the documents listed in subsection (2) of this section at cost. A request for documents shall be submitted in writing to the cabinet.

JACKIE SWIGART, Secretary

ADOPTED: December 15, 1982

RECEIVED BY LRC: December 15, 1982 at 1:45 p.m.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
Amended After Hearing

401 KAR 2:185. Submission of area plan.

RELATES TO: KRS *109.011 to 109.280,* [224.255,] *224.835, 224.842,* [224.880,] 224.887, 224.888
PURSUANT TO: KRS 13.082, [109.012(11), 224.031,] 224.033, 224.887
NECESSITY AND FUNCTION: KRS 224.887 authorizes the cabinet to promulgate regulations consistent with the statewide plan and KRS 109.011(11) requires waste managment districts and solid waste management areas to comply with standards set by regulations promulgated by the cabinet. This regulation identifies the criteria for area plans and establishes submission requirements. *This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.*

Section 1. Applicability. Each county is responsible for preparing, adopting, maintaining, updating and implementing a comprehensive, coordinated area solid waste management plan. A county, counties, urban-county government or waste management district shall prepare the area plan in accordance with the requirements of this regulation. [The area plan and certification of its adoption by the fiscal court and each of the applicable political subdivisions shall accompany the application for designation as a solid waste management area as required by 401 KAR 2:190.]

Section 2. Scope of the Area Solid Waste Management Plan. (1) The area plan shall address all solid waste management issues in the proposed area that may cause potential adverse effects on health or the environment or provide opportunity for resource conservation or resource recovery. It is not intended that detailed engineering design of specific activities or facilities be integrated into the plan, rather the plan shall provide sufficient analysis to evaluate alternate means of managing the proposed area's solid waste in accordance with all applicable laws and regulations.

(2) The area plan shall include all incorporated and unincorporated areas in each county and shall identify and reference solid waste management activities and plans already being implemented by cities within the proposed area.

(3) The area plan shall establish and justify priorities and timetables for actions. These priorities shall be based on the current level of solid waste management planning and implementation within the proposed area; the identification and extent of the solid waste management deficiencies; the health, environmental and economic impacts of such deficiencies; and the resources and management approaches available.

(4) The area plan shall establish an orderly procedure for achieving the objectives of KRS Chapters 109 and 224, meeting the requirements of the solid waste management regulations, and demonstrating conformance with the Kentucky Waste Management Plan. This procedure shall specifically describe the activities to be undertaken, including detailed schedules and milestones in accordance with Section 4(5) and (6) of this regulation.

(5) The area plan shall cover a minimum of twenty (20) years from the date submitted to the cabinet for approval.

(6) The area plan shall identify existing legal authority for solid waste management within the proposed area, and shall identify modifications or additions to existing legal authority necessary to meet the requirements of this regulation.

Section 3. Facility Planning and Implementation. (1) Requirements for assessing needs. The area plan shall provide for resource conservation and recovery, storage, treatment and disposal activities and facilities necessary to dispose of solid waste in compliance with all applicable laws and regulations.

(a) In meeting the requirement for resource conservation and recovery, storage, treatment and disposal activities and facilities, the area plan shall provide for an assessment of the adequacy of existing activities and facilities and the need for new, improved or expanded activities and facilities.

(b) The needs assessment shall be projected for a minimum of twenty (20) years, and shall be developed according to the following planning periods:

1. Short-term shall contain measures specific enough for implementation on an annual basis;
2. Mid-term shall contain objectives and measures sufficiently detailed to show feasibility; and
3. Long-term shall contain objectives and measures which shall be general and goal-oriented.

(c) The needs assessment shall include the requirements of KRS 224.888(2), (4) and (6).

(2) [Recommendations for] Assuring facility development.

(a) The proposed solid waste management area shall survey the solid waste management activities and facilities within its boundaries and prepare a plan consistent with the Kentucky Waste Management Plan. This survey shall include all existing solid waste management activities and facilities, taking into consideration projected population growth, existing and projected solid waste generation, existing land development regulations and overall management activities including organization, financing and regulatory capabilities. The area plan should address facility planning and acquisition for all areas which are determined to have insufficient resource recovery, storage, treatment and disposal capacity.

(b) Where facilities or activities are determined to be inadequate or unnecessary, the area plan shall provide for adequate and necessary activities or facilities to be developed.

(c) The area plan shall reflect compliance schedules which shall eliminate all existing open dumps by July 15, 1985, as required by KRS *224.835* [224.255].

(d) The area plan shall provide for procedures to determine which facilities shall be given priority for technical, financial, or other assistance or other changes or modifications. Highest priority shall be given to facilities developed to replace or upgrade open dumps.

Section 4. Contents of Area Plan. The area plan shall document these policy decisions made by the solid waste management area, and any revision or update should address itself to the following information elements:

(1) A demographic study showing current and projected

population density of the county or counties in the plan area. The study shall use current, published data from the Urban Studies Center, University of Louisville, including:

(a) Current and projected population centers for five (5), ten (10), and twenty (20) year periods; and

(b) Identification of current and projected centers of waste generation, including industrial wastes, for five (5), ten (10), and twenty (20) year periods.

(2) An estimate of the future needs for solid waste management activities and facilities in the proposed solid waste management area. *The estimate shall include the projected volumes of residential, commercial and industrial wastes to be generated within the solid waste management area currently and as projected five (5), ten (10) and twenty (20) years beyond the current projection. Further, the estimate shall provide a general discussion of other solid waste streams, such as institutional solid wastes, construction and demolition debris, and problem wastes, and describe their effect on the proposed area plan.* [The estimate of future needs shall include projections of the sources, types and quantities of solid waste generated within the proposed solid waste management area through the short-term, mid-term and long-term planning periods. Types of solid waste to be addressed include:]

[(a) Residential and commercial wastes;]

[(b) Institutional wastes, such as school and hospital wastes;]

[(c) Industrial wastes;]

[(d) Problem wastes, such as tires, automobiles, appliances, liquids and semi-liquids;]

[(e) Construction and demolition debris.]

(3) An inventory and description of all existing solid waste management activities and facilities including administrative practices, fees and charges, and the identity, location, size and life expectancy of all existing facilities in the proposed area. The inventory and description shall, *where applicable*:

(a) Address each of the following aspects of solid waste management:

1. Resource conservation;
2. Source separation;
3. Collection;
4. Transportation;
5. Storage;
6. Transfer;
7. Processing (including resource recovery);
8. Treatment; and
9. Disposal.

(b) Include an inventory of deficiencies, if any, of each activity or facility in meeting the existing short-term, mid-term and long-term solid waste management needs within the plan area.

(4) A statement of the ability of existing *and future* solid waste management activities to comply with all applicable laws and regulations.

(5) The plan shall state the [short-term,] mid-term and long-term solid waste management objectives and priorities for the area. Such objectives shall be consistent with state policy and based on an analysis of deficiencies in the existing waste management activities and facilities; need for new activities and facilities to handle projected waste volumes; and the ability to comply with all applicable laws and regulations. [Short-term objectives shall be specific enough for implementation on an annual basis through the first five (5) years. Mid-term objectives shall show feasibility; long-term objectives may be more general.]

(6) A detailed schedule and description of activities to be undertaken.

(a) Description of activities. [The description of activities to be undertaken shall address short-term, mid-term and long-term objectives identified in subsection (5) of this section. Descriptions shall include an evaluation of alternative strategies and an explanation of the selection process. The description of actitivies shall contain:]

1. Resource conservation. It is the state's goal to reduce the amount of waste generated. The plan shall describe any activity, ordinance or other means that the area will take to minimize the amount of waste generated.

2. Storage. The plan shall identify those regulations and ordinances which provide for proper, safe and sanitary storage on the sources' property while awaiting collection, processing or disposal. The plan should include criteria for safe and effective waste storage.

3. Collection and transportation. The plan shall analyze the means of collecting and transporting solid wastes to disposal facilities. Information shall include if applicable:

a. Designation of service areas served through franchises, permits, contracts and/or governmental services.

b. Level of service, charges and fees.

c. Means of collection and transportation.

d. Ultimate destination of collected wastes.

e. Description of proposed transfer stations.

4. Processing and treatment. The plan shall describe any proposed or existing solid waste processing or treatment facilities to be utilized.

5. Disposal. The plan shall describe the method by which solid wastes are to be disposed.

a. Where existing disposal facilities are deemed adequate through the short-term planning period, the plan shall reference the description provided in subsection (3)(a)9 of this section.

b. Where the existing disposal facility is assessed as having a life expectancy less than five (5) years or where no permitted facility is currently available to the area, the plan shall describe the strategy that will be undertaken to develop a new facility. A general description of disposal needs shall be provided based on projected waste volumes, sources and types. The plans shall outline a siting procedure and development program to assume the orderly location, development and financing of new or expanded solid waste disposal facilities.

c. The plan shall identify those solid waste management facilities which will be phased out in the short-term planning period.

[1. A description of the storage and collection system, including:]

[a. A description of waste storage containers;]

[b. A description of collection services;]

[c. A map of service area boundaries and an indication of the number of people served; and]

[d. The level of service, charge and fees for each identified service area.]

[2. A description of the transportation system and ultimate destination of collected wastes, including:]

[a. Collection and transportation equipment used;]

[b. The capacity and location of temporary storage areas; and]

[c. The number and location of transfer stations.]

[3. A description of all proposed solid waste processing or treatment facilities including:]

[a. Material recovery;]

[b. Energy recovery;]

[c. Incineration;]

[d. Pulping;]
[e. Shredder/baler operations;]
[f. Compaction;]
[g. Any other facility.]
[4. A description of all proposed solid waste disposal facilities including for each facility:]
[a. Type of facility;]
[b. Estimated sources and quantities of waste to be managed;]
[c. Estimated site acreage and classification;]
[d. Estimated capacity of the facility in years and yards, where applicable; and]
[e. Approximate location.]
6. [5.] *City implemented activities.* A description of the relationship between the proposed area and those waste management activities currently being implemented by cities within the proposed area.

(b) Detailed schedule. A detailed description of actions to be implemented through the short-term planning period shall be provided. A schedule shall be provided indicating those actions to be implemented on an annual basis. Actions include, but are not limited to:

1. Administrative programs;
2. Purchase of equipment or land;
3. Obtaining required state and federal permits;
4. Modifications or additions to local laws and regulations;
5. Commencement of new or expanded activities; and
6. Selection of sites for facilities.

(c) Financing plan. A detailed description of the short-term costs of the plan, including a capital construction budget, shall be provided. The plan shall indicate the means by which the plan will be financed.

(7) A description of any proposed resource recovery plan or activity. It is the goal of the Commonwealth to reduce the amount of wastes disposed at landfills and maximize resource recovery. The plan shall give a high priority to the recovery of resources through recycling, source separation or energy recovery. The plan shall include:

(a) An analysis of the feasibility for new, improved or expanded materials or energy recovery activities or facilities. Current and projected per ton costs associated with collection and disposal activities shall be compared to per ton costs of alternative resource recovery activities; and

(b) Specific analysis to support the conclusion, where resource recovery and source separation activities are not adopted.

(8) A description of the comprehensive land use plan of the county, [or] counties *or city(ies)*, if such a plan exists, and a description of the relationship of the area plan to the comprehensive land use plan.

(9) Identification of modifications or additions to local laws and regulations necessary to implement the area plan. This identification shall include evaluating legal authority for conformance with the Kentucky solid waste management regulations and identifying how local regulations will be enforced.

Section 5. Preliminary Review. Prior to approval by the fiscal court(s) or, in the case of an urban-county government, the body in which chief legislative power is vested, a draft area plan shall be submitted to the cabinet for preliminary review. A preliminary review shall be conducted to determine the plan's compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

(1) Preliminary approval of the draft area plan. Upon finding that the draft area plan is in compliance with the Kentucky Waste Management Plan and all applicable laws and regulations, the cabinet shall issue a written preliminary approval of the draft area plan. The preliminary approval shall state that the cabinet has reviewed the plan and finds the plan acceptable. The preliminary approval may condition final approval of the area plan and designation as a solid waste management area upon corrections or amendments to the draft area plan. *The cabinet will make a draft determination to approve or deny the preliminary application or will establish a schedule for draft approval/denial within sixty (60) days of submittal.* Upon receipt of preliminary approval of the draft area plan, the draft area plan shall be approved by the fiscal court(s) or, in the case of an urban-county government, the body in which chief legislative power is vested prior to submittal of the application for designation as a solid waste management area.

(2) Request for revisions to the draft area plan. Upon finding that the draft area plan is not in compliance with the Kentucky Waste Management Plan and all applicable laws and regulations, the cabinet will notify the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested, or the assigned office or agency, of the plan deficiencies. If the deficiencies in the draft area plan are substantial or significant, the cabinet may, in lieu of a list of deficiencies, present a course of action to the fiscal court(s), board of directors or, in the case of an urban-county government, the body in which chief legislative power is vested or the office or agency which could expedite the submission of an acceptable area plan. *The cabinet will notify the fiscal court of necessary revisions or establish a schedule for notification within sixty (60) days of submittal of the draft area plan.*

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 1:45 p.m.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
Amended After Hearing

401 KAR 2:190. Designation as a solid waste management area.

RELATES TO: KRS *109.011 to 109.280,* [224.255, 224.880] *224.835, 224.842,* 224.887, 224.888
PURSUANT TO: KRS 13.082, [109.012(11), 224.031,] 224.033, 224.887
NECESSITY AND FUNCTION: KRS 224.887 requires the cabinet to promulgate regulations for counties and waste management districts in creating solid waste management areas. This regulation identifies the criteria for receiving designation as a solid waste management area. *This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.*

Section 1. Application for Designation as a Solid Waste Management Area. All counties shall apply to the cabinet

for designation as a solid waste management area. The application may be made by a single county, two (2) or more counties or a waste management district and shall be on a form provided by the cabinet. The application shall include:

(1) Name of the proposed area;

(2) Name and address of the primary agency responsible for area plan development;

(3) Name, address and telephone number of the individual identified as the contact person for the primary agency;

(4) Copies of actions of each fiscal court establishing the proposed solid waste management area, modifying local legal authority or significantly affecting solid waste management planning;

(5) The agreement or contract establishing the proposed area, if applicable;

(6) The proposed rules, regulations or by-laws governing the proposed area;

(7) A list of the members of the fiscal court(s) or board of directors, or, in the case of an urban-county government, the body in which chief legislative power is vested, and their titles, if appropriate;

(8) A map of the proposed area drawn to scale of at least 1:125,000;

(9) *The certification by each fiscal court in the proposed area that all cities were notified of the availability of the plan and that all cities were allowed adequate comment period as specified in Section 4(1) of this regulation.* [A listing of the political subdivisions within, and the boundaries of, the proposed solid waste management area;]

(10) A copy of the public notice required under Section 4(1) of this regulation for area plan adoption;

(11) A description of the *general* administrative process to implement the plan which shall include budgeting, enforcement, planning, public information, management and operation of the waste management activities or facilities proposed *and shall identify agencies or persons charged with implementation*; and

(12) The area plan prepared in accordance with 401 KAR 2:185; Submission of area plan.

Section 2. Designation as a Solid Waste Management Area. (1) Approval of the application. The cabinet shall review the information submitted pursuant to Section 1 of this regulation to determine whether the application and area plan are consistent with the Kentucky Waste Management Plan and in compliance with all applicable state laws and regulations. If the information is in compliance, the cabinet will approve the application in writing within thirty (30) days.

(2) Rejection of the application. Rejection of the application shall be in writing and accompanied by a list of deficiencies which, if corrected, would justify approval of a revised area plan. If the deficiencies in the area plan are substantial or significant, the cabinet may, in *addition to* [lieu of] a list of deficiencies, present a suggested course of action to the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which chief legislative power is vested, or the assigned office or agency, which could assist in development of an acceptable area plan.

Section 3. Duration of Designation. Unless otherwise specified as a condition for designation as a solid waste management area, designation as a solid waste management area will be for a term not to exceed twenty (20) years. Redesignation as a solid waste management area shall be based upon the review conducted in accordance with Section 5 of 401 KAR 2:185 and Section 2 of this regulation, or upon a revision to the area plan in accordance with Section 4 of this regulation. If the county, counties or waste management district(s) of a designated area amends, modifies, or dissolves the agreement establishing the area, the cabinet shall be notified in writing no later than thirty (30) days after such action. Each county or counties from a dissolved solid waste management area shall submit a revised proposed area plan, approved by the fiscal court of the county or counties within the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, within six (6) months of the date of dissolution of the area. The cabinet will review the notification of amendment or modification of an agreement and make a written determination as to whether the county or counties shall submit a revised area plan. Failure to comply with the provisions of this section regarding revision of the area plan may be grounds for revocation of area designation.

Section 4. Area Plan Adoption and Revision. Prior to applying for designation as a solid waste management area, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, shall hold a public hearing or meeting to approve the application for designation as a solid waste management area and the proposed area plan.

(1) Public hearings or meetings. The fiscal court of each county in the proposed area shall hold at least one (1) public hearing or meeting prior to adopting or approving the application for designation as a solid waste management area, area plan or a substantial revision to the area plan. *The cabinet recommends that* each comment received [shall] be evaluated and *that* a written response *be prepared. A transcript or a summary of the comments received and the consideration of comments, if prepared,* shall be made available to the members of the fiscal court of each county in the proposed area and the board of directors, if applicable, prior to adoption or approval of the application for designation as a solid waste management area or area plan. Copies of the comments and *any* [the] consideration of comments shall be made available to the public through public libraries, public offices, individual copies, or any similar means, and shall be available to the cabinet upon request. *In addition, each fiscal court in the proposed area shall:*

(a) Notify each city which is located within the county of the availability of the proposed area plan;

(b) Allow adequate time to receive and review comments from the cities; and

(c) Certify that all cities have been notified.

(2) Approval by the county. The fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which chief legislative power is vested, shall approve the application for designation as a solid waste management area and the area plan. Approval shall not take place prior to a public hearing or meeting on the application for designation as a solid waste management area, the proposed area plan or substantial revision as required by subsection (1) of this section. Approval of an application for designation as a solid waste management area, proposed area plan or revision shall be by resolution and shall state concurrence with the following:

(a) The objectives set forth in the area plan;

(b) The method and/or organization for implementation

of the program;

(c) Procedures for financing the recommended program *through the short-term planning period*; and

(d) The duties and responsibilities of the county identified in the area plan.

(3) Updates and revisions to the area plan. Updates and revisions shall be made:

(a) If the cabinet determines that the approved area plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The cabinet will notify the solid waste management area in writing that an amendment or revision to the area plan is required.

(b) If a solid waste management area determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The area may amend, modify or revise the approved plan and the revised plan shall be approved by the fiscal court of each county within the area or, in the case of an urban-county government, the body in which chief legislative power is vested, and submitted to the cabinet for review and approval.

(c) All area plans shall be updated and readopted in accordance with the provisions of this section at least every four (4) years. The updated plan shall use current data and shall assure compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

Section 5. City Government *and Private Sector* Roles in Solid Waste Management. (1) No city shall *be authorized* [have the power or authority] to prepare an area plan or apply for designation as a solid waste management area unless the fiscal court(s) or board of directors of the *waste management district(s)* [county(ies)] delegate responsibility for area plan development to the city. Area plans prepared by a city must address solid waste management problems and activities at both the city and county(ies) levels.

(2) If a county fails to submit an area plan by January 1, 1984, a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.062, *109.056, 109.059* [109.180, and 109.250].

(3) As provided in KRS 109.011(8), it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109. An area as provided by KRS 109.041(7), may contract with any person, including private firms, to provide for the delivery of solid waste activities. A county or waste management district may utilize franchises, or contracts or any other method to assure adequate delivery of solid waste activities. KRS 109.041(3) which limits the county or waste management district's authority concerning the resource recovery of materials shall not be abridged.

(4) [(3)] A solid waste management area may require the use of any solid waste management facility meeting the approval of the cabinet, by all persons situated within its geographic boundary. An exception to this rule are those cities which own and operate solid waste facilities, other than sanitary landfills, which were in existence prior to July 17, 1978. Area plans that include use of city-financed solid waste management facilities shall include provisions for insuring sufficient revenues to the city to retire any debt on said system. Area plans that include provisions for solid waste management services to a city shall provide the city with written notice at least one (1) year prior to the date it intends to provide such service to the city.

Section 6. Implementation Reports. The solid waste management area shall submit annual reports to the cabinet, in accordance with a schedule established by the cabinet upon plan approval, describing the progress made on area plan implementation. The implementation report shall be on a form provided by the cabinet and contain:

(1) An identification of solid waste management activities and facilities currently in use;

(2) An estimate of the population served by each existing activity or facility;

(3) An assessment of conformance with the detailed schedule contained in the approved plan and required by 401 KAR 2:185, Section 4(6).

Section 7. Area Submission. (1) Submission date. The application for designation as a solid waste management area and area plan shall be submitted to the cabinet by July 1, 1983. A six (6) month extension *shall* [may] be granted by the cabinet, if the county, counties, or waste management district has demonstrated, in the cabinet's judgment, a good faith effort to develop an area plan. Should a county, counties or waste management district find a six (6) month extension necessary, the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which chief legislative authority is vested, or other duly delegated office or agency shall submit a request in writing to the cabinet which details the extent of plan development accomplished and cites the need for an extension of the deadline date.

(2) Copies required. The county, counties or waste management district shall submit one (1) copy of the application for designation as a solid waste management area and at least three (3) copies of the area plan. Copies must be eight and one-half (8½) inches by eleven (11) inches and each page shall be securely bound in a notebook, folder or a similar means designed to keep pages in order. Pages shall be numbered and a table of contents provided. A title sheet or transmittal letter identifying the plan and the agency or office which developed the plan shall be placed at the beginning of the area plan package.

Section 8. Enforcement. (1) Citizen petition. If a fiscal court or, in the case of an urban-county government, the body in which chief legislative authority is vested, fails to establish a solid waste management plan by January 1, 1984, the citizens of the county may petition the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, to request preparation of an area plan. The petition shall be signed by a number of citizens equal to ten percent (10%) of the votes cast in the county for the office receiving the greatest total votes in the last general election. The petition shall be filed with the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, asking that the proposition whether to develop a plan be placed on the ballot of the next general election. The cabinet will develop and maintain a list of counties which have received designation as solid waste management areas and the status of those counties which have not received area designation. This list will be made available to the public. Upon determination by the cabinet that no substantial progress is being made by a county in area plan preparation by January 1, 1984, the cabinet may hold a public meeting in those counties to discuss the need for an alternative approach to plan preparation.

(2) Implementation deficiencies. If the cabinet deter-

mines that an area solid waste management plan is not being implemented as approved, it will notify the solid waste management area in writing of implementation deficiencies. The solid waste management area shall within forty-five (45) days respond in writing demonstrating the action(s) taken or planned to correct the implementation deficiencies, or request a revision to the approved plan in accordance with Section 4 of this regulation. If amendments or revisions to the plan are not made, the cabinet may conduct a public hearing or meeting to determine whether the approved plan should be revised or revoked. If the cabinet determines that a plan is not capable of being implemented, the plan shall be revoked and the cabinet shall require the county or counties to submit a new proposed area plan. Designation of a county, counties, urban-county government or waste management district as a solid waste management area shall also be revoked until such time as a new plan is approved.

(3) Permit application and compliance with area plan. [Two (2) years after the effective date of these regulations or subsequent to the cabinet's approval of an area plan, whichever occurs first, a permit shall not be issued for a new solid waste management site or facility to accept those solid wastes affected by this regulation unless that facility complies and is consistent with an approved area solid waste management plan.] Where facilities are proposed in areas with approved plans, the cabinet will review the area plan to insure that the proposed facility complies and is consistent with the area plan before a permit is issued. In reviewing the application for a new facility, the cabinet will consult with the solid waste management area to *determine if* [insure that] the proposed facility complies with the approved area solid waste management plan. If a proposed facility is not consistent or not in compliance with the approved area solid waste management plan, then the applicant *may* [shall] request [that] the solid waste management area *to* amend the plan. *If the proposed facility is not consistent or in compliance with the area plan, the cabinet may deny the permit for the new facility.*

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 1:45 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Amended After Hearing

806 KAR 12:080. Life insurance; replacement of.

RELATES TO: KRS 304.12-030
PURSUANT TO: KRS 13.082, 304.2-110
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable rules and regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.12-030 establishes minimum standards of conduct to be observed in replacement or proposed replacement of life insurance policies. This regulation sets forth the procedures to be followed in the replacement or proposed replacement of life insurance policies.

Section 1. Purpose. The purpose of this regulation is:
(1) To regulate the activities of insurers and agents with respect to the replacement of existing life insurance; and

(2) To protect the interests of life insurance policy owners by establishing procedures to be employed in the replacement or proposed replacement of existing life insurance.

Section 2. Definitions. For the purposes of this regulation, the following terms shall have the meaning herein provided:
(1) "Replacement," "existing insurer," "existing life insurance," and "replacing insurer," are defined as in KRS 304.12-030.
(2) "Conservation" means any attempt by the existing insurer or its agent to continue existing life insurance in force after the existing insurer has received a copy of the "Notice Regarding Replacement of Life Insurance" as required by Section 4(2)(a) of this regulation from a replacing insurer. A conservation effort does not include such routine administrative procedures as late payment reminders, late payment offers or reinstatement offers.
(3) "Direct-response sales" means any sale of life insurance where the insurer does not utilize an agent in the sale or delivery of the policy.
(4) "Soliciting material" means written sales aids of all kinds, including policy summaries and comparison statements, which are used by an insurer, agent or broker in comparing existing life insurance to proposed life insurance in order to recommend the replacement or conservation of existing life insurance. Sales aids of a generally descriptive nature, which are maintained in the insurer's advertising compliance file, shall not be considered soliciting material.

Section 3. Exemptions. This regulation shall not be applicable as set forth in KRS 304.12-030(4).

Section 4. Duties of Agents *where Existing Insurance or Replacement is Involved.* (1) Each replacing agent shall submit to the replacing insurer with or as part of each application for life insurance a statement signed by the applicant as to whether or not he has existing life insurance.
(2) Where existing insurance *or replacement* is involved, the replacing agent shall[:]
[(a)] present to the applicant, not later than at the time of taking the application a "Notice Regarding Replacement of Life Insurance," Form A, or a substantially similar form with prior approval of the commissioner. The notice must be signed by and left with the applicant.
(3) Where replacement is involved, the agent shall:
(a) [(b)] Submit to the replacing insurer, with the application, a copy of the "Notice Regarding Replacement of Life Insurance" signed by the agent and the applicant, and a copy of all soliciting material used for presentation to the applicant.
(b) [(c)] Leave with the applicant the original or a copy of all solicitation material used for presentation to the applicant.
[(3)When conserving existing life insurance each agent who uses soliciting material shall leave with the applicant the original or a copy of all soliciting material used in the conservation effort.]

Section 5. Duties of Replacing Insurers Except for Direct Response Insurers. Each replacing insurer except direct response insurers shall:
(1) Inform its field representatives of the requirements of this regulation and KRS 304.*12-030* [21-030];
(2) Require with or as part of each completed application for life insurance a statement signed by the applicant

as to whether or not he has existing life insurance; and

(3) Where existing insurance *or replacement* is involved[:]

[(a)] require from the agent with the application for life insurance a copy of the "Notice Regarding Replacement of Life Insurance" signed by the agent and the applicant, and a copy of all soliciting material shown or delivered to the applicant. *If only existing insurance is involved, the policy information in the notice need not be completed and no soliciting material shall be required from the agent.*

(4) Where replacement is involved:

(a) [(b)] Verify the substantial accuracy of information concerning the proposed policy furnished to the applicant in the soliciting material.

(b) [(c)] Send the existing insurer notice of the proposed replacement within five (5) working days of the date the application is received at its home or regional office.

(c) [(d)] Provide the existing insurer, upon request, copies of all soliciting materials used within twenty (20) days of receipt of said request.

(d) [(e)] Delay the issuance of its policy for thirty (30) days after the notice of the proposed replacement required by paragraph (c) of this subsection is delivered to the existing insurer.

(e) [(f)] Maintain copies of the "Notice Regarding Replacement of Life Insurance," and all soliciting material used, and a replacement register, cross indexed, by replacing agent and existing insurer, for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later.

Section 6. Duties of Insurer With Respect to Direct-Response Sales. Each insurer shall:

(1) Inform its responsible personnel of the requirements of this regulation.

(2) Require with or as part of each completed application for life insurance a statement signed by the applicant as to whether such applicant has existing life insurance.

(3) Request from the applicant, where existing insurance exists, with or as part of the application a list of all existing life insurance identified by name of insurer.

(4) Include at the time the policy is mailed to the applicant, a "Notice Regarding Replacement of Life Insurance," Form A, or a substantially similar form with prior approval of the commissioner.

(5) Provide the existing insurer, upon request, copies of all soliciting materials used within twenty (20) days of receipt of said request.

Section 7. Duties of Existing Insurer and its Agents. (1) Each existing insurer shall inform its responsible personnel of the requirements of this regulation and KRS 304.12-030.

(2) Each existing insurer, or such insurer's agent, that undertakes a conservation effort shall:

(a) Request copies of all soliciting materials used by the replacing insurer or agent if such information is desired.

(b) Maintain a file containing all soliciting material used by it to conserve business. *This file shall be retained for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later.*

(3) When conserving existing life insurance each agent who uses soliciting material shall leave with the applicant the original or a copy of all soliciting material used in the conservation effort.

Section 8. Departmental Form A, entitled "Notice Regarding Replacement of Life Insurance," is filed herein by reference. Copies may be obtained from the Department of Insurance, 151 Elkhorn Court, P.O. Box 517, Frankfort, Kentucky 40602.

Section 9. 806 KAR *12:031* [2:031], Life insurance replacement, is hereby repealed.

DANIEL D. BRISCOE, Commissioner
ADOPTED: December 13, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 15, 1982 at 1:00 p.m.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Amended After Hearing

806 KAR 39:030. Kentucky no-fault rejection form.

RELATES TO: KRS *304.39-040,* 304.39-060
PURSUANT TO: KRS 13.082, 304.2-110, 304.39-300
NECESSITY AND FUNCTION: KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person may reject limitations on his tort rights and liabilities. This regulation prescribes such form and its use.

Section 1. Any person may refuse to consent to the limitation of his tort rights and liabilities by filing with the Department of Insurance a Kentucky No-Fault Rejection Form which is made a part of this regulation (Ky. NF 1), as Appendix A.

Section 2. Members of the same household may indicate their rejections on the same form, but each individual must execute the form on his own behalf unless he is under legal disability.

Section 3. Where a guardian or committee has been appointed for a person under a legal disability, in order to reject, the guardian or committee must execute the rejection on behalf of the ward.

Section 4. A rejection for a minor under eighteen (18) years of age must be executed by a parent, if there is no guardian or committee.

Section 5. A rejection is effective upon receipt by the Department of Insurance[, and remains effective for five (5) years from the date unless revoked by submission of such revocation of the rejection on the form made a part of this regulation, or is superseded by the filing of a subsequent rejection form. The Department of Insurance shall maintain sufficient data to assure its capacity to notify each person who has rejected limitations on his tort rights and liabilities sixty (60) days prior to the expiration of the most current rejection].

[Section 6. Each policyholder of an automobile liability insurance policy must send to his insurance company a copy of any rejection form filed with the Department of Insurance, involving any member of his household who is not himself a policyholder.]

Section 6. [7.] Motorcycles. (1) Motorcycle owners/operators shall be furnished the Kentucky No-Fault Rejection Form (Appendix A) with each policy providing coverage with respect to accidents arising from the maintenance, ownership, or use of a motorcycle.

(2) Purposes of filing the rejection form by motorcycle owners/operators:

(a) If the motorcycle owner/operator has not purchased coverage for basic reparation benefits, the purpose of filing the rejection form is to reject the limitations, as established by KRS 304.39-060(2)(b), upon his right to sue or be sued, and to reject any other limitations upon his tort rights or liabilities alleged to exist due to the provisions of the Kentucky Motor Vehicle Reparations Act.

(b) If the motorcycle owner/operator has purchased coverage for basic reparation benefits, the purpose of filing the rejection form is to reject the limitations, as established by KRS 304.39-060(2)(a) and (b), upon his right to sue or be sued.

(3) Pursuant to KRS 304.39-040(3), this regulation shall not be construed as giving motorcycle owners/operators a right to basic reparation benefits unless purchased on an optional basis.

(4) Insurers may use a form other than the Kentucky No-Fault Rejection Form if such other form is filed with and approved by the commissioner.

Section 7. This regulation shall become effective thirty (30) days from the date it is approved pursuant to KRS Chapter 13.

DANIEL D. BRISCOE, Commissioner
ADOPTED: December 13, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 15, 1982 at 1 p.m.

(See Appendix A on the following page)

Insurance Dept. Use Only

KENTUCKY NO-FAULT REJECTION FORM

APPENDIX A

Insurance Dept. Use Only

ACCEPTANCE OF *THE PROVISIONS OF THE KENTUCKY MOTOR VEHICLE REPARATIONS ACT* [NO-FAULT INSURANCE] DENIES THE APPLICANT THE RIGHT TO SUE A NEGLIGENT MOTORIST UNLESS CERTAIN REQUIREMENTS CONTAINED IN THE POLICY OF INSURANCE ARE MET. *SUCH ACCEPTANCE ALSO LIMITS THE RIGHTS OF OTHER MOTORISTS TO SUE YOU.* YOU AND ANY MEMBER OF YOUR HOUSEHOLD CAN RETAIN THE RIGHT TO SUE *OR BE SUED* AND GIVE UP THE NO-FAULT BENEFITS *(UNLESS SPECIFICALLY PURCHASED FOLLOWING REJECTION)* BY COMPLETING THIS FORM AND MAILING IT TO THE DEPARTMENT OF INSURANCE, FRANKFORT, KENTUCKY 40601.

DO NOT COMPLETE THIS FORM if all members of the household want to accept benefits of the No-Fault Law in return for giving up some rights to sue.

Any member of the household who does not accept the No-Fault benefits, must complete this form.

The policyholder and the following members of this household have decided on the OPTION NUMBER entered in the block by their name. Each member of the household has a choice.

OPTIONS - Indicate option selection number in the box next to your name.

1. I want to keep my right to sue or be sued so I reject my No-Fault benefits.
2. I accept my No-Fault benefits but other members of the household want to keep their right to sue or to be sued.
3. As to my ownership and operation of motorcycles *only,* I want to keep my right to sue or be sued [so I reject my No-Fault benefits].
4. I previously rejected my No-Fault benefits and I want to cancel that rejection.

POLICYHOLDER AND OTHER MEMBERS OF THE HOUSEHOLD OPTION SELECTION

☐	Policyholder Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature
☐	Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature (Person, Parent, Guardian)
☐	Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature (Person, Parent, Guardian)
☐	Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature (Person, Parent, Guardian)
☐	Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature (Person, Parent, Guardian)
☐	Name in Full (Type or Print)	Date of Birth / Soc. Sec. No.	Signature (Person, Parent, Guardian)

Address Street or Route City County Zip Code

Insurance Company Policy Number Date Signed

NOTE: MAILING INSTRUCTIONS

1. White copy to be mailed to Kentucky Department of Insurance.
2. Yellow copy to be mailed to your insurance company.
3. Pink copy to be mailed to your insurance agent.
4. Gold copy to be kept for your record.

Ky. NF 1 (*11-82* [7-75])

Proposed Amendments

LEGISLATIVE RESEARCH COMMISSION
Personal Service Contracts
(Proposed Amendment)

1 KAR 2:010. Personal Service Contract Review Subcommittee; procedure; records.

RELATES TO: KRS 45.700, 45.705, 45.710, 45.715, 45.720
PURSUANT TO: KRS 7.320(2), 45.720
NECESSITY AND FUNCTION: KRS 45.720 requires the Legislative Research Commission to prescribe rules governing the manner and form which personal service contracts are to be reviewed.

Section 1. A permanent subcommittee of the Legislative Research Commission, to be known as the Personal Service Contract Review Subcommittee, shall be composed of seven (7) members which shall include members of the minority party as nearly proportioned to their membership in the general assembly as mathematically possible.

(1) The Legislative Research Commission shall appoint from the membership of the general assembly as follows:

(a) Four (4) members from the House of Representatives; and

(b) Three (3) members from the Senate.

(2) The personal service contract review subcommittee shall meet monthly at such time and place as selected by the chairman.

(3) A quorum shall require at least four (4) members present and the vote shall be by majority.

(4) The members of the subcommittee shall serve for a term of two (2) years, with the chairman being appointed by the subcommittee.

(5) Vacanies which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the occurrance of the vacancy.

(6) The subcommittee shall act on a personal service contract properly submitted to the Legislative Research Commission within thirty (30) days of its submission, except as provided in Section 2(2) of this regulation.

Section 2. *No one shall begin work on a personal service contract made by any contracting body after July 15, 1982, except in the event of a governmental emergency,* [No personal service contract made by any contracting body after March 12, 1980, shall become effective] until after three (3) copies of the personal service contract are forwarded to the office of the Legislative Research Commission.

(1) The Legislative Research Commission shall cause to be endorsed on the copies of each personal service contract submitted the time and date of the filing thereof and shall maintain a file of such personal service contracts for public inspection, indexed as follows:

(a) By vendor name (alphabetically);

(b) By state agency (organization); and

(c) By type of service provided.

(2) For a contract to be reviewed by the subcommittee at its next regularly scheduled meeting, it must be submitted to the Legislative Research Commission on or before the last day of the month preceeding the meeting. All documents received after the end of the month will be deferred to the next regularly scheduled meeting.

(3) Each personal service contract and each copy thereof submitted for review will have attached a completed *proof of necessity* [contract review] form which at a minimum will include the following information:

(a) A statement which describes, in detail, the need for such services;

(b) A statement which justifies, in detail, the purchase of service as opposed to the provision of service, i.e., unavailability/non-feasibility;

(c) [A statement which justifies] The total projected cost and explains in detail how the cost was derived;

(d) [A statement which justifies] The stated duration and explains in detail how the duration was derived;

(e) An affirmative statement attesting to the existence of a thirty (30) day cancellation clause;

(f) A copy of the purchase contract indicating maximum amount of the contract.

(4) Notification of approval will be transmitted back to the contracting body in the form of a stamped contract attesting to such approval, within thirty (30) days of such action.

(5) If the subcommittee believes that the contract service, except for emergency contracts approved by the governor, is not needed, the service could and should be performed by state personnel, the cost is excessive, or the duration is excessive, the subcommittee shall:

(a) Attach to the personal service contract a written notation of its *disapproval* [objection], including a statement of the reasons therefore, and shall return the personal service contract to the Secretary of *the Finance and Administration Cabinet* [Finance].

(b) Notice of such *disapproval* [objection] shall be given by the subcommittee to the Director of the Legislative Research Commission and agency involved.

Section 3. Payment on a personal service contract shall not be made until after the contract has been approved by the subcommittee except as provided for in Section 4 or 5.

Section 4. If the Secretary of *the Finance and Administration Cabinet* [Finance] determines that the time involved with the normal review procedure would cause a detrimental effect upon the Commonwealth's ability to act or procure services, he may approve an emergency payment after notification and explanation of this action is forwarded to the subcommittee.

Section 5. In the event of a governmental emergency, three (3) copies of the statement declaring the emergency, approved by the Secretary of the Finance and Administration Cabinet, shall be filed with the contract.

Section *6.* [5.] (1) Personal service contracts objected to or disapproved by the subcommittee shall be forwarded to the *Secretary of the Finance and Administration Cabinet* [Department of Finance]. The secretary of the *Finance and Administration Cabinet* [Department of Finance] shall determine whether a personal service contract:

(a) Shall be revised to comply with the objections of the subcommittee; or

(b) Shall be cancelled if disapproved by the subcommittee; or

(c) Shall remain effective as originally approved by the *Finance and Administration Cabinet* [Department of Finance].

(2) The *Finance and Administration Cabinet* [Department of Finance] shall notify the subcommittee of the action taken on personal service contracts *disapproved* [referred to the department] by the subcommittee within thirty (30) days from the date the contracts were reviewed by the subcommittee.

(3) The subcommittee shall report monthly to the Legislative Research Commission all action taken on personal service contracts by the *Secretary of the Finance and Administration Cabinet* [Department of Finance] and the subcommittee.

VIC HELLARD, JR., Director

ADOPTED: December 1, 1982

RECEIVED BY LRC: December 2, 1982 at 3 p.m.

SUBMIT COMMENT OR REQUEST FOR HEARING TO: Robert L. Doris, Jr., Staff Administrator, Personal Service Contract Review Subcommittee, Capitol Annex, Room 35, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:080. Certification and selection of eligibles.

RELATES TO: KRS *18A.030, 18A.075, 18A.110, 18A.165* [18.170, 18.190, 18.210, 18.240]

PURSUANT TO: KRS 13.082, *18A.030, 18A.075, 18A.110* [18.170, 18.190, 18.210]

NECESSITY AND FUNCTION: KRS *18A.075* [18.170] requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS *18A.030* [18.190] requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules which provide for the manner of completing appointments and promotions, including multiple and simultaneous certifications. KRS *18A.110* [18.210] requires the commissioner to prepare and submit to the board rules which provide for establishment of eligible lists for appointment, and for consideration for appointment of persons whose scores are included in the three (3) highest scores on the exam. This rule is necessary to comply with these statutory requirements.

Section 1. Request for Certification of Eligibles. To fill a vacancy by selection of an eligible from a register established on the basis of an open-competitive examination, the appointing authority shall submit a request for certification to the commissioner upon a prescribed form. This requisition may be for one (1) or more positions in the same class, in the same locality, and shall indicate the number and identity of positions to be filled and the title of the class to which they have been allocated and specify all other pertinent information which the appointing authority and the commissioner deem necessary. The appointing authority shall make such request as far in advance as possible of the date the employee is to begin work.

Section 2. Certification of Eligibles. Upon receipt of a requisition, the commissioner shall certify and submit in writing to the appointing authority the names of available persons eligible for the appointment. If one (1) position is involved, he shall certify and submit from the register for that class the names of the persons whose scores are included in the highest five (5) scores earned on the examination, providing the commissioner shall fix a reasonable maximum number of eligibles certified. If more than one (1) vacancy is involved, either in one (1) or more agencies, the commissioner shall certify sufficient additional names for the agencies' consideration in filling the total number of vacancies by procedures to retain orderly consideration of eligibles; however, each appointment must be made from the eligibles with the five (5) highest scores. Scores shall be considered in whole numbers. If the register, established as a result of the open-competitive examination for a specific class, is exhausted, the commissioner shall certify and submit names in accordance with the above procedure in accordance with 101 KAR 1:070, Section 3. The life of a certificate during which action may be taken shall be thirty (30) days from the date of issue unless otherwise specified on the certification. Any appointment made from such certificate during that time shall not be subject to any change in the condition of the register taking place during that period.

Section 3. Availability. An eligible may at any time during the life of a register have himself listed as available or not available for appointment to a position of that class in any locality or localities in the state, subject to the area-certification policies, by filing notice to such effect with the commissioner.

Section 4. Selective Certification. (1) The appointing authority may specify in writing requirements of particular experience, education, or skill when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the particular experience, education, or skill essential for successful performance he may certify in order of rank on the register the names of those persons who possess those qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(2) The appointing authority may specify in writing exceptional requirements of particular physical characteristics when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the exceptional requirement of the characteristic essential for successful performance, he may certify in order of rank on the register the names of those persons who possess the qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(3) In filling a position in a unit serving a limited area, the appointing authority may request in writing the certification of eligibles who are residents of the county or area served by that unit. Upon receipt of such a request, the commissioner may certify the names of the highest

available eligibles who are residents of that county or area first. If, in certifying the names of such eligibles for a vacancy in a unit serving a limited area, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(4) To facilitate the career employment of participants in employment programs authorized by federal or state law where the participants are employees of state agencies, the appointing authority may specify in writing that participation in such a program be required for a position. If, after investigation, the commissioner finds that such action is necessary to facilitate the career employment of participants in such a program, the commissioner may certify, in order of rank on the register, the names of those persons who have been participants for at least six (6) months in such programs. If, in certifying the names of such eligibles, the commissioner finds there are fewer than three (3) such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

Section 5. Selection. (1) Written inquiry as to availability must be sent to each eligible certified for appointment unless it is impractical to do so, except that evidence of having sent a written notice to each eligible reported as having failed to reply to the inquiry or unavailable for appointment must be submitted with a report of action on a certification.

(2) In making appointments from the open-competitive register, the appointing authority shall select for each position a person whose score is included in the five (5) highest scores, exclusive of the names of those persons:

(a) Who decline appointment or request that they not be considered for appointment;

(b) Who fail to reply within a period of five (5) calendar days to the written request of the appointing authority for an interview, or within forty-eight (48) hours to a telegraphic request, or who do not arrange to report for such an interview within a reasonable time, or who fail to appear for an interview which they have arranged with the appointing authority;

(c) Who accept an appointment and fail to present themselves for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;

(d) To whom the appointing authority offers an objection in writing based on 101 KAR 1:060, Section 4, which objection is sustained by the commissioner.

(3) The final selection by the appointing authority shall be reported in writing to the commissioner. At the same time, the appointing authority shall indicate the disposition of the other names listed on the certificate and shall certify to the commissioner the non-availability of any eligibles passed over for that reason.

(4) If, in the exercise of his choice, the appointing authority passes over the name of an eligible on a register in connection with three (3) separate appointments which he has made from the register, written request may be made of the commissioner that the name of such eligible be omitted from any subsequent certifications from the same register to the same appointing authority. This request must contain sufficient evidence to indicate the eligible's unsuitable characteristics for an appointment in the class for which the register was established. If the commissioner approves such request, either the name of such eligible shall not thereafter be certified to him from that register for other vacancies in that class, or his name will be removed from this register.

Section 6. Re-employment Right of First Refusal. (1) An employee with status who has been laid off, or who has received notice of lay-off, shall have first refusal rights in the filling of any vacancy in a covered position, excluding those to be filled by promotion, demotion, or intra-agency transfer, in the agency from which laid-off for a period of one (1) year from the date of lay-off, provided such employee advises the department in writing that he is seeking re-employment under this section. An employee seeking employment under this section must complete an updated application, specifically identifying his area of availability, the minimum salary and the minimum pay grade, which cannot exceed his salary or pay grade at the time of lay-off, he would be willing to accept and must meet the requirements for the job classification of the vacant position. An employee re-employed under this section or who declines a bona fide offer abrogates his first refusal rights under this section. The first refusal rights provided by this section are in addition to any other re-employment rights such employee may have.

(2) When two (2) or more employees in an agency seek re-employment under this section, the commissioner shall rank such employees by giving consideration to qualifications, performance appraisals, conduct and seniority in service. "Career employees" shall have priority for first refusal rights over other former employees.

Section *7.* [6.] Certification of Names from the Re-employment List. Any employee with status, who has been placed in a layoff category, shall have first priority for consideration in filling any vacancy in a covered position for which he is qualified in any department in any geographic area. A status employee in the layoff category must indicate in writing to the Department of Personnel that he desires re-employment. No examination shall be required for re-employment in the same job classification from which he was laid off. If a laid-off employee with status desires re-employment in job classifications other than the classification in which he was laid off, he must meet the requirements and pass the required examinations for the job classifications in which he seeks re-employment. If more than one (1) laid-off employee with status seeks re-employment in any job classification, the Department of Personnel shall certify all qualified laid-off employees. No vacancy can be filled from the competitive register until after qualified laid-off employees with status, who are seeking to fill the vacancy, have been given full consideration. Written objections to the re-employment of a laid-off employee with status must be approved by the Department of Personnel before names from the competitive register can be certified to an appointing authority for consideration.

Section *8.* [7.] Certification from the Promotion Register. Whenever a vacancy is to be filled from a register established as a result of a competitive examination, the

commissioner shall certify the names of eligibles in accordance with Section 2 of this regulation.

PHILIP TALIAFERRO, Chairman
ADOPTED: December 9, 1982
APPROVED: DEE MAYNARD, Commissioner
RECEIVED BY LRC: December 14, 1982 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner Dee Maynard, Department of Personnel, Room 373, Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:120. Separations and disciplinary actions.

RELATES TO: KRS *18A.005, 18A.075, 18A.095, 18A.110, 18A.165* [18.110, 18.170, 18.210, 18.240, 18.270]
PURSUANT TO: KRS 13.082, *18A.030, 18A.075, 18A.110* [18.170, 18.190, 18.210]
NECESSITY AND FUNCTION: KRS *18A.075* [18.170] requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS *18A.030* [18.190] requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for layoffs and for separation of employees deemed unsatisfactory or excessive by agency or department heads. KRS *18A.110* [18.210] requires the commissioner to prepare and submit to the board rules which provide for layoffs, imposition of fines of not more than ten (10) days' pay, suspension without pay for not longer than thirty (30) days, and for discharge or reduction in rank. This rule is necessary to comply with these statutory requirements.

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

Section 2. Layoffs. (1) An appointing authority may layoff an employee in the classified service whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. An employee with status may appeal his lay-off in accordance with 101 KAR 1:130. The employee shall be notified of the effective date at least fourteen (14) calendar days prior to such effective date and shall be given written notice of the reasons for the layoff and of his right to appeal. The appointing authority shall conduct a personal interview with each laid-off employee to explain the re-employment rights available to that employee under the merit system regulations, unless circumstances prevent such an interview; such circumstances must be detailed in writing to the Commissioner of Personnel.

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

(3) The appointing authority and the department shall attempt to place the employee in another position for which the employee is qualified *prior to the effective date of layoff.*

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

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

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

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

(5) Any employee who has been dismissed for cause or who has resigned while charges for dismissal for cause were pending and who seeks further employment with the state shall not be certified to the agency from which separated unless the agency requests such certification.

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

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

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

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

Section 8. Disciplinary Fines. An appointing authority

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

Section 9. Written Reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time the written reprimand is given. A written reprimand, in and of itself, is not an appealable penalization and is not a basis for appeal.

PHILIP TALIAFERRO, Chairman
ADOPTED: December 9, 1982
APPROVED: DEE MAYNARD, Commissioner
RECEIVED BY LRC: December 14, 1982 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner Dee Maynard, Department of Personnel, Room 373, Capitol Annex, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Real Estate Commission
(Proposed Amendment)

201 KAR 11:147. Procedure for license retention when salesman released by broker.

RELATES TO: KRS 324.310, 324.330
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: The function of this regulation is to expand KRS 324.310 and 324.330 to avoid misinterpretations of administrative procedures.

Section 1. Upon receipt, by regular mail, of a letter from the responsible broker releasing a salesperson, the commission shall notify the salesperson by regular mail at his last resident address on file at the commission office that, within thirty (30) days of the date of the release letter he shall reaffiliate with another broker [or request by letter that his license be placed in escrow]. Failure to comply will result in cancellation of license [and retaking the regular examination in order to become reinstated].

ROBERT D. MASSEY, Chairman
ADOPTED: December 9, 1982
RECEIVED BY LRC: December 9, 1982 at 1 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen L. Frank, Counsel, Kentucky Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water
(Proposed Amendment)

401 KAR 6:015. Public and semi-public water supplies.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.032(3), (4), *(5)*, (6)
NECESSITY AND FUNCTION: The *Cabinet* [Department] is directed by the aforementioned statutory provision to promulgate regulations applicable to all public and semipublic water supply systems operating within the Commonwealth of Kentucky. By accepting primary enforcement responsibility for the Federal Safe Drinking Water Act (PL 93-523) the Commonwealth agrees to adopt and enforce the provisions of that Act. This regulation therefore establishes the standards and safeguards necessary and relative to the planning, operation and maintenance of public and semipublic water supply systems for the protection of public health.

Section 1. Definitions. (1) "Administrator" means the Administrator of the U.S. Environmental Protection Agency or his authorized representative.

(2) "Auxiliary intake" means any piping connection or other device whereby raw (untreated) water may be secured from *a* [another] location [and/]or source other than *the intake which is* [that] normally used.

(3) "By-pass" means a physical arrangement whereby water may be diverted around any feature of the purification process of a public or semipublic water supply.

(4) "Contaminant" means any physical, chemical, biological, or radiological substance or *any other similar* matter in water.

(5) "Cross-connection" means any physical connection or arrangement between two (2) otherwise separate systems, one (1) of which contains potable water and the other *being* either water of unknown or questionable safety, or steam, gas or chemicals, whereby there may be flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems.

(6) "*Cabinet* [Department]" means the [Kentucky Department for] Natural Resources and Environmental Protection *Cabinet, Department for* [, Bureau of] Environmental Protection, Division of *Water* [Sanitary Engineering], or its successor.

(7) "Division" means the Division of Water.

(8) [(7)] "Ground water source" means any source of water for a public *and/or semipublic* water supply that

does not have a free water surface exposed to the atmosphere.

(9) [(8)] "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to the free flowing outlet of the ultimate user of a public water system, except in the case of turbidity where the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user, except those resulting from corrosion of piping and plumbing caused by water quality, are excluded from this definition.

(10) [(9)] "Person" means any individual, firm, corporation, officer or employee thereof, water association, water district, public institution, municipality, county, partnership, company, governmental agency, club, organization of any kind, [or] any political subdivision of the Commonwealth of Kentucky *or any federal agency with the exception of Indian reservations.*

(11) [(10)] "Potable water" means any water which meets the provisions of this regulation, the quality of which is approved by the *cabinet* [department] for human consumption.

(12) [(11)] "Private water supply" means a residential water supply located on private property under the control of *a person holding a possessory interest* [the homeowner], the use of which is limited to members of [his] family.

(13) [(12)] "Public water system" means any system *owned by any person* [irrespective of ownership], for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days [out] of the year, *and* [. Such term] includes any collection, treatment, storage *or* [and] distribution *facility* [facilities] under control of the operator of such system and used primarily in connection with such system and any collection or pretreatment storage *facility* [facilities] not under such control [which are] used primarily in connection with such system. A public water system is either a "community water system" or a "non-community water system."

(a) "Community water system" means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.

(b) "Non-community water system" means a public water system which serves at least fifteen (15) service connections used by *persons* [individuals] for a period less than year-round or which serves an average of at least twenty-five (25) individuals daily at least sixty (60) days of the year but less than year-round.

(14) [(13)] "Sanitary survey" means an on-site review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water.

(15) [(14)] "Semipublic water supply" means any water supply made available for drinking [and/]or domestic use which serves more than three (3) families but does not qualify as a public water system.

(16) [(15)] "Standard methods" means the latest edition of "Standard Methods for the Examination of Water and Wastewater" prepared and jointly published by APHA, AWWA and WPCF, herein filed by reference. This publication is printed and distributed by the Publication Office, American Public Health Association, 1015 Eighteenth Street, N.W., Washington, D.C. *20036.*

(17) [(16)] "Standard sample" means the aliquot of finished drinking water that is examined for the presence of coliform bacteria.

(18) [(17)] "Supplier of water" means any person who owns or operates a public water system.

(19) [(18)] "Surface water source" *includes but is not limited to* [means any source of water supply for a public water system that has a free water surface exposed to the atmosphere. Included are] ponds, reservoirs, streams of all sizes, and free flowing springs, *wells with variable turbidity due to the characteristics of the raw water, or any source of water supply for a public water system that has a free water surface exposed to the atmosphere.*

(20) [(19)] "Water supply system" means the source of supply and all structures and appurtenances used for the collection, treatment, storage and distribution of water for a public or semipublic water supply.

(21) [(20)] "Water treatment plant" *or "purification plant"* means that portion of the water supply system which is designed to alter either the physical, chemical or bacteriological quality of the water. [Also referred to as the purification plant.]

(22) [(21)] "Professional engineer" means an engineer with current registration as a professional engineer in Kentucky.

(23) "Turbidity" means the presence of suspended particulates including but not limited to sand, silt, clay, finely divided organic or inorganic matter, plankton or other microscopic organisms or elements which optically interfere with the clarity of liquids.

(24) "Corrosivity" means the tendency of water to form or dissove calcium carbonate as a film or scale.

Section 2. General Provisions. (1) Water systems covered. Except where otherwise provided, this *regulation* applies to each public water system in Kentucky. [; except that] This regulation shall not apply to a public water system which consists only of distribution and storage facilities [(and does not have any collection and treatment facilities),] which obtains all of its water from, but is not owned or operated by a public water system to which such regulations apply, *which is not a carrier in interstate commerce* and which does not sell water to any person.

(2) Operation and responsibility. No person shall operate or commence operation of a public or semipublic water supply except in compliance with the provisions of this regulation. However, water supply systems constructed prior to the effective date of this regulation may be continued in use provided the operation, [and] maintenance, [as well as the] bacteriological, chemical, physical and radiological standards [thereof] comply with *these* requirements [herein], or such system obtain a variance or exemption from those standards with which it does not comply.

(3) Operator certification.

(a) Each public water system *shall* [must] be operated under the supervision of an individual holding a current Kentucky operators certificate for at least the class of system *supervised* [he supervises]. Certified operators are required for the operation of treatment facilities *and* [as well as] systems having only distribution facilities. In the event the operator is not physically present while a plant is operating, he must be immediately available.

(b) Certified operators are not required for semipublic water systems.

(4) "Boil water" notice. In the event the maximum *allowable bacterial* [bacteria] level as specified in these

regulations is exceeded, the *cabinet* [department] may issue a public notice that water provided by a system is unfit for human consumption unless first boiled.

(a) When directed by the cabinet, boil water notices shall be issued when the bacteriological maximum contaminant level (MCL) has been exceeded as confirmed by analyses made in a certified laboratory.

(b) The "boil water" notice shall be released through newspapers, radio, television or any media having an immediate public impact. As a health and safety measure, the selected media shall be used to repeat the notification during the duration of the period of imminent danger at intervals which shall maintain public awareness. The notice shall be readily understood and include instructions for the public and a summary of the steps the public water system is taking to correct the problem. Boiling instructions shall caution to only boil drinking water for short range use by boiling water for at least five (5) minutes.

(c) A public water system may issue a boil water notice in the absence of a state notice.

(d) Consumer "advisory." At the cabinet's discretion, when conditions within a public water system indicate a possible adverse health effect from consumption of the water distributed by a system, an advisory may be issued. The advisory will inform affected persons of all actions which should be taken.

(5) Cross-connections prohibited. All cross-connections are hereby prohibited. The use of automatic devices such as reduced pressure zone backflow preventers and siphon breakers may be approved by the *cabinet* [department] in lieu of proper air gap separation under specific regulated conditions as a means of protecting the water supply system. A combination of air gap separation and automatic devices shall be required where *determined by* the *cabinet to be necessary because of* [department determines that] the degree of hazard to public health [warrants that neither device alone would be sufficient to protect the public health]. *Inspections and inventories of buildings and facilities served by every public water supply (PWS) are the responsibility of each municipality, county, and public water system. Enabling ordinances shall be passed by the appropriate local legislative entity.*

(6) By-passes prohibited. No by-pass shall be *created* [established] or maintained [whereby water may be directed around any feature of a water purification process of a public or semipublic water supply system] without the *written* [specific] approval of the *cabinet* [department on the basis that the by-pass would not cause any violation of these regulations or was necessitated by emergency].

(7) Auxiliary intakes prohibited. No auxiliary intake shall be used in direct connection with a public or semipublic water supply system except during a period of emergency *and only after the written* [with the express] approval of the *cabinet* [department].

(8) Sewer and water connections. The sanitary sewer serving the purification plant and auxiliary facilities, including all plumbing fixtures, toilets, showers, drinking fountains and floor drains shall discharge to the public sewer system *where available* [wherever possible]. Where no such sewer is available, the connection shall be made to a suitable sewage disposal facility. There shall be no direct physical connection between the sewer system and any filter backwash, [and] filter-to-waste drains or clearwell overflow lines. A suitable air gap must be provided between such drains and overflow lines and the approved sanitary, storm sewer, or natural drainage system as to preclude possibility of backup of sewage or waste into the drain *or* [and] overflow lines.

(9) Disinfection of water supply. All public and semipublic water supplies shall provide continuous, automatic disinfection by chlorination and shall provide a minimum free chlorine residual of 0.2 milligrams per liter (or ppm) at all points throughout the distribution system. A contact period of at least thirty (30) minutes shall be provided between the chlorine and the water to allow adequate time for disinfection. Disinfecting agents other than chlorine may be approved by the *cabinet* [department] provided reliable feeding equipment is available and testing procedures for a residual are recognized in "Standard Methods." *Free chlorine residuals shall be checked daily at representative points throughout the system and reported monthly pursuant to Section 12(1) of this regulation.*

(10) Disinfection of new, repaired *or extended* [and extending] distribution systems. All new water distribution systems, including storage distribution tanks and repaired portions of, or *all* extensions to, existing systems, shall be thoroughly disinfected before being placed in service by the use of chlorine or chlorine compounds in such amounts as to produce a concentration of at least fifty (50) ppm and a residual of at least twenty-five (25) ppm at the end of twenty-four (24) hours and followed by thorough flushing. New water distribution lines shall not be placed into service until five (5) representative bacteriological samples are examined and are shown to be negative following disinfection. Other methods of disinfection shall have the written approval of the *cabinet* [department].

(a) Bacteriological samples shall be submitted for each new construction project, routine repair, replacement or extensions to existing systems after the disinfection and flushing. A core zone which includes up to the first one-half (½) mile shall be established. Two (2) samples shall be taken from the core zone. Additionally, one (1) sample per mile for each mile of new distribution line shall be submitted. New or routine replacement lines shall not be placed in service until negative laboratory results are obtained on the bacteriological analyses. Sample bottles shall be clearly identified as "special" construction tests. Notification of analytical results shall be given by the most expedient methods. Other methods of disinfection shall have the written approval of the cabinet.

(b) When emergency repairs due to breaks or ruptures in distribution system lines are required public water systems may forego bacteriological sampling provided appropriate and thorough flushing safeguards, with a chlorine residual present, are taken.

(11) Substances which may have deleterious physiological effect, or for which physiological effects are not known, shall not be introduced into the water supply system in a manner which *could* [would] permit them to reach the consumer.

(12) Certified laboratories. For the purpose of determining compliance with this regulation, samples may be considered only if they have been analyzed by a laboratory certified by the *cabinet* [department] or its authorized agent except that measurements for turbidity and free chlorine residual may be performed by any person acceptable to the *cabinet* [department].

(a) The authorized agent shall be a certification officer qualified in the field of microbiology, chemistry or radiological substances or one individual qualified in all three (3) fields and duly accredited by the U.S. Environmental Protection Agency's designated Environmental Monitoring and Support Laboratory Administrator or his duly appointed staff members.

(b) The cabinet's certification officer shall grant "interim" or "provisional" certification pursuant to the

U.S. Environmental Protection Agency's guidelines stipulated in "The Criteria and Procedures for Interim Certification of Laboratories Involved in Analysis of Public Water Supplies" EPA-670/9-75-006, August, 1975.

(c) On-site inspections (audits) for recertification will be made on a biannual basis, effective October 1, 1982, unless a special audit is required by receipt of a written request for additional parameter certification or if, in the cabinet's opinion, a certified laboratory has failed to maintain proper methodology, physical or instrumental capabilities or qualified personnel.

(d) Methodology for the detection of contaminants or contaminant groups are stipulated in the current edition of "Standard Methods for the Examination of Water and Wastewater;" "Methods of Chemical Analysis of Water and Wastewater;" EPA Monitoring and Support Laboratory, Cincinnati, Ohio; Radiological Techniques as set forth in 41 Federal Register 28402 (July 9, 1976); "Gas Chromatographic Methods for Analysis of Organic Substances in Water," USGS, Book 5; or alternative methods approved by the U.S. EPA in 40 CFR part 141, as amended.

(13) Monitoring of consecutive public water systems. When a public water system supplies water to one or more other public water systems, the *cabinet* [department] may modify the monitoring requirements imposed by this regulation to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes.

(14) Guidance. The *cabinet* [department] shall provide information on design criteria upon request.

(15) The *cabinet may* [department, upon presenting appropriate credentials, or its authorized agent, upon presenting a written inspection notice from the department to any supplier of water subject to the national primary drinking water regulation or to a primary drinking water regulation, is authorized to] enter, during normal business hours pursuant to KRS 224.033(10), any establishment, facility or other property of such supplier in order to determine whether such supplier has acted or is acting in compliance with *any applicable law or regulation which the cabinet has the authority to enforce* [the federal act or this act]. Such entry may include collection of water samples for laboratory analyses, inspection of records, files, papers, processes, controls and facilities required to be kept, installed or used under the provision of *these regulations* [either of said acts]. The *cabinet* [department] or its authorized agent may *cause to be tested* [test] any feature of a public water system including its raw water source *to determine compliance with* [, whether or not the Department has evidence that the system is in violation of an] applicable legal requirements.

Section 3. Design, Construction And Approval Of New Facilities. (1) Preliminary plans. When any supplier or potential supplier of water plans to undertake the construction of a new water treatment plant or expand an existing one in any way, preliminary plans shall be submitted to the *cabinet* [department] before any financial commitment *is* [can be] made or any construction initiated. An applicant shall demonstrate to the *cabinet* [department] evidence of [his] efforts to avoid locating part or all of the new *or* expanded facility at a site which is subject to a significant risk from earthquakes, floods, fires or other disasters which could cause a breakdown of the public water system or a portion thereof. Except for the intake structure, the facility *shall* [should] be out of the 100-year flood plain.

(2) Preliminary Information. The following information shall be submitted to the *cabinet* [department] by a professional engineer on behalf of the applicant:

(a) A statement as to the name and owner of the plant;

(b) USGS Quadrangle map which shows where the site of the proposed facility is located;

(c) The proposed source of water and quantity available *with the location of the intake or well-head identified by latitude and longitude in degrees, minutes and seconds;*

(d) A chemical and bacteriological analysis of the water from the proposed source by a laboratory certified by the *cabinet* [department] or its authorized agent;

(e) A description of the proposed facility including size, flow rate *through* [in] filters, settling basin size, and other general criteria;

(f) Operation plan including anticipated load, hours of operation, area served and name of plant operator.

(3) Preliminary plans approval. Upon receipt and review of the preliminary plans as set forth in Section 3(1), the *cabinet* [department] will either approve the preliminary plans or return them to the supplier or water for revision. Approval of the preliminary plans signifies approval only of the concept described in the preliminary plans and does not alter in any way the responsibility of the supplier of water to submit complete plans and specifications to the *cabinet* [department] for final approval. The facility *shall* [must] be designed in compliance with the approved preliminary plans. Any change in the final design from the concept set forth in the preliminary plans must be approved prior to its incorporation in the final plans and specifications.

(4) Preliminary plans for semipublic treatment facilities or distribution systems. Preliminary plans are not required by the *cabinet* [department] for semipublic treatment facilities for for distribution system construction, extensions or improvements.

(5) Final plans and specifications, water treatment plants and distribution facilities:

(a) Plans and specifications for all public water supplies shall be prepared and submitted to the *cabinet* [department] by a professional engineer *and* [. The plans submitted] shall bear his seal. The seal of a professional engineer is not required on plans and specifications for semipublic water supplies. The construction or installation of any new facilities or works or the alteration or reconstruction of any new facilities or works in any public or semipublic water supply shall not begin until plans and specifications, or any changes thereto together with design data as may be required for proper review of the plans, have first been submitted in four (4) copies to the *cabinet* [department through the local department of health concerned] and have been approved by the *cabinet* [department] in writing. Plans and specifications, reports and other information shall be submitted in such form and content as may be specified by the *cabinet* [department], and shall be submitted at least thirty (30) days prior to the date on which action is requested of the *cabinet* [department]. The front page of the plans shall contain the name of the water supply, its ownership, location by city and county, and the name of the person preparing the plans.

(b) The *cabinet* review of plans *may include but* [by the department] is *not* limited to sanitary features of design and other features of public health significance and [does not include] the examination of structural, mechanical or electrical design or economic factors.

(c) The plans shall be drawn to scale and accompanied by proper specifications so as to permit a comprehensive

engineering review and shall include but not *be* limited to the following:

1. A plan and sectional view with all necessary dimensions of the water treatment facilities;

2. A piping diagram showing all appurtenances including treatment facilities in sufficient detail, as well as pertinent elevation data, to permit a hydraulic analysis of the system; *and*

3. [The] Specifications *containing* [shall contain] details on all treatment equipment, including catalog identification of pumps, chlorinators, chemical feeders and related equipment.

(6) Approval of final plans. When approved, one (1) set of plans and specifications stamped "approved" shall be returned to the engineer or person who prepared the plans and specifications.

(7) Construction:

(a) During construction a set of approved plans and specifications shall be available at the job site at all times. [to assure that] All work *shall be* [is] done in accordance with the approved plans and specifications.

(b) If the *cabinet's* [department's] representative observes work being done in a manner which does not conform to the "approved" plans and specifications, the *cabinet* [department] shall *notify* [put] the contractor *in writing* [on notice] of *any* [his] non-compliance [until the lack of conformity with the "approved" plans and specifications has been corrected].

(8) Final approval of facility. Upon completion of the construction, *the person who presented the plans shall certify in writing* [a statement shall be submitted by the engineer or person who prepared plans, certifying] that the project has been completed in accordance with the "approved" plans and specifications.

(9) Expiration of approval. Unless construction is begun within one (1) year from date of approval, the approval shall expire. Extension of approval may be granted upon written request to the *cabinet* [department].

Section 4. Bacteriological Sampling, Analytical Techniques and Maximum Contaminant Levels. (1) Who must *perform* [make] bacteriological sampling. All suppliers of water operating a public water system, [(community and non-community water systems) and] semipublic water systems, *suppliers who produce water and suppliers who purchase water from others* are subject to the provisions of this section. [Suppliers who produce water and suppliers who purchase water from others are similarly affected.] Persons operating private water supplies are not subject to the sampling and analytical provisions set forth herein.

(2) Sampling frequency, public water systems:

(a) Sampling frequency for all public water systems. Suppliers of water for *all public* [community and non-community] water systems shall collect samples to be analyzed for *total* coliform bacteria *per 100 milliliters* [for the purpose of determining compliance with these regulations]. Coliform density samples shall be taken at regular time intervals and in numbers proportionate to the population served by the system. In no event shall the frequency be less than as set forth following:

MINIMUM NUMBER OF SAMPLES PER MONTH

Population Served	Minimum Number Samples	Population Served	Minimum Number Samples
25 to 2,500	2	37,001 to 41,000	45
2,501 to 3,300	3	41,001 to 46,000	50
3,301 to 4,100	4	46,001 to 50,000	55
4,101 to 4,900	5	50,001 to 54,000	60
4,901 to 5,800	6	54,001 to 59,000	65
5,801 to 6,700	7	59,001 to 64,000	70
6,701 to 7,600	8	64,001 to 70,000	75
7,601 to 8,500	9	70,001 to 76,000	80
8,501 to 9,400	10	76,001 to 83,000	85
9,401 to 10,300	11	83,001 to 90,000	90
10,301 to 11,100	12	90,001 to 96,000	95
11,101 to 12,000	13	96,001 to 111,000	100
12,001 to 12,900	14	111,001 to 130,000	110
12,901 to 13,700	15	130,001 to 160,000	120
13,701 to 14,600	16	160,001 to 190,000	130
14,601 to 15,500	17	190,001 to 220,000	140
15,501 to 16,300	18	220,001 to 250,000	150
16,301 to 17,200	19	250,001 to 290,000	160
17,201 to 18,100	20	290,001 to 320,000	170
18,101 to 18,900	21	320,001 to 360,000	180
18,901 to 19,800	22	360,001 to 410,000	190
19,801 to 20,700	23	410,001 to 450,000	200
20,701 to 21,500	24	450,001 to 500,000	210
21,501 to 22,300	25	500,001 to 550,000	220
22,301 to 23,200	26	550,001 to 600,000	230
23,201 to 24,000	27	600,001 to 660,000	240
24,001 to 24,900	28	660,001 to 720,000	250
24,901 to 25,000	29	720,001 to 780,000	260
25,001 to 28,000	30	780,001 to 840,000	270
28,001 to 33,000	35	840,001 to 910,000	280
33,001 to 37,000	40	910,001 to 970,000	290
		970,001 to 1,050,000	300

(b) Population served calculation. For purposes of determining the population served to *determine* [calculate] sampling frequency, the *applicable method* [technique] below [which most closely fits the supplier of water] shall be used:

1. When the supplier of water serves an area defined by an official census count [and/]or a population projection, the most recent census count or official population projection shall be used; or,

2. Where no official figures on population are available on the area served by a supplier of water, the population served shall be considered to be a factor of not less than 3.3 times the number of residential connections or a factor of not less than three (3) times the total number of all connections, which ever is greater.

(3) Sampling frequency for semipublic water suppliers. Samples of water from semipublic water systems shall be tested, for the purpose of determining coliform density, *at least twice* [no less than once] per month.

(4) Sampling scheduling. The time at which each public and semipublic water supplier shall take routine samples for the purpose of determining coliform density shall be scheduled by the *cabinet* [department]. *A non-community public water system shall sample for total coliform bacteria per 100 milliliter at least twice each month of operation and shall notify the cabinet in writing in advance of such sampling. This frequency may be changed by the cabinet on the basis of subsequent surveys and conditions.*

(5) Forwarding samples. The *cabinet will* [department shall] notify each public and semipublic water supplier [as

to] which *certified commercial or* state laboratory samples *shall* [should] be sent for coliform density analysis. *The samples shall be forwarded by the most expeditious or speedy method available to the water supply.*

(6) Sampling points. Samples taken for coliform analysis shall be taken at representative points throughout the water distribution system. Different sampling points shall be *designated by the water supply* [used at all times] including remote points in the distribution system. When the sample is collected, the free chlorine residual *shall* [will] be determined and recorded on the form provided with the sample container.

(7) Sample collection, public water systems. The bacteriological samples for public water systems shall be collected by the supplier of water in bottles [especially] prepared and sterilized in accordance with "Standard Methods." The water sample *shall* [must] be free of any disinfecting agency [immediately] at the time of its collection.

(8) Analytical techniques for bacteriological contamination. The analysis for the determination of bacteriological contamination shall be determined by either the membrane filter technique or the multiple tube fermentation technique (MPN procedure). The analysis shall be conducted in accordance with "Standard Methods" except that a standard sample size shall be employed. The standard sample used in the membrane filter procedure shall be 100 milliliters. The standard sample used in the five (5) tube most probable number (MPN) procedure (fermentation tube method) shall be five (5) times the standard portion. The standard portion is either ten (10) milliliters or 100 milliliters as described herein.

(9) Maximum bacteriological contaminant level, membrane filter technique. When the membrane filter technique is used, the number of coliform bacteria shall not exceed any of the following:

(a) One (1) per 100 milliliters as the arithmetic mean of all samples examined per month pursuant to Section 4(2)(a), *except that, at the division's discretion, systems required to take ten (10) or fewer samples per month may be authorized to modify this requirement and exclude one (1) positive routine sample per month from the monthly calculation if:* [.]

1. As approved on a month-to-month basis the cabinet determines and notifies the public water system that no unreasonable risk to health would exist under the conditions of this modification. A notification may be based on but not limited to the following:

a. The system provides and maintains an active disinfectant residual in the distribution system,

b. The potential for contamination as indicated by a sanitary survey, and

c. The history of water quality at the public water system including but not limited to MCL or monitoring violations;

2. The supplier initiates a check sample on each of two (2) consecutive days from the same sampling point within twenty-four (24) hours after notification that the routine sample is positive, and each check sample is negative; and

3. The original positive routine sample is reported and recorded by the supplier pursuant to Section 12(2) and Section 13(4) of this regulation. The supplier shall report to the cabinet its compliance with the conditions specified in this paragraph and a summary of the corrective action taken to correct the prior positive sample result. If a positive routine sample is not used for the monthly calculation, another routine sample must be analyzed for compliance purposes. This provision may be used only once during two (2) consecutive compliance periods.

(b) Four (4) per 100 milliliters in more than one (1) sample when less than twenty (20) are examined per month.

(c) Four (4) per 100 milliliters in more than five (5) percent of the samples when twenty (20) or more are examined per month.

(10) Maximum bacteriological contaminant level, multiple tube fermentation technique (MPN procedure).

(a) Ten (10) *milliliter* [ml] standard *tube* [portion]. When the fermentation tube method and ten (10) milliliter standard *tube* [portion] are used, coliform bacteria shall not be present in any of the following: more than ten (10) percent of the *tubes* [portions] in any month[;] *pursuant to Section 4(2)(a), except that, at the cabinet's discretion, systems required to take twenty (20) or fewer samples per month may be authorized to exclude one (1) positive routine sample resulting in one (1) or more positive tubes per month from the monthly calculation if:*

1. As approved on a case-by-case basis the cabinet determines and notifies the public water system in writing that no unreasonable risk to health existed under the conditions of this modification. A notification may be based on but not limited to the following:

a. The system provided and maintained an active disinfectant residual in the distribution system,

b. The potential for contamination as indicated by a sanitary survey, and

c. The history of the water quality at the public water system (e.g., MCL or monitoring violations);

2. The supplier initiates a check sample on each of two (2) consecutive days from the sampling point within twenty-four (24) hours after notification that the routine sample is positive, and each check sample is negative;

3. The original positive routine sample is reported and recorded by the supplier pursuant to Section 12(2) and Section 13(4) herein; the supplier reports to the cabinet its compliance with the conditions specified in this paragraph and reports the action taken to correct the prior positive sample result; if a positive routine sample is not used for the monthly calculation, another routine sample is analyzed for compliance purposes; and this provision is used only once during two (2) consecutive compliance periods;

4. Three (3) or more tubes in more than one (1) sample when less than twenty (20) samples are examined per month; or

5. Three (3) or more tubes in more than five (5) percent of the samples when twenty (20) or more samples are examined per month, or three (3) or more *tubes* [portions] in more than one (1) sample when less than twenty (20) samples are examined per month; or three (3) or more *tubes* [portions] in more than five (5) percent of the samples when twenty (20) or more samples are examined per month.

(b) One hundred *milliliter* [ml] standard *sample* [portion]. When the fermentation tube method and 100 milliliter standard *samples* [portions] are used, coliform bacteria shall not be present in any of the following: more than sixty (60) percent of the *tubes* [portions] in any month; or, five (5) *tubes* [portions] in more than one (1) sample when less than five (5) samples are examined per month; or, five (5) *tubes* [portions] in more than twenty (20) percent of the samples when five (5) or more samples are examined per month.

(11) Small system compliance period. For *public water* [community or non-community] systems that are required to sample at a rate of less than four (4) per month, and

semipublic systems, compliance with Section 4(9) and Section 4(10) shall be based upon sampling during a three (3) month period, except that, at the discretion of the *cabinet* [Department] compliance may be based upon sampling during a one (1) month period because of public safety.

(12) Bacteriological check sampling. [In order to protect the public and to prevent needless public alarm,] The following check sampling levels are established:

(a) Membrane filter technique. When coliform bacteria occur in a single sample, at least two (2) consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the *cabinet* [department] until the results obtained from at least two (2) consecutive check samples show less than one (1) coliform bacterium per 100 milliliters.

(b) Multiple tube fermentation technique:

1. *Ten (10) milliliter tubes. When coliform bacteria occur in three (3) or more* ten (10) *milliliter tubes* [ml portions] of a single sample, at least two (2) consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or at a frequency established by the *cabinet* [department] until the results obtained from at least two consecutive check samples show no positive tubes.

2. One hundred *milliliter tube* [ml portion]. When coliform bacteria occur in all five (5) of the 100 *milliliter tubes* [ml portions] of a single sample, at least two (2) consecutive daily check samples shall be collected and examined from the same sampling point. Additional check samples shall be collected daily, or *at* a frequency established by the *cabinet* [department] until the results obtained from at least two (2) consecutive daily check samples show no positive tubes.

(13) Check sample locations. The location at which the check samples were taken purusant to Section 4(12) shall not be eliminated from future sampling without *written* approval of the *cabinet* [department]. The results from all coliform bacterial analyses performed pursuant to this subpart, except those obtained from check samples and special purpose samples, shall be used to determine compliance with the maximum contaminant level for coliform bacteria. Check samples shall not be included in calculating the total number of samples taken each month to determine compliance.

(14) Check sample reporting. When the presence of coliform bacteria in water taken from a particular sampling point has been confirmed by any check samples examined as directed in Section 4(12), the supplier of water shall report that [fact] to the [Department's] division [of Sanitary Engineering] within forty-eight (48) hours.

(15) [Maximum contaminant level exceeded.

(a)] When a maximum contaminant level set forth in Section 4(9) or Section 4(10) is exceeded, the supplier of water shall report that [fact] to the [Department's] division [of Sanitary Engineering] and notify the public as prescribed in Section *11* [10] herein.

[(b) In addition, the department may issue or cause to be issued a public notice to boil drinking water before human consumption and] *The cabinet* may conduct an on-site [engineering] inspection to assist the operator in determining the cause of the contamination and issue an order which includes a reasonable time period during which all causes of the contamination shall be corrected.

(16) Special purpose samples. Special purpose samples, such as those taken to determine whether disinfection practices following pipe placement, replacement, or repair have been sufficient, shall not be used to determine compliance with Section 4(2)(a), Section 4(9), or Section 4(10).

Section 5. Turbidity Sampling, Analytical Techniques and Maximum Contaminant Levels. (1) Who must sample for turbidity. All producers of water for *public* [community and non-community] water systems who use surface water sources in whole or in part *and those groundwater sources which demonstrate a variable turbidity* are subject to the provisions set forth in this section. Systems that purchase water from other systems or obtain [all of] their water from *turbidity free* groundwater sources or semipublic systems are not subject to these provisions.

(2) Sampling frequency. Samples for the determination of turbidity shall be taken one (1) each day at *the* [each] producing facility except as otherwise provided herein. *Turbidity level determinations shall be made within one (1) hour after sample collection.*

(3) Sampling point. Samples for the determination of turbidity shall be taken at a representative entry point to the distribution system. Where water is produced by more than one (1) treatment plant for a single system, each plant shall be considered a separate sampling point.

(4) Maximum turbidity limit. The maximum contaminant level for turbidity is one (1) turbidity unit (TU) as determined by a monthly average of daily samples or five (5) turbidity units based on an average of two (2) consecutive days.

(5) Measurement technique. The measurement for turbidity shall be by the Nephelometric Method as set forth in "Standard Methods," or an alternate method approved *in writing* by the *cabinet* [department].

(6) Excessive turbidity. If [the result of a turbidity analysis indicates that] the maximum allowable limit has been exceeded, the sampling and measurement shall be confirmed by resampling as soon as practicable *but* [and] not later than one (1) hour thereafter. If the repeat sample *exceeds* [confirms that the] maximum allowable limit [has been exceeded], the supplier shall report that [fact] to the [Department's] division [of Sanitary Engineering] within forty-eight (48) hours. The repeat sample shall be the sample used for the purpose of calculating the monthly average. If the monthly average of the daily samples exceeds the maximum allowable limit, or if the average of two (2) samples taken on consecutive days exceeds five (5) TU, the supplier of water shall report that [fact] to the [Department's] division [of Sanitary Engineering] and notify the public as directed in Section *11* [9] herein.

(7) Exceptions. Up to five (5) turbidity units may be allowed if the supplier of water can demonstrate to the *cabinet* [department] that the higher turbidity does not do any of the following:

(a) Interfere with disinfection;

(b) Prevent *maintaining* [maintenance of] an effective disinfectant agent throughout the distribution system; or

(c) Interfere with microbiological determinations.

Section 6. Inorganic Chemical Sampling, Analytical Techniques and Maximum Contaminant Levels. (1) Who must sample for inorganic chemicals. All producers of water for *public* [community and non-community] water systems *shall* [must] sample for the presence of inorganic chemicals. Systems that purchase all of their water from another system or semipublic systems are not required to sample for inorganic chemicals.

(2) Sampling frequency:

(a) Community water systems, surface source. All com-

munity water systems utilizing surface water sources shall sample for the presence of inorganic chemicals each year, with the first sampling completed by June 24, 1978.

(b) Community water systems, groundwater source. All community water systems utilizing groundwater as a source of supply shall sample for the presence of inorganic chemicals each three (3) years with the initial sampling completed by June 24, 1979.

(c) All non-community water systems. All non-community water systems shall sample once each three (3) years with the initial sampling completed by June 24, 1979. The only inorganic chemical for which non-community water systems must sample is nitrates.

(3) Sampling point. The sampling point for the determination of inorganic chemicals shall be at any free flowing outlet of the distribution system.

(4) Maximum inorganic chemical limits (except fluoride):

(a) The following are the maximum contaminant levels for inorganic chemicals other than fluoride:

Contaminant	Level, milligrams per liter
Arsenic	0.05
Barium	1.
Cadmium	0.010
Chromium	0.05
Lead	0.05
Mercury	0.002
Nitrate (as N)	10.
Selenium	0.01
Silver	0.05

(b) The maximum contaminant level for nitrate is applicable to *all public* [both community water systems and non-community] water systems. The levels for the other inorganic chemicals apply only to community water systems.

(5) Fluoridation.

(a) Maximum fluoride concentration. When the annual average of the maximum daily air temperatures for the location in which the community water system is situated is the following, the maximum contaminant levels for fluoride are:

Temperature Degrees Fahrenheit	Degrees Celsius	Level, milligrams per liter
53.7 and below	12.0 and below	2.4
53.8 to 58.3	12.1 to 14.6	2.2
58.4 to 63.8	14.7 to 17.6	2.0
63.9 to 70.6	17.7 to 21.4	1.8
70.7 to 79.2	21.5 to 26.2	1.6
79.3 to 90.5	26.3 to 32.5	1.4

(b) The maximum limit for fluoride is applicable to community water systems only.

(c) Fluoridation of public water supplies is covered by Regulation 401 KAR 6:020.

(6) Measurement technique. Measurement for inorganic chemicals shall be done in accordance with the techniques mutually approved by the Administrator and the [Department's] division [of Sanitary Engineering].

(7) Inorganic chemical limit exceeded (except nitrate):

(a) If [the result of an analysis made indicates that] the level of any contaminant listed in Section 6(4) or Section 6(5) (except nitrate) exceeds the maximum contaminant level, the supplier of water shall report to the *cabinet* [department] within seven (7) days and initiate three (3) additional analyses at the same sampling point within one (1) month.

(b) When the average of the routine sample that exceeds the maximum limit [and] together with the three (3) additional samples as set forth above rounded to the same number of significant figures as the maximum contaminant level for the substance in question, exceeds the maximum contaminant level, the supplier of water shall notify the *cabinet* [department] and give notice to the public as prescribed in Section 10 herein. Monitoring *by the supplies* after public notification shall be *at* a frequency designated by the *cabinet* [department] and shall continue until the maximum contaminant level has not been exceeded in two (2) successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action *is* [shall become] effective.

(8) Nitrate limit exceeded. The maximum contaminant level for nitrate shall be determined on the basis of the mean of two (2) analyses. When a level exceeding the maximum contaminant level for nitrate is found, a second analysis shall be initiated within twenty-four (24) hours, and if the mean *average* of the two (2) analyses exceeds the maximum contaminant level, the supplier of water shall report *this* [his findings] to the *cabinet* [department] and shall notify the public as prescribed in Section *11* [10] herein.

(a) Nitrate levels not exceeding twenty (20) mg/l may be allowed in a non-community water system if:

1. No water from the system is or will be available to children under six (6) months of age; and

2. There will be continuous posting that nitrate levels exceed ten (10) mg/l and the potential health effects of exposure; and

3. Local and state public health authorities are notified annually of nitrate levels that exceed ten (10) mg/l; and

4. No adverse health effects shall result.

(b) If the state allows levels of nitrate up to twenty (20) mg/l public notification will not be required until the MCL exceeds twenty (20).

(9) Prior sampling accepted. Surface water data acquired since June 24, 1976 and ground water data acquired since June 24, 1974 may be substituted for the initial analyses required by this section at the discretion of the *cabinet* [department].

Section 7. Organic Chemical Sampling, Analytical Techniques and Maximum Contaminant Levels. (1) Who must sample for organic chemicals. *A* [All] community water system[s] that obtains all or part of *its* [their] water from surface water sources *shall* [must] sample for organic chemicals and *is* [are] subject to the provisions of this section. The *cabinet* [department] may *require a* [specify certain] community water system[s] *which obtains its* [obtaining their] water from *any* groundwater source[s] to sample for organic chemicals.

(2) Sampling frequency. Sampling for organic chemicals shall be done no less than once each three (3) years at a period of the year specified by the *cabinet* [department], with the initial sampling completed by June 24, 1978.

(3) Sampling points. The sampling point for the determination of organic chemicals shall be at any free flowing outlet of the distribution system.

(4) Maximum organic chemical limits. The following are the maximum contaminant levels for organic chemicals.

	Level, milligrams per liter
Chlorinated hydrocarbons:	
Endrin (1,2,3,4,10, 10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octa hydro-1,4-endo, endo-5,8 - dimethano naphthalene).	0.0002
Lindane (1,2,3,4,5,6-hexachloro-cyclohexane, gamma isomer).	0.004
Methoxychlor (1,1,1-Trichloro-2, 2 - bis (p-methoxyphenyl) ethene).	0.1
Toxaphene (C10H10Cl8-Technical Chlorinated Camphene, 67-69 percent chlorine).	0.005
Chlorophenoxys:	
2,4 - D, (2,4-Dichlorophenoxyacetic acid).	0.1
2,4,5-TP Silvex (2,4,5-Trichloro-Phenoxypropionic acid).	0.01

(5) Measurement technique. Measurement for the determination of the chlorinated hydrocarbon group shall be made in accordance with "Methods for Organic Chlorine Pesticides in Industrial Effluents." Measurement for the determination of the chlorophenoxy group shall be in accordance with the "Methods for Chlorinated Phenoxy Acid Herbicides in Industrial Effluents." Both methods are found in the publication from the Method Development and Quality Assurance Laboratory, Environmental Protection Agency, Cincinnati, Ohio, dated November 28, 1973. Other methods may be mutually approved by the administrator and the [Department's] division [of Sanitary Engineering].

(6) Organic chemical limit exceed.

(a) If the results of an analysis for the organic chemicals listed above show that the maximum limits have been exceeded, the supplier of water shall report this information to the *cabinet* [department] within seven (7) days initiate three additional analyses within one (1) month.

(b) When the average of the four (4) analyses made above rounded to the same number of significant figures as the maximum contaminant level for the substance in question exceeds the maximum contaminant level, the supplier of water shall report that fact to the [Department's] Division of *Water* [Sanitary Engineering] and give notice to the public as specified *in* [with] Section 10 herein. Monitoring after public notification shall be at a frequency *determined* [designated] by the *cabinet* [department] and shall continue until the maximum contaminant level has not been exceeded in two (2) successive samples or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(7) Prior sampling accepted. For the initial analysis required in this section, data for surface water acquired within one (1) year prior to June 24, 1977 and data for ground water acquired within three (3) years prior to June 24, 1977 may be substituted at the discretion of the *cabinet* [department].

Section 8. Trihalomethanes. (1) Definitions. The following definitions are applicable to this section:

(a) "Trihalomethane (THM)" means one (1) family of organohalogen compounds resulting from the displacement of three (3) of the four (4) hydrogen atoms in methane with chlorine, bromine, or iodine atoms in the molecular structure.

(b) "Total trihalomethanes (TTHMs)" means the arithmetic sum of the concentrations in milligrams per liter of the THM compounds (trichloromethane, dibromochloromethane, bromodichloromethane, and tribromomethane) rounded to two (2) significant figures.

(c) "Maximum total trihalomethane potential (MTP)" means the maximum concentration of TTHM appearing at any selected distribution point which has a maximum residence time in systems supplying water for domestic or human consumption and which contains a disinfectant residual after seven (7) days retention at a temperature of twenty-five (25) degrees Centigrade (seventy-seven (77) degrees Fahrenheit) or above.

(d) "Disinfection" means the use of chlorine and free chlorine residuals. The use of chloramines, chlorine dioxide and ozone shall be acceptable substitutes for the purpose of eliminating formation of trihalomethanes, with prior approval by the division.

(2) Who must sample for trihalomethanes. Each community public water system serving 10,000 or more persons that adds a disinfectant as part of its treatment process shall monitor for trihalomethanes. The cabinet shall provide technical assistance in sampling and sample analysis for trihalomethanes. Consecutive community water systems where a seller and one (1) or more purchasers of water are involved and the combined population of the systems involved exceeds 10,000 or more persons shall be required to sample for trihalomethanes pursuant to Section 2(13) of this regulation as follows:

(a) When a buyer does not practice booster disinfection of alter the water is any way, the seller shall be responsible for monitoring. Sampling shall be done pursuant to subsection (4)(c) of this section wherein the buyer's distribution system shall reflect the longest period of retention.

(b) If a buyer practices booster disinfection or alters the water in any way, monitoring shall be the responsibility of the buyer and sampling shall be done pursuant to subsection (4) of this section. The raw water sample shall be taken at the point of entry into the system of the buyer and ahead of the booster chlorination point.

(c) Any system determined by the division to be the major contributor to excesses in violation of maximum contaminant levels for total trihalomethanes shall notify the public as provided in Section 11 of this regulation.

(3) Sampling frequency. Systems serving 75,000 or more persons are required to have completed one (1) year of sampling and analysis for trihalomethanes on a quarterly basis by November 29, 1981. Systems serving more than 10,000 persons but less than 75,000 persons shall initiate quarterly monitoring by November 29, 1982 and have one (1) year of sampling and analysis completed by November 29, 1983.

(4) Sampling points. Samples shall be taken from a free flowing tap within the distribution system of the supplier on the following basis:

(a) One (1) untreated or raw water sample to determine interference factors.

(b) Three (3) samples shall be taken at points in the distribution system which reflect normal average daily usage or turnover.

(c) One (1) sample shall be taken in the system which reflects the longest time period of retention within the distribution system but shall not be taken on a dead-end.

(d) All samples taken quarterly shall be taken in the same week and at the same designated sample points during each quarter.

(e) The minimum number of samples required for each system shall depend upon the number of treatment plants in the system. Each system shall collect four (4) samples

from the distribution system per quarter for each treatment plant. One (1) raw water control sample shall be taken from each plant intake per quarter.

(f) In multiple plant operations, sampling shall reflect the distribution from each plant.

(5) Maximum trihalomethane limits.

(a) The maximum contaminant level for total trihalomethanes has been established at 0.10 milligrams per liter (mg/l).

(b) The results of all analyses performed each quarter shall be averaged and reported in a format which will be supplied by the cabinet. All samples collected shall be used in computing the average, unless the analytical results are invalidated for technical reasons by the division.

(c) Compliance will be determined on a running annual average of the most recent four (4) quarterly samples.

(6) Reduction in sampling frequency. Upon receipt of a written request and at the discretion of the cabinet, the requirement of a sampling frequency of four (4) samples per quarter per year for each treatment plant used by the system may be reduced by a minimum of one (1) sample for TTHMs per quarter per year. Such reduction in frequency may only be considered after one (1) full year of monitoring in accordance with the original schedule if it has been demonstrated that the water delivered to consumers has been below the TTHM MCL of 0.10 mg/l. The minimum single sample for TTHM shall then be taken at a point in the distribution system that reflects maximum residence time. If a minimum single sample per quarter exceeds the MCL for TTHM and is confirmed by at least one (1) check sample the system must revert back to the four (4) samples per quarter sampling frequency for one (1) year before reduced frequency may again be requested. Significant changes in the water source or treatment program may be grounds for reverting to the original four (4) per quarter schedule of sampling analysis.

(7) Increase in sampling frequency. If quarterly sampling analytical results show a TTHM arithmetic sum above acceptable limits the cabinet may place the system on a monthly monitoring schedule until acceptable levels are achieved for three (3) consecutive months.

(8) Sampling and measurement techniques.

(a) Sampling and analyses made pursuant to this section shall be conducted according to one (1) of the following approved methods:

1. "The Analysis of Trihalomethanes in Drinking Waters by the Purge and Trap Method," Method 501.1 EMSL, EPA, Cincinnati, Ohio.

2. "The Analysis of Trihalomethanes in Drinking Water by Liquid/Liquid Extraction," Method 501.2, EMSL, EPA, Cincinnati, Ohio.

(b) Samples for TTHM shall be dechlorinated upon collection to prevent further production of THMs according to the procedures described in the foregoing two (2) methods. Samples for maximum TTHM potential should not be dechlorinated and shall be held for seven (7) days at twenty-five (25) degrees Centigrade or above prior to analysis.

(c) The cabinet will accept only analytical data from laboratories which have participated in the U.S. EPA performance evaluation program and which have been certified jointly by the cabinet's designated official and the EPA.

(9) Total trihalomethane levels exceeded. If the average annual TTHM level is exceeded the community water system shall notify the public as set forth in Section 11 of this regulation.

(10) Requirements for making significant treatment modifications. Before a system makes any significant modifications in its existing treatment process to achieve compliance with this regulation, the system shall obtain cabinet approval of a detailed plan for such modifications. Any plan to modify a disinfection practice shall require the system, at a minimum, to:

(a) Evaluate the water system for sanitary defects and evaluate the source water for bacteriological quality;

(b) Evaluate its existing treatment practices and consider improvements which shall minimize disinfectant demand and optimize finished water quality throughout the distribution system;

(c) Provide baseline data from water quality surveys of the distribution system. Such data shall include the results from monitoring for:

1. Total coliform and fecal coliform bacteria;

2. Fecal streptococci;

3. Standard plate counts at thirty-five (35) degrees Centigrade and twenty (20) degrees Centigrade;

4. Phosphate;

5. Ammonia nitrogen;

6. Total organic carbon; and

7. Viral studies where source waters are contaminated with sewage effluent.

(d) Provide additional similar monitoring to assure continued maintenance of optimal bacteriological quality in finished water after unit treatment or disinfection modifications are made.

(e) Demonstrate an active disinfectant residual throughout the distribution system at all times during and after the modification.

(f) Provide additional monitoring for chlorate, chlorite and chlorine dioxide which shall be required when chlorine dioxide is used as a disinfectant.

(11) Prior sampling accepted. Trihalomethane sampling analyses completed since November 1, 1980 shall be accepted as part of the initial surveillance scheduling requirements of the cabinet.

(12) Self-monitoring reporting requirements. All laboratories performing monitoring and TTHM analyses for drinking water systems must hold a valid certification. Results shall be submitted to the cabinet, on a form provided by the cabinet, within thirty (30) days after completion.

(13) Variance procedures. Upon promulgation of EPA variance procedures for TTHM, such procedures will be utilized by the cabinet. Otherwise the cabinet may apply 401 KAR 6:015.

Section 9. [8.] Radionuclides. (1) Definitions. The following definitions are applicable to this section:

(a) "Dose equivalent" means the product of the absorbed dose from ionizing radiation and such factors as account for differences in biological effectiveness due to the type of radiation and its distribution in the body as specified by the International Commission on Radiological Units and Measurements (ICRU).

(b) "Rem" means the unit of dose equivalent from ionizing radiation to the total body or any internal organ or organ system. [A "millirem (mrem)" is 1/1,000 of a rem.]

(c) "Picocurie (pCi)" means that quantity of radioactive material producing 2.22 nuclear transformations per minute.

(d) "Gross alpha particle activity" means the total radioactivity due to alpha particle emission as inferred from measurements on a dry sample.

(e) "Man-made beta particle and photon emitters" means all radionuclides emitting beta particles and[/or] photons listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," NBS Handbook 69, except the daughter products of thorium-232, uranium-235 and uranium-238.

(f) "Gross beta particle activity" means the total radioactivity due to beta particle emission as inferred from measurements on a dry sample.

(2) Who must sample for radionuclides. All producers of water for community water systems shall sample for radionuclides. Community water systems who purchase all of their water from others are not required to sample for radionuclides. The *division* [department] shall provide technical assistance in sampling and sample analysis for radionuclides.

(3) Sampling frequency. Sampling for radionuclides shall be on a schedule determined by the *division* [department] but in no event shall it be less than once each four (4) years for community water systems.

(4) Sampling points. Samples shall be taken from a free flowing tap within the distribution system of the supplier. When a community water system is supplied by two (2) or more sources having difference concentrations of radioactivity, samples shall be taken at each source.

(5) Maximum radionuclides limits:

(a) Radium 226, radium 228 and Gross Alpha particle radioactivity. The following are the maximum contaminant levels for radium-226, radium-228, and gross alpha particle radioactivity:

1. Combined radium-226 and radium-228 — 5pCi/l.
2. Gross alpha particle activity (including radium-226 but excluding radon and uranium) — 15 pCi/l.

(b) Beta particle and photon radioactivity from man-made radionuclides. The average annual concentration of beta particle and photon radioactivity from man-made radionuclides in drinking water shall not produce an annual dose equivalent to the total body or any internal organ greater than four (4) millirem/year. The following are the average annual concentrations assumed to produce a total body or organ dose of four (4) mrem/year:

Radionuclide	[Critical] Organ	pCi per liter (pCi/l)
Tritium	Total body	20,000
Strontium-90	Bone marrow	8

Except for the radionuclides listed, the concentration of man-made radionuclides causing four (4) mrem*/year* total body or organ dose equivalents shall be calculated on the basis of a two (2) liter per day drinking water intake using the 168 hour data listed in "Maximum Permissible Body Burdens and Maximum Permissible Concentration of Radionuclides in Air or Water for Occupational Exposure," NBS Handbook 69 as amended August 1963, U. S. Department of Commerce. If two (2) or more radionuclides are present, the sum of their annual dose equivalent to the total body or to any organ shall not exceed four (4) millirem/year.

(6) Sampling and measurement technique. Sampling and measurement shall be in accordance with procedures set forth in Federal Register 28402 (July 9, 1976) Section [141.16(b);] 141.25 and 141.26 which may be obtained through the [Department's]division [of Sanitary Engineering].

(7) Radionuclides limit exceeded. If the average annual maximum contaminant level for radionuclides is exceeded, the supplier of a community water system shall give notice to the *cabinet* [department] and notify the public as set forth in Section 10 herein. Monitoring at quarterly intervals for gross alpha particle activity, radium 226 and radium 228 and at monthly intervals for man-made radioactivity, depending on which limit is exceeded, shall be continued until the annual average concentration no longer exceeds the maximum contaminant level or until a monitoring schedule as a condition to a variance, exemption or enforcement action shall become effective.

(8) Prior sampling accepted. Radionuclide sample analysis completed since July 24, 1976 may be substituted for the initial analysis at the discretion of the *cabinet* [department].

Section *10.* [9.] Variances and Exemptions. (1) Variances:

(a) Requirements for a variance. The *cabinet* [department] may grant variances to the maximum contaminant levels [set forth] in this regulation upon a finding that:

1. Because of characteristics of the raw water sources which are reasonably available to the systems, the system cannot meet the *applicable* [requirements respecting the] maximum contaminant levels [of such drinking water regulations] despite application of the best technology, treatment techniques, or other means, which are generally available [(taking costs into consideration)]; and

2. The granting of a variance will not result in an unreasonable risk to the health of *any* person[s served by the system]. A variance may also be granted from the provisions of this regulation or the policy of the *cabinet* [department] concerning [any requirements of a specified] treatment technique of an applicable [national] primary drinking water regulation *if* [upon a finding that] the public water system applying for the variance has demonstrated that such treatment technique is not necessay to protect the health of persons because of the nature of the raw water source of such system.

(b) Variance request. A supplier of water may request [the granting of] a variance [pursuant to this regulation] by submitting *a written* [in writing a] request [for a variance] to the *cabinet* [department]. The [initial] request *shall* [should] contain all the information and data concerning the variance request that is required by the *cabinet* [department]. *The request shall include* [Included in the information to be provided the department will be] a proposed compliance schedule and a statement that the system *shall* [will] perform monitoring and other reasonable requirements prescribed by the *cabinet* [department] as a condition to the variance.

(c) Consideration of variance request:

1. In its consideration of *a variance request* [whether the public water system is unable to comply with a contaminant level set forth in this regulation, as revised, because of the nature of the raw water source,] the *cabinet* [department] shall consider such factors as the availability and effectiveness of treatment techniques, cost, and other economic considerations such as the cost of implementing other treatment techniques, improving source water quality, *or* using an alternate source.

2. In *considering* [consideration of whether] a variance *request* [should be granted] to a required treatment technique the *cabinet* [department] shall consider such factors as the quality of the water source and source protection measures provided by the water system.

(2) Exemptions:

(a) Requirements for an exemption. The *cabinet* [department] may exempt any public water system from any requirement respecting a maximim contaminant level or any treatment technique requirement, or from both, of an applicable pimary drinking water standard upon a finding that due to compelling factors, which may include economic factors, the public water system is unable to comply with such contaminant level or treatment technique requirement or the public water system was in operation on the effective date of such contaminant level or treatment technique requirement and the granting of the exemption will not result in an unreasonable risk to health.

(b) Exemption request. A supplier of water may request [the granting of] an exemption *from* [pursuant to] these regulations by submitting a *written* request for exemption [in writing] to the *cabinet* [department]. The [initial] request *shall* [should] contain all the information and data concerning the exemption request that is required by the *cabinet* [department]. *The request shall include a* [Included in this information shall be] a proposed compliance schedule and relevant analytical results of water quality sampling, including results of relevant tests conducted pursuant to this regulation, and an explanation of the factors such as time or economic factors which prevent such system from achieving compliance.

(c) Consideration of an exemption request. In its consideration of *an exemption request* [whether the public water system is unable to comply due to compelling factors,] the *cabinet may* [department shall] consider such factors as construction, installation or modification of treatment equipment or systems; the time needed to put into operation a new treatment facility to replace an existing system which is not in compliance; and economic feasibility of compliance.

(3) Disposition of a variance or exemption request. The *cabinet will* [department shall] act on any variance or exemption request submitted within ninety (90) days of receipt of the request, *or as soon as possible thereafter.*

(a) Variance or exemption denied. If the *cabinet* [department] decides to deny the application for a variance or exemption, it *will* [shall] notify the applicant of its intention to issue a denial. Such notice *will* [shall] include a statement of reasons for the proposed denial and *will* [shall] offer the applicant an opportunity to present, within thirty (30) days of receipt of the notice, additional information or argument to the *cabinet* [department]. The *cabinet will* [department shall] make a final determination on the request within thirty (30) days after receiving any such additional information or argument. If no additional information or argument is submitted by the applicant, the application shall be denied.

(b) Variance or exemption granted:

1. If the *cabinet proposes* [department proposed] to grant a variance or exemption, it *will* [shall] notify the applicant of its decision in writing. Such notice *will* [shall] identify the variance or exemption, the facility covered, conditions under which the variance or exemption may be terminated, and *will* [shall] specify the proposed termination date of the variance or exemption, unless otherwise terminated.

2. No variance or exemption shall be effective until the opportunity is provided for a public hearing on the proposed variance or exemption.

(4) Public hearing:

(a) Before a variance, exemption or a schedule proposed by the *cabinet* [department] may take effect, the *cabinet* [department] shall provide adequate notice and opportunity for a public hearing on the variance, exemption or proposed schedule. Public notice of the opportunity shall be in a manner consistent with the current applicable regulation of the U. S. Environmental Protection Agency, and shall, in general, follow the procedures set forth in Section *11* [10] herein.

(b) Requests for hearing may be submitted by any interested person to the *cabinet* [department] within thirty (30) days after issuance of the public notices provided for above, and shall include the following:

1. The name, address, and telephone number of the individual, organization or other entity requesting a hearing;

2. A brief statement of the interest of the person making the request in the proposed schedule and of information that the requesting person intends to submit at such hearing; and

3. The signature of the individual making the request, or the signature of a responsible official of the requesting organization or other entity.

(c) A hearing convened pursuant to this section shall be conducted before a hearing officer [to be] designated by the *cabinet* [department] in accordance with the rules and procedures of the *cabinet* [department].

(d) Within thirty (30) days after the termination of the public hearing the *cabinet* [department] shall, taking into consideration information obtained during such hearing and other relevant information, confirm, revise or rescind the proposed variance, exemption or schedule.

(e) The variance, exemption or schedule shall become effective thirty (30) days after the notice of opportunity for a hearing is given if no request for a hearing is submitted within this period and the *cabinet* [department] does not determine to hold a public hearing on its own motion.

(5) Revised compliance schedule. When a variance or exemption has been granted the *cabinet* [department] shall impose such interim control measures as are necessary and shall issue within one (1) year after the variance or exemption is granted a "proposed" schedule for compliance with this regulation. A public hearing shall be held pursuant to the proposed schedule in accordance with the provisions of this section. Within thirty (30) days after the termination of the public hearing the *cabinet* [department] shall, taking into consideration information obtained during such hearing, revise the proposed schedule as necessary and prescribe the final schedule for compliance and interim measures for the public water system granted a variance or exemption. The schedule shall be in conformance with the current requirements of the U. S. Environmental Protection Agency applicable to this schedule.

(6) Termination of a variance or exemption. Any variance or exemption granted by the *cabinet* [department] from this regulation shall be terminated at the earliest of the following dates:

(a) The termination date specified at the time the variance or exemption was issued;

(b) At the time the system comes into compliance with this regulation;

(c) At the time the *cabinet* [department] determines that the system has failed to comply with the finalized schedule;

(d) Upon a finding by the *cabinet* [department] that the [nature of the] raw water source is such that the specified treatment technique for which the variance was granted is necessary to protect the health of persons served (applicable to a variance only); *and*

(e) A finding that the water system has failed to comply with monitoring and other requirements prescribed by the

cabinet [department] as a condition to the granting of the variance (applicable to a variance only).

Section *11.* [10.] Public Notification. (1) Contaminant level exceeded, community water system. If a community water system fails to comply with an applicable maximum contaminant level as set forth in this regulation, *fails to comply with applicable monitoring and analytical requirements, is granted a variance or exemption from an applicable maximum contaminant level, or fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption,* the supplier of water shall notify persons served by the system of *the* [this] failure *or grant* by:

(a) Including a notice to this effect in the first set of water bills after *such* [the] failure, *variance or exemption,* and in any event by written notice within three (3) months. Such notice shall be repeated at least once every three (3) months so long as the system's failure continues *or variance or exemption remains in effect.* If the system issues water bills less frequently than quarterly, or does not issue water bills, the notice shall be made by or supplemented by another form of direct mail; [and,]

(b) If a community water system has failed to comply with an applicable maximum contaminant level, the supplier of water shall notify the public of such failure, in addition to the notification required by paragraph (a) of this section as follows:

1. [(b)] Publication on not less than three (3) consecutive days in a newspaper or newspapers of general circulation in the area served by the system. Such notice shall be completed within fourteen (14) days after the supplier of water learns of the failure; and

2. [(c)] Furnishing a copy of the notice to the radio and television stations, *excluding commercial television,* serving the area served by the system. Such notice shall be furnished within seven (7) days after the supplier of water learns of the failure.

3. The requirements of subsection (1)(b) of this section may be waived by the cabinet if it determines that the violation has been corrected promptly after discovery, the cause of the violation has been eliminated, and there is no longer a risk to public health.

4. [(d)] If the area is not served by a daily newspaper of general circulation, notification by newspaper shall instead be given by publication on three (3) consecutive weeks in a weekly newspaper of general circulation serving the area. If no weekly or daily newspaper of general circulation serves the area, notice shall be given by posting the notice in post offices within the area served by the system.

(2) Reports to the *cabinet* [department]. Any community water system giving public notice pursuant to Section 10(1) herein shall file the following [reports and information] with the *cabinet* [department].

(a) A copy of the notice that was included in the water bills or other direct mailing shall be mailed to the *cabinet* [department] on the same day that this notice was sent to the water system customers together with an affidavit signed by the chief executive officer of the system stating that the copy of the notice was sent to all customers. This procedure shall be repeated at each mailing of the notice as prescribed in Section 10(1) herein.

(b) A copy of the *complete* [full] page of the newspaper or newspapers in which the notice was published together with an affidavit from the publisher stating the dates on which the notice was published.

(c) A copy of the notice read over the radio or television station together with an affidavit from the station stating the times this announcement was made.

(d) If notice of the failure is given under the provision of Section 10(1)*(b)4* [(d)] herein, an affidavit from the county judge *executive of the county* in which the system is located that the notice was posted as prescribed herein [shall be sent to the department].

[(3)Other violations, community water systems. If a community water system fails to comply with an applicable testing procedure herein, is granted a variance or an exemption from an applicable maximum contaminant level, fails to comply with the requirements of any schedule prescribed pursuant to a variance or exemption, or fails to perform any monitoring required herein, the supplier of water shall notify persons served by the system as set forth in Section 10(1)(a) only, unless the department specifies otherwise.]

(3) [(4)] Non-community water system violations. If a non-community water system fails to comply with an applicable maximum contaminant level [established herein,] fails to comply with an applicable testing procedure, is granted a variance or an exemption from an applicable maximum contaminant level, fails to comply with the requirement of any schedule prescribed pursuant to a variance or exemption or fails to perform any monitoring required, the supplier of water shall give notices *by continuous posting* of such failure, [or grant] *variance or exemption* to the persons served by the system *as long as the failure, variance or exemption continues.* The form and manner of such notice shall be prescribed by the *cabinet* [department], and shall insure that the *persons* [public] using the system *are* [is] adequately informed of the failure, *variance or exemption* [or grant].

(4) [(5)] Form and content of public notices. The public notices given under this section shall be conspicuous and written in a manner to fully inform the users of the system. The notice shall be readable in language and print size and clearly disclose to the population served by the system all *relevant* facts [regarding the problem]. The notice *shall* [should] include any action the public should take as a result of the failure, *variance or exemption,* and a summary of the steps the system is taking to correct the problem.

(5) Notice to the public required by this section may be given by the cabinet on behalf of the supplier of water.

(6) Where notification by mail is required by subsection (1)(a) of this section but notification by newspaper or to radio or television stations is not required by subsection (1)(b) of this section, the cabinet may order the supplier of water to provide notification by newspaper and by radio and television stations when circumstances make more immediate or broader notice appropriate to protect the public health.

Section *12.* [11.] Reports and Records. (1) Monthly reports. The operator of each public water system shall file reports with the *cabinet* [department] indicating the monthly operational information. These reports shall be on forms provided by the *cabinet* [department] or approved by it and shall be received at the *division* [department] no later than ten (10) days after the end of the month for which the report is filed.

(2) Special reports. The supplier of water shall report to the *cabinet* [department] within forty-eight (48) hours the failure to comply with any drinking water regulations, contained herein including the failure to comply with monitoring requirements.

(3) Analysis in state laboratories. the supplier of water is

not required to report analytical results to the *cabinet* [department in cases] where a state laboratory performs the analyses and reports the results to the *cabinet* [department] which would normally receive such notification *directly* from the *laboratory* [supplier].

Section *13.* [12.] Record Maintenance. (1) Who *shall* [should] keep records. All owners or operators of public water and semi-public water systems shall keep on the premises or at a convenient location near the premises the records set forth in this section.

(2) Data summaries. Actual laboratory reports may be kept, or data may be transferred to tabular summary [ies], provided that the following information is included:

(a) The date, place, and time of sampling, and the name of the person who collected the sample;

(b) [Identification of the sample as to] Whether *the sample* [it] was a routine distribution system sample, check sample, raw or processed water sample or other special purpose sample;

(c) Date of analyses;

(d) Laboratory and person responsible for performing analyses;

(e) The analytical technique/method used; *and*

(f) The results of the analyses.

(3) Availability. The records required by this section shall be public records as defined in KRS 61.870 to 61.884.

(4) Bacteriological analyses. Records of bacteriological analyses shall be kept *at least* [not less than] five (5) years.

(5) Chemical analyses. Records of chemical analyses shall be kept for a period of ten (10) years [at which time they may be transferred to the department].

(6) Turbidity analyses. Records of turbidity analyses shall be kept for a period of at least one (1) year.

(7) Records of violations. Records of action taken by the system to correct violation of primary drinking water regulations shall be kept not less than ten (10) years after the last action taken with respect to the particular violation involved.

(8) Records of sanitary surveys. Copies of any written reports, summaries or communications relating to sanitary surveys of the system conducted by the system [itself], by a private consultant, or by any local, state or federal agency, shall be kept [for a period] not less than ten (10) years after completion of the sanitary survey involved, at which time they may be transferred to the *cabinet* [department].

(9) Records of variances or exemptions. Records concerning a variance or exemption granted to the system shall be kept [for a period ending] not less than five (5) years following the expiration of such variance or exemption.

Section *14.* [13.] Other Contaminants. (1) Definition of "other contaminants." The contaminants listed in this section do not, in general, have a direct impact on the health of consumers but their presence in excessive quantities may discourage the utilization of drinking water and discredit the supplier. The maximum limits for these contaminants are *commonly* referred to as "secondary standards" and are enforced as the other standards set forth herein, except that the provisions of Sections [9 and] 10 *and 11 of this regulation* do not apply.

(2) Who must sample for "other contaminants." All suppliers of water for public and semi-public *drinking water* systems shall sample for "other contaminants" at the direction of the *cabinet* [department].

(3) New sources of water. An analysis for these contaminants shall be made when a new source of water supply is proposed to the *cabinet* [department] for preliminary approval excessive amounts of these contaminants or excessive costs of their removal may be grounds for rejection of the proposed source of water.

(4) Existing sources of water. Existing producers of water shall sample for and make analysis for the "other contaminants" listed in this section at the frequency prescribed by the *cabinet* [department]. Treatment shall be adequate assure that the "other contaminant" level does not exceed the concentration limit set forth herein.

(5) Sampling point. Sample may be taken from a free flowing tap in the distribution system, except hydrogen sulfide (H2S) shall be measured at the entry point to the distribution system.

(6) "Other Contaminant" maximum levels. The following lists the maximum permissive levels of "other contaminants:"

Chemical Symbol	Name	Unit(2)	Maximum Level
[CCE	Carbon Chloroform Extract	mg/1	0.2]
Cl	Chloride	mg/1	250.*0*
—	Color(1)	Platinum Cobalt	15.*0*
Cu	Copper	mg/1	1.0
—	Corrosivity	—	Non-Corrosive
H2S	Hydrogen Sulfide	mg/1	0.05
Fe	Iron	mg/1	0.3
Mn	Manganese	mg/1	0.05
[MBAS	Methylene Blue Active Substance	mg/1	0.5]
—	Odor(1)	Threshold Number	3.*0*
—	Phenols	mg/1	0.001
SO4	Sulfate	mg/1	250.*0*
Zn	Zinc	mg/1	5.0
TDS	*Total Dissolved Solids*	*mg/1*	*500.0*

(1)Surface supplies only
(2)Milligrams per liter (mg/1) is the same as parts per million (ppm)

(7) Sample collection and measurement technique. Samples shall be taken and analyzed in accordance with methods set forth in "Standard Methods."

(8) "Other contaminants" maximum limits exceeded. If the "other contaminants" limit as set forth herein is exceeded by a supplier of water, the *cabinet* [department] may direct that supplier to modify the treatment procedure or to locate a more suitable source of water.

Section 15. Special Monitoring for Sodium. (1) Who must sample for sodium. Suppliers of water for community public water systems shall collect and analyze one (1) sample per plant at the entry point of the distribution system for the determination of sodium concentration levels.

(2) Sampling frequency.

(a) Community water systems, surface source. Systems utilizing surface water sources in whole or in part shall collect and analyze samples semi-annually. Samples shall be collected one (1) time during the wet season and one (1) time during the dry season during a calendar year. The first sampling period shall be completed by March 27, 1983.

(b) Community water systems, groundwater sources. Systems utilizing solely groundwater sources shall collect and analyze samples annually. The first sampling period shall be completed by March 27, 1983.

(c) Samples required. The minimum number of samples required to be taken by the system shall be based on the number of treatment plants used by the system, except the cabinet may consider that multiple wells drawing raw water from a single aquifer to be one (1) treatment plant for determining the minimum numbers of samples. The supplier of water may be required to collect and analyze water samples for sodium more frequently in locations where the sodium content is variable.

(d) Prior analyses accepted. For initial analysis required in this section, data for community water supplies acquired two (2) years prior to March 27, 1983 may be substituted at the discretion of the cabinet.

(e) Analyses for sodium shall be performed by the flame photometric method in accordance with the procedures described in "Standard Methods for the Examination of Water and Wastewater," 14th Edition, pp. 250-253; or by Method 273.1, Atomic Absorption—Direct Aspiration or Method 273.2, Atomic Absorption—Graphite Furnace, in "Methods for Chemical Analysis of Water and Waste," EMSL, Cincinnati, EPA, 1979; or by Method D1428-64(a) in Annual Book of ASTM Standards, part 31, Water.

(3) Reporting. The supplier of water shall report to the cabinet the results of the analyses for sodium within ten (10) days of the end of the month in which the sample results were received or within ten (10) days following the end of the required monitoring period as determined by the cabinet, whichever of these is first. If more than annual sampling is required the supplier shall report the average sodium concentration within ten (10) days of the end of the month in which the analytical results of the last sample used for the annual average was received.

(4) Acceptable sodium limits. A level of twenty (20) mg/l of sodium shall be considered as an optimum for drinking water. The supplier of water shall notify appropriate local and state public health officials of the sodium levels by written notice by direct mail within three (3) months. A copy of each notice required to be provided by this paragraph shall be sent to EPA and the state within ten (10) days of its issuance. The supplier of water is not required to notify appropriate local and state public health officials of the sodium levels where the state provides such notices in lieu of the supplier.

(5) Public notification. The provisions of Section 11 of this regulation do not apply to sodium levels unless the water supplier opts to do so voluntarily.

Section 16. Special Monitoring for Corrosion. (1) Who must monitor for corrosivity. Each community water system which utilizes surface water sources or groundwater sources shall identify specific types of corrosivity-related characteristics within their water distributed for human, domestic or industrial consumption.

(2) Sampling frequency. The supplier shall collect two (2) samples, or more at the request of the division, for analysis from each plant using any surfacewater source. One (1) sample shall be collected during mid-winter and one (1) sample shall be collected during mid-summer. The supplier of water shall collect one (1) sample or more if required by the division for analysis from each plant using any groundwater source. The cabinet may consider multiple wells drawing raw water from a single aquifer one (1) treatment plant for determining the minimum number of samples.

(3) Sampling point. Suppliers of water for community public water systems shall collect samples from a representative entry point to the water distribution system for analysis to determine the corrosivity characteristics of the water.

(4) Determination of corrosivity characteristics. Parameters for the determination of corrosivity characteristics shall be pH, calcium hardness, alkalinity, temperature, total dissolved solids (total filterable residue), and calculation of the Langelier Index in accordance with subsection (5) of this section. The determination of corrosivity characteristics shall include one (1) round of sampling two (2) samples per plant for surface water and one (1) sample per plant for groundwater sources. The cabinet may require more frequent monitoring as appropriate. The cabinet may require monitoring for additional parameters which may indicate corrosivity characteristics, such as sulfates and chlorides.

(5) Langelier Index calculation. Based on the parameters in subsection (4) of this section the Langelier Index shall be calculated pursuant to the latest addition of "Standard Methods for the Examination of Water and Wastewater." In certain cases, the Aggressive Index can be used instead of the Langelier Index. The supplier shall request substitution, in writing, to the division and the division will make the determination.

(6) Reporting. The results of the analyses for the corrosivity characteristics shall be reported to the cabinet within ten (10) days after the sample results were received. If more frequent sampling is required by the cabinet, the supplier may accumulate the data and report each value within ten (10) days of the end of the month in which the analytical results of the last sample are received.

(a) If the corrosive characteristics derived from the calculation in subsection (5) of this section indicate that the water distributed is highly aggressive the water supply system shall notify the cabinet whether the following materials are present in the distribution system:

1. Lead from piping, solder, caulking, interior lining of distribution mains, alloys, and any other souce;
2. Copper from piping, alloys, service lines, or any other source;
3. Galvanized piping, service lines, or any other source;
4. Ferrous piping materials such as cast iron and steel; and
5. Asbestos cement pipe.

(b) In addition, the cabinet may require identification and reporting of other materials of construction present in distribution systems that may contribute contaminants to the drinking water excluding but not limited to:

1. Vinyl lines asbestos cement pipe;
2. Coal tar lined pipes and tanks.

(7) Measurement techniques. Measurement for corrosive characteristics as listed in subsection (4) of this section shall be conducted in accordance with procedures and methods set forth in "Standard Methods for Examination of Water and Wastewater," 14th Edition or Editions subsequently published. Alternative methods approved by the cabinet may be substituted.

Section 17. Sampling and Reporting Other Contaminants, Sodium and Corrosivity Characteristics. Analytical results generated by analyses made pursuant to Sections 14, 15, and 16 of this regulation shall be determined and reported on:

(a) One (1) sample taken in a volume sufficient to make all analytical determinations required in Sections 13, 15, and 16 of this regulation; and

(b) The secondary chemical analyses report form (WACQ 010) supplied by the cabinet.

Section *18.* [14.] Penalties. Penalties shall be as provided by KRS 224.994.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 18, 1982 at 11:15 a.m.
See public hearings scheduled on page 765.

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

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

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

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

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

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

(a) "Act" means KRS Chapter 338.

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

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

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

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

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

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

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

(3) 29 CFR 1910.20 "Access to employee exposure and medical records" is amended as follows:

(a) 29 CFR 1910.20(e)(1)(i) is amended to read "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but not later than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

(b) 29 CFR 1910.20(e)(1)(ii) is amended to read "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within the period of time previously specified assure that either:"

(c) 29 CFR 1910.20(e)(1)(v) is added and shall read "Original x-ray film will be made available to the employee and/or designated representative for inspection, review, and duplication under the supervision of the employer or his representative. The employer is not required to bear the cost of duplication of x-ray film."

(d) 29 CFR 1910.20(e)(3)(ii) shall read "Whenever OSHA seeks access to personally identifiable employee medical information by presenting to the employer a written access order pursuant to 29 CFR 1913.10(d), the employer shall prominently post a copy of the written access order and its accompanying cover letter for at least fifteen (15) working days. OSHA will have access to employee medical records maintained by an employee's personal physician fifteen (15) days after written consent is given to OSHA by the affected employee. The consent must contain a general description of the medical information that is authorized to be released."

(e) 29 CFR 1910.20(g)(1) is amended to read "Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform each employee exposed to toxic substances or harmful physical agents of the following:"

(f) 29 CFR 1910.20(g)(2) is amended to read "Each employer shall make readily available to employees a copy of this standard and its appendices, and shall make readily available to employees any informational materials concerning this standard which are provided to the employer by the Assistant Secretary of Labor for Occupational Safety and Health."

(4) Subparagraph 29 CFR 1910.23(a)(7) shall be amended to read as follows: "Every temporary or permanent floor opening shall have standard railings, or shall be constantly attended by someone."

(5) 29 CFR 1910.95 "Hearing Conservation Program" paragraph (c) through (s) and appendices A, C, D, E, G, H, and I as published in the Federal Register, Volume 46, Number 162, August 21, 1981 and the "Correction to Appendix A" as published in the Federal Register, Volume 46, Number 176, September 11, 1981 are adopted by reference and amended as follows:

(a) 29 CFR 1910.95(j)(3) shall read: "Audiometric tests shall be performed by a licensed or certified audiologist, otolaryngologist, or other qualified physician, or by a technician who is certified by the Council of Accreditation in Occupational Hearing Conservation, or who has satisfactorily demonstrated competence in administering audiometric examinations, obtaining valid audiograms, and properly using, maintaining, and checking the calibration and functional operation of audiometers. A technician who performs audiometric tests must be responsible to an audiologist, otolaryngologist or qualified physician."

(b) 29 CFR 1910.95(k)(1) shall read: "Audiometric tests shall be pure tone, air conduction, hearing threshold examinations, with test frequencies including as a minimum 500, 1000, 2000, 3000, 4000 and 6000 Hz. Testing at 8000 Hz must be included in the audiometric test within three (3) years of the effective date of this standard. Tests at each frequency shall be taken separately for each ear."

(c) 29 CFR 1910.95(o)(1) shall read: "The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace."

(d) 29 CFR 1910.95(s)(1) shall read: "Paragraphs (c) through (r) of this section shall become effective January 15, 1982 unless otherwise noted below."

(e) 29 CFR 1910.95(s)(2) shall read: "Monitoring conducted pursuant to paragraph (e) of this section shall be completed by July 15, 1982."

(f) 29 CFR 1910.95(s)(3) shall read: "Baseline audiograms required by paragraphs (j) of this section shall be completed by January 15, 1983."

(6) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlet P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(7) *29 CFR 1910.106 "Flammable and combustible liquids" is amended as follows:*

(a) 29 CFR 1910.106(a)(3) shall read [as follows]: "The term automotive service station, or service station, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(b) Revisions to 29 CFR 1910.106(g)(2) and 1910.106(g)(3)(vi)(a) and (b) as published in the Federal Register, Volume 47, Number 173, Tuesday, September 7, 1982 are adopted by reference.

(8) 29 CFR 1910.134 is amended as follows:

(a) 29 CFR 1910.134(c) shall read: "Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2—1980."

(b) 29 CFR 1910.134(d) the third sentence shall read: "Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1—1973."

(c) 29 CFR 1910.134(g) shall read: Identification of Air-Purifying Respirator Canisters and Cartridges.

1. The primary means of identifying an air-purifying respirator canister or cartridge shall be by means of properly worded labels. The secondary means of identifying an air-purifying respirator canister or cartridge shall be by an identifying color or colors.

2. All who issue or use air-purifying respirators falling within the scope of this standard shall ensure that all canisters and cartridges purchased or used by them are properly labeled and colored in accordance with this standard before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters and cartridges have completely served their purpose. The user shall refer to the label wording to determine the type and degree of protection the canister or cartridge will afford.

3. On each air-purifying respirator canister and cartridge, the following shall appear in bold letters:

CANISTER FOR_____
(Name of atmospheric contaminant)
or
CARTRIDGE FOR_____
(Name of atmospheric contaminant)

In addition, either or both of subparagraphs a and b of this paragraph, and subparagraph c of this paragraph, shall appear beneath the appropriate phrase on the canister or cartridge label.

a.

For respiratory protection in atmospheres containing not more than _____ by volume of
(Concentration)

_____
(Name of atmospheric contaminant)

b.

For respiratory protection in atmospheres containing

_____
(Type of particulate contaminant)

c.

Do not use in atmospheres containing less than 19.5% oxygen by volume at sea level.

4. Each respirator canister or cartridge, or canister or cartridge label, shall be a distinctive color as indicated in Table I-1. The color coating used shall offer a high degree of resistance to changes such as chipping, scaling, peeling, blistering, and fading, and to the effects of ordinary atmospheres to which they may be exposed under normal conditions of storage and use.

(d) 29 CFR 1910.134 Table I-1 shall read:

TABLE I-1
Color Assigned to Canister or Cartridge

Atmospheric Contaminant(s) to be Protected Against	Color Assigned	ISCC-NBS Centroid Color Number	ISCC-NBS Centroid Color Name
Acid gases	White	263	White
Organic vapors	Black	267	Black
Ammonia gas	Green	139	Vivid green
Carbon monoxide gas	Blue	178	Strong blue
Acid gases and organic vapors	Yellow	82	Vivid yellow
Acid gases, ammonia, and organic vapors	Brown	75	Deep yellow brown
Acid gases, ammonia, carbon monoxide, and organic vapors	Red	11	Vivid red
Other vapors and gases not listed above	Olive	106	Light olive
Radioactive materials (except tritium and noble gases)	Purple	218	Strong purple
Dusts, fumes, and mists (other than radioactive materials)	Orange	48	Vivid orange

NOTES:

(1) A purple (ISCC-NBS Centroid Number 218) stripe shall be used to identify radioactive materials in combination with any vapor or gas.

(2) An orange (ISCC-NBS Centroid Number 48) stripe shall be used to identify dusts, fumes, and mists in combination with any vapor or gas.

(3) Where labels only are colored to conform with this table, the canister or cartridge body shall be gray (ISCC-NBS Centroid Number 265), or a metal canister or cartridge body may be left in its natural metallic color.

(4) The user shall refer to the wording of the label to determine the type and degree of protection the canister or cartridge will afford.

(9) 29 CFR 1910.141(c)(2)(i) shall read as follows:

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

(10) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

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

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

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

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

(11) 1910.156(a)(2) "Application" is amended to read "The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply only to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

(12) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

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

(13) Subparagraph 29 CFR 1910.252(a)(6)(iv), (d)(2) shall be corrected to read as follows:

"Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.309(a) for Class I, Division 2 locations."

(14) Corrections to 29 CFR 1910 Subpart S "Electrical" as published in the Federal Register, Volume 46, Number 152, August 7, 1981 are adopted by reference.

(15) 29 CFR 1910.1001(d)(2)(iv)(a) is amended to read:

"The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2—1980, which in incorporated by reference herein."

(16) 29 CFR 1910.1005 4,4′-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

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

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

(18) 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows:

(a) Revisions as published in the Federal Register, Volume 46, Number 238, Friday, December 11, 1981, are adopted by reference.

(b) "Table 1—Implementation Schedule" is amended to read:

TABLE 1—Implementation Schedule

INDUSTRY[1]	COMPLIANCE DATES 200 $\mu g/m^3$	100 $\mu g/m^3$	50 $\mu g/m^3$
Primary lead production	(2)	6-29-84	6-29-91
Secondary lead production	(2)	6-29-84	6-29-86
Lead acid battery manufacture	(2)	6-29-83	6-29-86
Automobile manufacture/ solder grinding	(2)	N/A	6-29-88
Electronics, gray iron foundries, ink manufacture, paints and coatings manufacture, wallpaper manufacture, can manufacture, and printing	(2)	N/A	6-29-82
Lead pigment manufacture, non-ferrous foundries, leaded steel manufacture, lead chemical manufacture, ship building and ship repair, battery breaking in the collection and processing of scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), secondary smelting of copper, and lead casting	(2)	N/A	N/A
All other industries	(2)	N/A	6-11-84

[1]Includes ancillary activities located on the same worksite.

[2]On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

JOHN CALHOUN WELLS, Commissioner
ADOPTED: October 29, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 14, 1982 at 1:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Technical Support, Kentucky Department of Labor, Occupational Safety and Health, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 7:060. Facilities for the physically disabled in new construction.

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 *new* buildings and facilities, including both rooms and spaces, site improvements, exterior facilities and public walks, as follows:

(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.

(b) Factory and industrial occupancies in which the total occupant load is in excess of 100 persons or 20,000 square feet.

(c) Business occupancies in which the total occupant load is in excess of 100 persons or 10,000 square feet.

(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.

(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.

(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. *The common areas of condominiums are required to be accessible, but not the interior of the condominium 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. *Only new leases will be treated as new facilities.*

(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 standard 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 con-

trols), 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) 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) 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 Surfaces, 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 (½) 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 (¼) inch may be vertical and without edge treatment. Changes in level between one-fourth (¼) inch and one-half

(½) inch shall be beveled with a slope no greater than 1:2. Changes in level greater than one-half (½) 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 (½) 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 (½) 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) 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) 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) 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) Vertical clearance. Provide minimum vertical clearance of *eight (8)* [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.

(3) Elevators are not mandatory for buildings of less than three (3) stories. If an elevator is provided, however, it shall have dimensions sufficient to accommodate a person in a wheelchair. This means the vertical access for wheelchairs from one (1) level to the other is not required except in buildings three (3) stories or more.

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 (½) inch in height except that thresholds at exterior sliding doors shall not exceed three-fourth (¾) 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 (7½) 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. *Where drinking fountains or water*

coolers are required, a reasonable number, but always at least one (1) per floor and/or wing, shall comply with this section and shall be on an accessible route. [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) 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) 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. *Thirty-four (34) inches is the maximum height of top of the front lip of the lavatory.* 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) 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) 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 (1¼) inch to one and one-half (1½) 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 (1½) 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, receptables, 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 receptable 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 continous 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 (¼) 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 minimun 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 *one (1)* [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 *one (1)* [five (5)] percent, but no less than two (2) *spaces*, [of locations] for wheelchair users in each assembly area that complies with this section. Assembly areas with audio-amplification systems *should* [shall] have a listening system complying with subsections (6) and (7) of this section to assist a minimum of *one (1)* [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 keen 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.

[Section 36. The effective date of this regulation is July 15, 1982.]

COMPILER'S NOTE: Appendix A of this regulation appears in Volume IV of the Kentucky Administrative Regulations Service and is not being amended.

CHARLES A. COTTON, Commissioner
ADOPTED: December 14, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 15, 1982 at 9:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:010. Definitions.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the definitions needed to interpret other sections of the subsequent regulations or comprising the State Plumbing Code.

Section 1. Definition of Terms. (1) Air break (drainage system). A piping arrangement in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(2) Air gap (drainage system). The unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(3) Air gap (water distribution system). The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

(4) Anchors. (See supports.)

(5) Approved. Accepted or acceptable under an applicable specification state or cited in this code.

(6) Area drain. A receptacle designed to collect surface or storm water from an open area.

(7) Aspirator. A fitting or device supplied with water or other fluid under positive pressure which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus, and are similar in operation to an ejector.

(8) Autopsy table. A fixture or table used for post-mortem examination of a body.

(9) Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back-siphonage is one type of backflow.

(10) Backflow connection. Any arrangement whereby backflow can occur.

(11) Backflow preventer. A device or means to prevent backflow.

(12) Backflow preventer, reduced pressure zone type. An assembly of differential valves and check valves including an automatically opened spillage port to the atmosphere.

(13) Back-siphonage. The flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in such pipe.

(14) (a) Basement. The basement is the lowest level of a dwelling unit which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and which may or may not have an entrance and exit at the basement floor level.

(b) Basement floor drains. A basement floor drain is a drain placed in the basement floor of a residence which may or may not receive sanitary waste water.

(15) Battery of fixtures. Any group of two (2) or more similar adjacent fixtures which discharge into a common horizontal waste or soil branch.

(16) Bedpan hopper. (See clinical sink.)

(17) Bedpan steamer or boiler. A fixture used for scalding bedpans or urinals by direct application of steam of boiling water.

(18) Bedpan unit. A small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purposes.

(19) Bedpan washer and sterilizer. A fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It may also provide for disinfecting utensils by scalding with steam or hot water.

(20) Bedpan washer hose. A device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(21) Boiler blow-off. An outlet on a boiler to permit emptying or discharge of sediment.

(22) Boiler blow-off tank. A vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature which permits its safe discharge to the drainage system.

(23) Branch. The branch of any system of piping is that part of the system which extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(24) Branch, fixture. (See fixture branch.)

(25) Branch interval. A distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(26) Branch vent. A vent connecting one (1) or more individual vents with a vent stack or stack vent.

(27) Building. A structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals or property.

(28) Building classification. The arrangement of buildings in classes according to occupancy.

(29) Building drain. That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(30) Building drain; combined. A building drain which conveys both sewage and storm water or other drainage.

(31) Building drain; sanitary. A building drain which conveys sewage only.

(32) Building drain; storm. A building drain which conveys storm water or other drainage but not sewage.

(33) Building gravity drainage system. A drainage system which drains by gravity into the building sewer.

(34) Building sewer. That part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(35) Building sewer; combined. A building sewer which conveys both sewage and storm water or other drainage.

(36) Building sewer; sanitary. A building sewer which conveys sewage only.

(37) Building sewer; storm. A building sewer which conveys storm water or other drainage but no sewage.

(38) Building subdrain. That portion of a drainage system which does not drain by gravity into the building sewer.

(39) Cesspools. A lined and covered excavation in the ground which receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(40) Circuit vent. A branch vent that serves two (2) or more traps and extends from the down-stream side of the highest fixture connection of a horizontal branch to the vent stack.

(41) Clinical sink (bedpan hopper). A fixture for the rinsing of bedpans and soiled linens. Such fixture shall have a trap size on not less than three (3) inches.

(42) Code. Means the State Plumbing Code.

(43) Combination fixture. A fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(44) Combined building drain. (See building drain; combined.)

(45) Combined building sewer. (See building sewer; combined.)

(46) Combination waste and vent system. A specially designed system of wste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.

(47) Common vent. A vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(48) Conductor. A pipe inside the building which conveys storm water from the roof to a storm or combined building drain.

(49) Continuous vent. A vertical vent that is a continuation of the drain to which it connects.

(50) Continuous waste. A drain from two (2) or more fixtures connected to a single trap.

(51) Cross connection. Any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there may be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See backflow and back-siphonage.)

(52) Dead end. A branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(53) Developed length. The length of a pipe line measured along the center line of the pipe and fittings.

(54) Diameter. The nominal diameter as designated commercially.

(55) Domestic sewage. The water-borne wastes derived from ordinary living processes.

(56) Double offset. Two (2) changes of direction installed in succession or series in a continuous pipe.

(57) Downspout. (See leader.)

(58) Drain. Any pipe which carries waste water or water-borne wastes in a building drainage system.

(59) Drainage pipe. (See drainage system.)

(60) Drainage system. Includes all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal. It does not include the mains of a public sewer system or private or public sewage-treatment or disposal plant. Neither does this apply to plumbing appliances.

(61) Drainage system (building gravity). A drainage system which drains by gravity into the building sewer.

(62) Drainage system (sub-building). (See building subdrain.)

(63) Dry well. (See leaching well.)

(64) Dual vent. (See common vent.)

(65) Durham system. A term used to describe soil or waste systems where all piping is of threaded pipe, tube, or other such rigid construction, using recessed drainage fittings to correspond to the types of piping.

(66) Dwelling unit. One (1) or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one (1) family or individual.

(67) Effective opening. The minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of (i) diameter of a circle, or (ii) if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(68) Ejector. (See aspirator.)

(69) Existing work. A plumbing system or any part thereof installed prior to the effective date of this code.

(70) Farmstead. As defined in KRS 318.010(8) and determined by the following:

(a) Must have ten (10) acres or more;

(b) Must have a barn and equipment incident to producing a crop;

(c) Must have a crop basis registered with the ASC Office;

(d) Must be outside the corporate limits of a municipality;

(e) Must not be connected to or utilize a municipal or water district water supply on any portion of the property;

(f) Farming must be agricultural in nature as defined in KRS 132.010(7) and registered with the PVA in that county; and the owner must earn a substantial portion of his/her income from his property, i.e., at least:

10-30 acres—$1,000 plus $60 per acre or fraction thereof over 10 acres
30-60 acres—$2,200 plus $40 per acre or fraction thereof over 30 acres
60-100 acres—$3,400 plus $25 per acre or fraction thereof over 60 acres

(71) [(70)] Fire line. A system of pipes and equipment used exclusively to supply water for extinguishing fires.

(72) [(71)] Fixture. (See plumbing fixture.)

(73) [(72)] Fixture branch. A fixture branch is the piping distance between a soil, waste and vent stack and the fixture trap.

(74) [(73)] Fixture drain. The drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(75) [(74)] Fixture supply. The water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(76) [(75)] Fixture unit, drainage (d.f.u.). A measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit valve for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(77) [(76)] Fixture unit, supply (s.f.u.). A measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit value for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between successive operations.

(78) [(77)] Flood level. (See flood level rim.)

(79) [(78)] Flood level rim. The edge of the receptacle from which water overflows.

(80) [(79)] Flooded. The condition which results when the liquid in a container or receptacle rises to the flood-level rim.

(81) [(80)] Floor drain. A floor drain is a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(82) [(81)] Floor pantry. A workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(83) [(82)] Flow pressure. The pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(84) [(83)] Flush valve. A device located at the bottom of a tank for slushing water closets and similar fixtures.

(85) [(84)] Flushing type flood drain. A drain which is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(86) [(85)] Flushometer valve. A device which discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(87) [(86)] Frostproof closet. A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(88) [(87)] Grade. The fall (slope) of a line of pipe in reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(89) [(88)] Grease interceptor. (See interceptor.)

(90) [(89)] Grease trap. (See interceptor.)

(91) [(90)] Hangers. (See supports.)

(92) [(91)] Horizontal branch drain. A drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(93) [(92)] Horizontal pipe. Any pipe or fitting which makes an angle of less than forty-five (45) degrees with the horizontal.

(94) [(93)] Hot water. Water at a temperature of not less than 120 degrees F.

(95) [(94)] House drain. (See building drain.)

(96) [(95)] House sewer. (See building sewer.)

(97) [(96)] Individual sewage disposal system. A system for disposal of domestic sewage by means of a septic tank, cesspool or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(98) [(97)] Indirect waste pipe. A waste pipe which does not connect directly with the drainage system, but which discharges into the drainage system through an air break or air gap into a trap, fixture, receptor or interceptor.

(99) [(98)] Individual vent. A pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(100) [(99)] Individual water supply. A supply other than an approved public water supply which serves one (1) or more families.

(101) [(100)] Industrial floor drain. An industrial floor drain is a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(102) [(101)] Industrial wastes. Liquid wastes resulting from the processes employed in industrial and commercial establishments.

(103) [(102)] Insanitary. Contrary to sanitary principles; injurious to health.

(104) [(103)] Interceptor. A device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity.

(105) [(104)] Installed. Altered, changed or a new installation.

(106) [(105)] Kitchen sink unit. A kitchen sink unit is defined as a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(107) [(106)] Leaching well or pit. A pit or receptacle having porous walls which permit the contents to seep into the ground.

(108) [(107)] Leader. An exterior drainage pipe for conveying storm water from roof or gutter drains.

(109) [(108)] Liquid waste. The discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(110) [(109)] Load factor. The percentage of the total connected fixture unit flow which is likely to occur at any point in the drainage system.

(111) [(110)] Local vent stack. A vertical pipe to which connections are made from the fixture side of traps and through which vapor and/or foul air may be removed from the fixture or device used on bedpan washers.

(112) [(111)] Local ventilating pipe. A local ventilating pipe is a pipe through which foul air is removed from a room or fixture.

(113) [(112)] Loop vent. A circuit vent which loops back to connect with a stack vent instead of a vent stack.

(114) [(113)] Main. The main of any plumbing system is that part of such system of horizontal, vertical or continuous piping which receives the waste, soil, main or individual vents from fixture outlets, or traps, directly or through branch pipes.

(115) [(114)] Main sewer. (See public sewer.)

(116) [(115)] Main vent. The principal artery of the venting system to which vent branches may be connected. (Manufacturer's Floor Drain. See industrial floor drain.)

(117) [(116)] Multiple dwelling. Building containing more than two (2) dwelling units.

(118) [(117)] Non-potable water. Water not safe for drinking, personal or culinary use.

(119) [(118)] Nuisance. Public nuisance is known in common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; whatever building, structure, or premise is not sufficiently ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

(120) [(119)] Nurses' station. An area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to record and file each patient's history and progress, observation and control of corridor, preparation of medicines and maintain contact with patients, the hospital and the outside by local and public means of communication.

(121) [(120)] Offset. A combination of elbows or bends which bring one (1) section of the pipe out of line but into a line parallel with the other section.

(122) [(121)] Oil interceptor. (See interceptor.)

(123) [(122)] Person. A natural person, his heirs, executors, administrators or assigns; and includes a firm, partnership or corporation, its or their successors or assigns. Singular includes plural; male includes female.

(124) [(123)] Pitch. (See grade.)

(125) [(124)] Plumbing. Plumbing means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building and private sewage disposal systems other than those which have a treated effluent.

(126) [(125)] Plumbing appliance. Any one (1) of a special class of plumbing fixture which is intended to perform a special function. Its operation and/or control may be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. Such fixtures may operate automatically through one (1) or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight; or the fixture may be manually adjusted or controlled by the user or operator.

(127) [(126)] Plumbing appurtenance. A manufactured device, or a prefabricated assembly of component parts, and which is an adjunct to the basic piping system and plumbing fixtures. An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(128) [(127)] Plumbing fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises. Plumbing appliances as a special class of fixture are further defined.

(129) [(128)] Plumbing inspector. A duly authorized employee or agent of the Department of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the state plumbing laws and code.

(130) [(129)] Plumbing system. The plumbing system of a building includes: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer; the storm water drainage within a building with their devices, appurtenances and connections all within and adjacent to the building.

(131) [(130)] Pool. (See swimming pool.)

(132) [(131)] Potable water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Public Health Service Drinking Water Standards or the regulations of the Department of Housing, Buildings and Construction.

(133) [(132)] Private or private use. In the classification of plumbing fixtures, private applies to fixtures in residences and apartments and to fixtures in private bathrooms of hotels as well as similar installations in other buildings where the fixtures are intended for the use of a family or an individual.

(134) [(133)] Private sewer. A sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(135) [(134)] Public or public use. In the classification of plumbing fixtures, public applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that their use is similarly unrestricted.

(136) [(135)] Public sewer. A common sewer directly controlled by public authority.

(137) [(136)] Public water main. A water supply pipe for public use controlled by public authority.

(138) [(137)] Receptor. A fixture or device which receives the discharge from indirect waste pipes.

(139) [(138)] Relief vent. An auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(140) [(139)] Return offset. A double offset installed so as to return the pipe to its original alignment.

(141) [(140)] Revent pipe. (See individual vent.)

(142) [(141)] Rim. An unobstructed open edge of a fixture.

(143) [(142)] Riser. A water supply pipe which extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(144) [(143)] Roof drain. A drain installed to receive

water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(145) [(144)] Roughing-in. The installation of all parts of the plumbing system which can be completed prior to the installation of fixtures. This includes drainage, water supply, and vent piping, and the necessary fixture supports.

(146) [(145)] Safe waste. (See indirect waste.)

(147) [(146)] Sand interceptor. (See interceptor.)

(148) [(147)] Sand trap. (See interceptor.)

(149) [(148)] Sanitary sewer. A sewer which carries sewage and excludes storm, surface, and ground water.

(150) [(149)] Scrub sink. A device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(151) [(150)] Seepage well or pit. A covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(152) [(151)] Separator. (See interceptor.)

(153) [(152)] Septic tank. A water-tight receptacle which receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(154) [(153)] Sewage. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(155) [(154)] Sewage ejectors. A device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(156) [(155)] Side vent. A vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(157) [(156)] Size of pipe and tubing. (See diameter.)

(158) [(157)] Slope. (See grade.)

(159) [(158)] Soil pipe. A soil pipe is any pipe which conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(160) [(159)] Soil vent. (See stack vent.)

(161) [(160)] Special wastes. Wastes which require special treatment before entry into the normal plumbing system.

(162) [(161)] Special waste pipe. Pipes which convey special wastes.

(163) [(162)] Stack. A general term for any vertical line of soil, waste or vent piping.

(164) [(163)] Stack group. A group of fixtures located adjacent to the stack so that by means of proper fittings, vents may be reduced to a minimum.

(165) [(164)] Stack vent. The extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(166) [(165)] Stack venting. A method of venting a fixture or fixtures through the soil or waste stack.

(167) [(166)] Sterilizer, boiling type. A boiling type "sterilizer" is a fixture (nonpressure type), used for boiling instruments, utensils, and/or other equipment (used for disinfection). Some devices are portable, others are connected to the plumbing system.

(168) [(167)] Sterilizer, instrument. A device for the sterilization of various instruments.

(169) [(168)] Sterilizer, pressure instrument washer-sterilizer. A pressure intrument washer-sterilizer is a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

(170) [(169)] Sterilizer, pressure (autoclave). A fixture (pressure vessel) designed to use steam under pressure for sterilizing. Also called an autoclave.

(171) [(170)] Sterilizer, utensil. A device for the sterilization of utensils as used in hospital services.

(172) [(171)] Sterilizer vent. A separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from non-pressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes called vapor, steam, atmospheric, or exhaust vent.

(173) [(172)] Sterilizer, water. A water sterilizer is a device for sterilizing water and storing sterile water.

(174) [(173)] Still. A device used in distilling liquids.

(175) [(174)] Storm drain. (See building storm drain.)

(176) [(175)] Storm sewer. A sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(177) [(176)] Subsoil drain. A drain which collects subsurface water and conveys it to a place of disposal.

(178) [(177)] Sump. A tank or pit, which receives sewage or liquid waste, located below the normal grade of the gravity system and which must be emptied by mechanical means.

(179) [(178)] Sump pump. A mechanical device other than an ejector or bucket for removing sewage or liquid waste from a sump.

(180) [(179)] Supports. Devices for supporting and securing pipe, fixtures, and equipment.

(181) [(180)] Swimming pool. Any structure, basin, chamber, or tank containing any artifical body of water for swimming, diving, wading or recreational bathing.

(182) [(181)] Trap. A fitting or device which provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage of waste water through it.

(183) [(182)] Trap seal. The vertical distance between the crown weir and the top of the dip of the trap.

(184) [(183)] Utility room. A workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning and incidental sterilizing of the various supplies, instruments, utensils, etc., involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

(185) [(184)] Vacuum. Any pressure less than exerted by the atmosphere.

(186) [(185)] Vacuum breaker. (See backflow preventer.)

(187) [(186)] Vacuum breaker, non-pressure type (atmospheric). A vacuum breaker which is not designed to be subjected to static line pressure.

(188) [(187)] Vacuum breaker, pressure type. A vacuum breaker designed to operate under conditions of static line pressure.

(189) [(188)] Vent pipe. A vent pipe is any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

(190) [(189)] Vent system. A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

(191) [(190)] Vertical pipe. Any pipe or fitting which makes an angle of forty-five (45) degrees or less with the vertical.

(192) [(191)] Wall hung water closet. A wall mounted

water closet installed in such a way that no part of the water closet touches the floor.

(193) [(192)] Waste pipe and special waste. A waste pipe is any pipe which receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil or waste stacks. When such pipe does not connect directly with a house drain, waste or soil stack, it is termed a special waste.

(194) [(193)] Water distributing pipe. A pipe within the building or on the premises which conveys water from the water-service pipe or meter to the point of usage.

(195) [(194)] Water lifts. (See sewage ejector.)

(196) [(195)] Water outlet. A discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank which is part of the water supply), to a boiler or heating system, to any devices or equipment requiring water to operate but which are not part of the plumbing system.

(197) [(196)] Water riser pipe. (See riser.)

(198) [(197)] Water service pipe. The pipe from the water main or other source of potable water supply to the water distributing system of the building served.

(199) [(198)] Water supply stub. A vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

(200) [(199)] Water supply system. The water service pipe, the water-distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

(201) [(200)] Well, bored. A well constructed by boring a hole in the ground with an auger and installing a casing.

(202) [(201)] Well, drilled. A well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

(203) [(202)]Well, driven. A well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

(204) [(203)] Well, dug. A well constructed by excavating a large diameter shaft and installing a casing.

(205) [(204)] Wet vent. A vent which receives the discharge of wastes other than from water closets.

(206) [(205)] Yoke vent. A pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

CHARLES A. COTTON, Commissioner
ADOPTED: November 30, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 1, 1982 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:050. Installation permits.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.010, 318.134
NECESSITY AND FUNCTION: The department is directed by KRS 318.134 to adopt a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. This regulation is to assure uniformity of fees and charges for plumbing installation permits throughout the state.

Section 1. Issuance of Permits. (1) Except as otherwise provided by subsection (3) of this section, permits to construct, install or alter plumbing, sewerage or drainage shall be issued only to licensed master plumbers.

(2) Journeyman plumbers shall not construct, install or alter plumbing, sewerage or drainage except when the work is done under the supervision of a licensed master plumber.

(3) Permits to construct, install or alter plumbing, sewerage or drainage may be issued to homeowners who desire to install plumbing in homes actually occupied by them *or in a home to be constructed by them for their own personal residential use,* provided:

(a) Application is made for the permit prior to the beginning of the work; *and*

(b) The homeowner files with his application an affidavit stating that he will abide by the terms of this section; and

(c) [(b)] All work is performed in compliance with the state plumbing law and code and the rules and regulations thereunder promulgated; *and*

[(c) The work is not performed for monetary gain;]

(d) All the work is personally performed by the owner; and [he does not employ any other person to assist him.]

(e) Only one (1) homeowner permit for construction of a new home shall be issued to an individual in a five (5) year period.

(4) No permit shall be required for the repairing of leaks, cocks, valves, or for cleaning out waste or sewer pipes.

Section 2. When a Permit is Required. A plumbing construction permit shall be required for the following: (1) For all new plumbing installations.

(2) For all existing plumbing installations where a fixture or a soil waste opening is to be moved or relocated.

(3) For each individual unit of a multi-story building where there is more than one (1) unit.

(4) For each individual building. (Buildings shall be deemed separate if the connection between them is not a necessary part of the structure of either building, or if they are not under a continuous roof.)

(5) For a new house sewer and for a house sewer that is to be replaced.

(6) For a new water service and for a water service that is to be replaced.

(7) For a new water heater installation and for a water heater installation that is to be replaced.

(8) For any other installation which constitutes "plumbing" within the meaning of KRS Chapter 318 and the state plumbing code.

Section 3. Plumbing Installation Permit Fees. (1) The fee for each plumbing installation permit for residential, one (1) and two (2) family units, shall be fifteen dollars ($15) plus:

(a) Four dollars ($4) for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances;

(b) Four dollars ($4) for each domestic water heater.

(2) The fee for each plumbing installation permit for other than residential, one (1) and two (2) family units, shall be fifteen dollars ($15) plus;

(a) Five dollars ($5) for each plumbing fixture or appliance or plumbing fixture opening or appliance opening left in the soil or waste pipe system including openings left for future fixtures or appliances;

(b) Five dollars ($5) for each domestic water heater.

(3) In the event only a new domestic water heater is installed or replaced, the fee for the plumbing installation permit shall be ten dollars ($10).

(4) In the event only a new water service is constructed or replaced the fee for the plumbing construction permit shall be fifteen dollars ($15).

(5) In the event only a new house sewer is constructed or replaced the fee for a plumbing construction permit shall be fifteen dollars ($15).

[(6) In the event only a new private sewage disposal system is constructed or replaced the fee for a plumbing construction permit shall be fifteen dollars ($15).]

(6) [(7)] All persons securing plumbing permits shall be entitled to plumbing inspections at no additional cost; provided, however, that all inspections in excess of three (3) shall be charged at the rate of three dollars ($3) per inspection.

(7) [(8)] All plumbing installation permits issued under this regulation shall expire one (1) year after date of issuance thereof; provided, however, if construction is begun within one (1) year after date of issuance the permit shall not expire until completion of the planned plumbing installation.

(8) [(9)] Plumbing fixtures may be replaced without procuring a plumbing installation permit provided the county plumbing inspector is notified of the installation.

Section 4. Plumbing Inspection Fees for Public Buildings. The schedule of fees for inspection of the construction, installation or alteration of plumbing in public buildings shall be the same as specified in Section 3 of this regulation.

CHARLES A. COTTON, Commissioner
ADOPTED: November 30, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 1, 1982 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:070. Plumbing fixtures.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the kind, type and quality of plumbing fixtures that are to be used in the construction of plumbing systems.

Section 1. Materials. All receptacles used as water closets, urinals, or otherwise for the disposal of human excreta, shall be of vitrified earthenware, hard natural stone, or cast-iron with a light color porcelain enameled on the inside, except as indicated in Section 4.

Section 2. Installation. All plumbing fixtures shall be installed free and open in a manner to afford access for cleaning. Where practical, all pipes from fixtures shall be run to the wall and no trap or pipe shall extend nearer to the floor than twelve (12) inches except laundry trays or similar fixtures.

Section 3. Water Closet Bowls. Water closet bowls shall be made of one (1) piece and of such form as to hold a sufficient quantity of water when filled to the trap overflow to prevent fouling of its interior surfaces, and it shall be provided with an integral flushing rim so constructed as to flush the entire interior of the bowl.

Section 4. Plastic Water Closet Bowl and Tank. Plastic water closet bowl and tank shall be made with a polypropylene lining inside the one (1) piece bowl and tank. The outer surface of the bowl shall be constructed of PVC material and the filler material between the two (2) surfaces shall be made of polyurethane foam. The bowl shall have a three (3) inch water seal and shall have a two and one-eighth (2 1/8) inch waste opening passage.

Section 5. Frost-Proof Closet. A frost-proof water closet may be installed only in a building that has at least a twelve (12) inch air break between it and any building used for habitation or occupancy. The room shall be tightly enclosed and accessible from the outside only. The soil pipe between the trap and hopper shall be of extra heavy cast-iron, four (4) inches in diameter and shall be light colored porcelain enamel on the inside. The building must have a non-absorbent floor. Each frost-proof water closet shall have a four (4) inch vent.

Section 6. (1) Floor drains and shower drains. A floor drain or a shower drain is considered a plumbing fixture and shall be provided with a strainer.

(2) Shower drain pan construction. Shower drain pans shall be constructed of sheet lead weighing not less than four (4) pounds per square foot, non-plasticized chlorinated polyethylene conforming to ASTM D-412-66, D-1204-54 and D-568-61 not less than 0.040 inches or other approved material. Shower pans shall be constructed without seams and shall extend to a minimum height of six (6) inches on all vertical walls. Shower pans shall not be required on a concrete floor below the outside grade level.

(3) Fiberglass bathtubs, showers, tub enclosures and shower stalls. Fiberglass bathtubs and tub enclosures shall conform to Commercial Standards CS 221-59. Acrylic-faced bathtubs shall conform to ASTM E-84B or E-162. Fiberglass shower stalls and shower receptors shall conform to Commercial Standards CS 222-59.

(4) Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls. Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls shall conform to ANSI Z-124-3.

Section 7. Floor Drains, Shower Drains or Urinal Drains in Inaccessible Places. Floor drains, shower drains or urinal drains shall have a cast-iron P trap when installed under concrete floors or in inaccessible places. They shall be either caulk or screw type.

Section 8. Fixture Strainers. All fixtures other than water closets and pedestal urinals shall be provided with a fixed strong, metallic or porcelain strainer. The total outlet area shall not be less than that of the interior area of the trap.

Section 9. Fixture Overflow. The overflow pipe from a fixture shall be connected to the inlet side of a trap and be so arranged that it may be readily and effectively cleaned.

Section 10. Ventilation of Rooms Containing Fixtures. Plumbing fixtures, except bedroom lavatories, shall not be located in any room which does not contain a window placed in an external wall or is not otherwise provided with adequate ventilation. The minimum size of the external fresh air inlet shall be two and one-fourth (2¼) square feet of opening. Where forced ventilation is used, the minimum change of air shall be six (6) times per hour and the vent must be extended to the outside of the building or a ductless fan may be used, provided:

(1) The unit bears the label of the Underwriter's Laboratories, Inc.;

(2) The unit is installed so as to operate at all times when the lighting circuit is activated;

(3) The unit be installed in either the wall or ceiling;

(4) The unit is installed in accordance with the manufacturer's recommendations;

(5) The manufacturer make available cartridges that will be replaced on a six (6) month basis; and

(6) A unit be provided for each 800 cubic feet of room volume.

Section 11. Fixture Additions. Any fixture or fixtures added to a plumbing system shall be installed to comply with the other sections of this code, and the discharge from the additional fixture or fixtures shall enter the soil pipe below the lowest vented opening.

Section 12. Defective Fixtures. All newly installed fixtures found defective or old fixtures found to be in an unsanitary condition, shall be repaired, replaced, or removed within thirty (30) days upon written notice from the department.

Section 13. Water Heaters. Water heaters shall be properly connected to the hot and cold water supply and shall be connected to an adequate size flue or chimney, but in no case shall this be connected to a flue serving a coal burning apparatus. The flue or chimney shall extend two (2) feet above the roof and be properly flashed and shall not terminate within six (6) feet of a door or window. *No fuel fired water heater shall be placed in any bathroom, toilet room or a room used for sleeping.* If a water heater is placed in a closed room or closet the door must be a louver door *or provided with proper ventilation to provide combustion air and circulation. (See 815 KAR 20:120, Section 11.)*

CHARLES A. COTTON, Commissioner
ADOPTED: November 30, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 1, 1982 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:090. Soil, waste and vent systems.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to material and the design of the soil, waste and vent systems that will be used in all types of plumbing systems that are constructed throughout the Commonwealth.

Section 1. Grades and Supports of Horizontal Piping. All horizontal pipings shall be run in practical alignment and at a uniform grade of not less than one-eighth (1/8) inch per foot, and shall be supported or anchored in accordance with the manufacturer's recommendations but in no instance to exceed ten (10) feet in length. All stacks shall be supported at their bases and all pipes shall be rigidly secured. No-hub pipe and fittings shall be supported at each joint of pipe and fittings. Polyvinyl chloride and acrylonitrile-butadiene-styrene schedule forty (40) horizontal piping shall be supported at intervals not to exceed five (5) feet and at the base of all vertical stacks and at all trap branches as close to the trap as possible. Polyethylene pipe and fittings must be continuously supported with a V channel. Stacks must be rigidly supported at their bases and at each floor level.

Section 2. Change in Direction. All changes in direction shall be made by the appropriate use of forty-five (45) degree wyes, half-wyes, quarter, sixth, eighth or sixteenth bends, except that a single sanitary tee may be used in a vertical stack, or a sanitary tee may be turned on its back or side at an angle of not more than forty-five (45) degrees.

Section 3. Prohibited Fittings. No double hub bend or double hub tee or inverted hubs shall be used on sewers, soil or waste line. The drilling and tapping of house sewers or house drains, soil, waste or vent pipes, and the use of saddle hubs and bands is prohibited. Double sanitary tees may be used on vertical soil, waste and vent lines. All pipes shall be installed without hubs or restrictions that would reduce the area or capacity of the pipe.

Section 4. Dead Ends. In the installation of any drainage system dead ends shall be avoided.

Section 5. Protection of Material. All pipes passing under or through walls shall be protected from breakage. All pipes passing through, or under cinder, concrete, or other corrosive material shall be protected against external corrosion.

Section 6. Materials. All main or branch soil, waste and vent pipes and fittings within or underneath a building shall be hub and spigot extra heavy or service weight cast iron, no-hub service weight cast iron, galvanized steel, galvanized wrought iron, lead, brass, Types K, L, M, DWV copper, standard high frequency welded tubing conforming to ASTM B-586-73, Types R-K, R-L, R-DWV brass tubing, DWV brass tubing conforming to ASTM B-587-73, seamless stainless steel tubing, Grade G or H con-

forming to CS-268-68, polyvinyl chloride schedule 40 or 80 conforming to ASTM D-2665-76 and D-1784-75, acrylonitrile-butadiene-styrene schedule 40 or 80 conforming to ASTM D-2661-76 and D-1788-73, silicon iron or borosilicate. All mains or branch soil waste and vent pipe and fittings underground shall either be hub and spigot extra heavy or service weight cast iron, No-Hub service weight cast iron, Type K or L copper pipe, Type R-K, R-L brass tubing, lead, silicon iron or borosilicate pipe and fittings or plastics DWV listed above.

Section 7. Size of Waste Pipe Per Fixture Unit on Any One Stack. The following table, based on the rate of discharge from a lavatory as a unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	Maximum Developed Length	Fixture Units
1¼	25 ft.	1
1½	30 ft.	2
2	50 ft.	6
2½	100 ft.	12
3	225 ft.	30
4		96
5		180
6		420
8		1200
10		2400
12		4200

Section 8. Size of Combined Soil and Waste Pipe Per Fixture Unit on Any One (1) Stack. The following table, based on the rate of discharge from a lavatory as the unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	(Maximum Developed Length of Combined Soil and Waste and Vent)	Fixture Units
*3	100 ft.	24
4		96
5		180
6		420
8		1200
10		2400
12		4200

* Not more than two (2) water closets or two (2) bathroom groups.

Section 9. Soil and Waste Branch Interval. The total number of fixture units installed on any soil or waste branch interval shall not exceed one-half (½) of the fixture units set forth in the table in Section 8, of this regulation.

Section 10. Soil, and Vent Stacks. Every building in which plumbing fixtures are installed shall have a soil, waste and/or vent stack, or stacks extending full size through the roof, except as otherwise provided for in Sections 7 or 8 of this regulation. Soil, waste and/or vent stacks shall be as direct as possible and free from sharp bends or turns. The required size of the soil, waste and/or vent stack shall be determined from the total of all fixture units connected to the stack in accordance with Section 7 or 8 except that no more than two (2) water closets shall discharge into a three (3) inch stack.

Section 11. Future Openings. All openings left or installed in a plumbing system for future openings shall be complete with its soil and/or waste and vent piping and shall comply with all other sections of this code.

Section 12. House Drain. When a three (3) inch house drain enters a building it shall be provided with a three (3) inch stack. One (1) floor drain may be added to the house drain with a three (3) inch trap provided that it conforms with the requirements of Sections 26 and 30 of this regulation, without counting toward the fixture units of the system. Eight and one-half (8½) fixture units may be added to the three (3) inch house drain if an additional two (2) inch stack is provided, the fixtures are vented in accordance with Section 23 of this code, the center of the last fixture opening does not exceed ten (10) feet (horizontal measures) from the center line of the house drain and these fixtures are installed on a lower level than the other fixtures in the system.

Section 13. Soil and Waste Stacks, Fixture Connections. All soil and waste stacks and branches shall be provided with correctly faced inlets for fixture connections. Each fixture shall be independently connected to the soil and/or waste system. Fixture connections to water closets, floor-outlet pedestal sinks, pedestal urinals, or other similar plumbing fixtures shall be made by either cast iron, lead, brass, copper, or plastic closet bends. All three (3) inch closet bends shall have a four (4) inch by three (3) inch flange.

Section 14. Changing Soil and Vent Pipes. In an existing building where the soil, waste and vent piping is not extended undiminished through the roof or where there is a sheet metal soil or waste piping such piping shall be replaced with appropriate sizes and materials as prescribed for new work when a fixture or fixtures are changed or replaced.

Section 15. Prohibited Connections. No fixture connection shall be made to a lead bend or a branch of a water closet or a similar fixture. Vent pipes above the highest installed fixture on a branch or main shall not be used as a soil or waste pipe.

Section 16. Soil, Waste and Vent Pipe Protected. No soil, waste, or vent pipe shall be installed or permitted outside a building unless adequate provision is made to protect it from frost. The piping must be wrapped with one (1) layer of heavy hair felt and at least two (2) layers of two (2) ply tar paper, all properly bound with copper wire or in lieu thereof, the vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 17. Roof Extensions. All roof extensions of soil and waste stacks shall be run full size at least one (1) foot above the roof, and when the roof is used for other purposes than weather protection, such extensions shall not be less than five (5) feet above the roof. All stacks less than three (3) inches in diameter shall be increased to a minimum of three (3) inches in diameter before passing through a roof. When a change in diameter is made the fitting must be placed at least one (1) foot below the roof.

Section 18. Terminals. If a roof terminus of any stack or vent is within ten (10) feet of the top, bottom, face or side edge of any door, window, scuttle, or air shaft, and not screened from such an opening by a projecting roof or

building wall, it shall be extended at least two (2) feet above the top edge of the window or opening.

Section 19. Terminals Adjoining High Buildings. No soil, waste or vent pipe extension of any new or existing building shall be run or placed on the outside of a wall, but shall be carried up in the inside of the building unless the piping is protected from freezing. In the event, the new building is built higher than the existing building, the owner of the new building shall not locate windows within ten (10) feet of any existing vent stack on the lower building.

Section 20. Traps, Protected; Vents. Every fixture trap shall be protected against siphonage and backpressure. Air circulation shall be assured by means of an individual vent. Crown vents are not permitted.

Section 21. Distance of Trap from Vent. (1) The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from the vertical inlet of the trap to the vent opening. The fixture trap vent, except for water closets and similar fixtures, shall not be below the dip of the trap, and all ninety (90) degree turns in the water line of the main waste, soil, or vent pipes shall be washed. Each fixture trap shall have a vent located with a developed length not greater than that set forth in the table below:

Size of Fixture Drain (In Inches)	Distance-Trap to Vent
1 ¼	2 ft. 6 in.
1 ½	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(2) A fixture branch on a water closet shall not be more than three (3) feet.

Section 22. Main Vents to Connect at Base. When a main vent or vent stack is used, it shall connect full size at the base of the main soil or waste pipe at or below the lowest fixture branch and shall extend undiminished in size through the roof or shall be reconnected with the main soil or vent stack at least six (6) inches above the rim of the highest fixture. This section shall not apply to one (1) and two (2) story installations. When it becomes necessary to increase a vertical vent stack it then becomes a main vent and must comply with other sections of this code.

Section 23. Vents; Required Sizes. (1) The required size of a vent or vent stacks shall be determined by the total number of fixture units it serves and the developed length of the vent, in accordance with the following table, interpolating, when necessary, between permissible length of vent given in the following table:

MAXIMUM PERMISSIBLE LENGTHS OF VENTS

Pipe Size (In Inches)	Maximum Length (In Feet)	Fixture Units
1 ¼	30	2
1 ½	150	8
2	200	18
2 ½	250	36
3	300	72
4	400	240
5	600	420
6	800	720

(2) If a fixture opening is installed more than twenty-five (25) feet of developed length from the point where it is connected to the main soil or waste systems, or, if more than ten (10) feet of vertical piping is used, the vent shall be continued full size through the roof or returned full size to the main vent.

Section 24. Branch and Individual Vents. In no instance shall a branch or individual vent be less than one and one-fourth (1¼) inches in diameter and shall not exceed the maximum length permitted for a main vent.

Section 25. Vent Pipes Grades and Connections. All vent and branch vent pipes shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity. Where vent pipes connect to a horizontal soil or waste pipe, the vent branch shall be taken off above the center line of the pipe, and the vent pipe must rise vertically at an angle of forty-five (45) degrees to the vertical, to a point six (6) inches above the fixture it is venting before offsetting horizontally or connecting to the branch, main, waste, soil or vent.

Section 26. Vents Not Required. Vents will not be required on a back-water trap, or a subsoil catch basin trap, or a basement floor drain provided that the basement floor drain is the first opening on the house drain and that the basement floor drain branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet to the stack, nor farther than twenty (20) feet. The floor drain line shall be four (4) inches above the house drain. All floor drains on a house drain in between stacks shall be vented. All floor drains shall be the caulk-on-type.

Section 27. When Common Vent Permissible. *(1)* Where two (2) water closets, two (2) lavatories or two (2) of any fixtures of identical purpose are located on opposite sides of a wall or partition, or directly adjacent to each other within the prescribed distance as set forth in Section 21 of this regulation measured along the center line of the flow of water, the fixtures may have a common soil or waste pipe and a common vent. It shall be vented in accordance with the other sections of this code.

(2) All fixtures installed on a common waste and vent system must enter the stack through the use of a double fixture fitting. This cannot be a sanitary cross or a double combination T-Y or double wye and one-eighth (1/8) bend.

Section 28. Floor Drain Individual Vent Not Required. Manufacturers' floor drains do not require individual vents when they are placed on a waste line for floor drains only within the prescribed distance of ten (10) feet from the

main waste line, or stack, provided the base of the stack is washed and the stack or stacks are undiminished through the roof, or connected to a main vent stack.

Section 29. Floor drains and service sinks installed on the operational floor level of sewage and water treatment plant facilities which discharge into an open sump and are not connected directly to the sanitary sewage system are not required to be trapped or vented.

Section 30. A Basement Floor Drain Does Not Require an Individual Vent. A basement floor drain does not require an individual vent if it conforms to Section 26 of this regulation, or if it is the first floor drain on the main and is ahead of all sanitary openings and is not farther than five (5) feet from the main.

Section 31. House Drain Material. House drains shall be either extra heavy cast iron, service weight cast iron, brass Type (K) or (L) copper, lead, ABS or PVC plastic, or duriron.

Section 32. Indirect Waste Connections. Waste pipe from a refrigerator drain or any other receptacle where food is stored or waste water from a water cooled compressor, shall connect indirectly with the house drain, soil or waste pipe. The drain shall be vented to the outside air. Such waste pipes shall discharge into an open sink or another approved open receptacle that is properly supplied with water in accordance with other sections of this code. Such connections shall not be located in an inaccessible or unventilated area.

Section 33. Bar and Soda Fountain Wastes. Bar and soda fountain wastes, sinks and receptacles shall have a one and one-half (1½) inch P trap and branches. The main shall not be less than two (2) inches. The fresh air pipe shall not be less than one and one-half (1½) inches. The main waste line shall discharge into a properly vented and trapped open receptacle inside or outside a building. Food storage compartment drains shall be indirectly connected through a trapped receptacle whose upper edge is raised at least one (1) inch above the finished floor line.

Section 34. Open Receptacles. Soil or waste piping receiving the discharge from an open receptacle shall be at least six (6) inches above the surface of the ground when it discharges into a septic system.

Section 35. Refrigerator Wastes. Refrigerator waste pipes shall not be less than one and one-half (1½) inches for one (1) to three (3) openings, and at least two (2) inches for four (4) to eight (8) openings. Each opening shall be trapped. Such waste piping shall be provided with sufficient cleanouts to allow for thorough cleaning.

Section 36. Overflow Pipes. Waste from a water supply tank or exhaust from a water lift shall not directly connect to a house drain, soil, or waste pipe. Such waste pipe shall discharge upon a roof or into a trapped open receptacle.

Section 37. Acid and Chemical Wastes. Except as provided herein, no corrosive liquids shall be permitted to discharge into the soil, waste or sewer system. Such waste shall be thoroughly diluted or neutralized by passing through a properly constructed and acceptable dilution or neutralizing pit before entering the house sewer.

Section 38. Laboratory Waste Piping. Laboratory waste piping shall be sized in accordance with the other sections of this code. Each fixture shall be individually trapped. A continuous waste and vent pipe system may be used, provided the waste discharges into a vented dilution pit outside the building with a vent equal to the size of the drain. The vent may be eliminated when a pit has a ventilated cover. If under certain conditions a dilution pit is not required and is not used, each fixture shall be individually vented. If construction conditions permit, the base of the stack of the continuous waste and vent system shall be washed by the last fixture opening, and continue full size independently through the roof. All fixture branches exceeding more than the distance specified in the table in Section 21 of this regulation from the main shall be revented. The distance shall be measured from the center of the main to the center of the vertical riser. Fixture connections shall rise vertically to a height so that the trap will not be lower than twelve (12) inches from the bottom of the sink. Two (2) or more sinks may be connected into a common waste before entering the riser of the continuous waste and vent system, provided the fixtures are not more than five (5) feet from the center of one (1) fixture to the center of the other.

Section 39. Acid Waste Piping. Underground piping for acid wastes shall be extra heavy salt glazed vitrified pipe, silicon iron, lead, polyethylene pipe and fittings conforming to PS 10-69, PS 11-69, and PS 12-69, polypropylene pipe conforming to ASTM 2581-73, or other materials approved by the department. Piping for acid wastes and vents above ground shall be of silicon iron, lead, borosilicate, or polyethylene pipe conforming to PS 10-69, PS 11-69, and PS 12-69, polypropylene pipe conforming to ASTM 2581-73, or reinforced thermosetting resin pipe conforming to ASTM D-2996 (green or poly thread).

Section 40. Special Vents. Flat or wet vents serving a plumbing fixture may be constructed only with special permission when a plumbing system is being remodeled or when additions are added to an original system.

CHARLES A. COTTON, Commissioner
ADOPTED: November 30, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 1, 1982 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation incorporates many of the provisions which have been in effect for some time with regard to

residential and public buildings. The department has revised the old regulation to make it easier to interpret. This regulation includes the requirements of the Department for Natural Resources and Environmental Protection as well as the Department for Human Resources and the Department of Justice. These inclusions simplify the plan process.

Section 1. In buildings accommodating males and females it shall be presumed that the occupants will be equally divided between males and females unless otherwise denoted.

Section 2. All types of buildings shall be provided with toilet rooms on each level or floor; however, where the department determines that *separate* facilities on each level or floor are unnecessary, toilet rooms on every other level or floor shall be sufficient.

Section 3. Toilet rooms for males and females shall be clearly marked.

Section 4. Toilet Floor Construction Requirements. Toilet room floors in all public buildings and places of employment shall be constructed of non-absorbent materials. When more than one (1) water closet and one (1) lavatory is installed, such a toilet room shall have at least one (1) floor drain and one (1) accessible hose bibb.

Section 5. Theatres, Assembly Halls, Libraries, Museums and Art Galleries. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.

(2) A drinking fountain shall be provided in the stage and auditorium area and a drinking fountain shall be provided on each floor for each 200 persons or fraction thereof.

(3) Separate toilet rooms for males and females shall be provided as indicated in Section 2, as follows:

(a) One (1) water closet for each 100 males or females or fraction thereof; two (2) water closets for 101 to 200 males or females or fraction thereof; three (3) water closets for 201 to 400 males or females or fraction thereof; over 400 add one (1) water closet for each additional 500 males and one (1) for each additional 300 females.

(b) One (1) urinal for up to 200 males; two (2) urinals for 201 to 400; three (3) urinals for 401 to 600; add one (1) urinal for each additional 300 males or fraction thereof.

(c) One (1) lavatory for up to 100 males or females; two (2) lavatories for 101 to 200, three (3) lavatories for 201 to 400; four (4) lavatories for 401 to 750; add one (1) lavatory for each additional 500 or less over 750.

(d) One (1) service sink or slop sink on each floor.

(e) The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(4) In libraries, museums and art galleries separate toilet facilities for males and females shall be provided as indicated in Section 2, as follows:

(a) One (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(b) One (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(c) One (1) urinal for each 200 males or fraction thereof.

(d) One (1) service sink or slop sink on each floor.

(e) A drinking fountain shall be provided for each 100 persons.

(f) The above number of fixtures shall be based upon the actual number of persons that can be accommodated.

(5) Urinals may be substituted for water closets for males, not to exceed one-third (⅓) of the required total number of water closets but in all cases the minimum number of urinals must be installed.

(6) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. School Buildings *(Relates also to 702 KAR 4:070 and 702 KAR 4:080).* (1) A drinking fountain shall be provided on each floor *and/or wing* of a building and an additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof. The fountains shall be equipped with a protective cowl and the orifice shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed in the following proportions:

1. One (1) water closet for up to twenty-five (25) pupils.
2. Two (2) water closets for twenty-six (26) to 100 pupils.
3. One (1) water closet for each 100 pupils or fraction thereof in excess of 100.

(b) Urinals for males shall be installed in the following proportions:

1. One (1) urinal for up to twenty-five (25) pupils.
2. Two (2) urinals for twenty-six (26) to fifty (50) pupils.
3. Four (4) urinals for fifty-one (51) to 100 pupils.
4. Six (6) urinals for 101 to 200 pupils.
5. Eight (8) urinals for 201 to 300 pupils.
6. Ten (10) urinals for 301 to 400 pupils.
7. Twelve (12) urinals for 401 to 500 pupils.
8. One (1) urinal for each fifty (50) pupils or fraction thereof in excess of 500.

(c) Water closets for females shall be installed in the following proportions:

1. Two (2) water closets for up to twenty-five (25) pupils.
2. Three (3) water closets for twenty-six (26) to fifty (50) pupils.
3. Six (6) water closets for fifty-one (51) to 100 pupils.
4. Eight (8) water closets for 101 to 200 pupils.
5. *Ten (10)* [Twelve (12)] water closets for 201 to 300 pupils.
6. *Twelve (12)* [Fifteen (15)] water closets for 301 to 400 pupils.
7. *Fourteen (14)* [Eighteen (18)] water closets for 401 to 500 pupils.
8. One (1) water closet for each forty (40) pupils or fraction thereof in excess of 500.

(d) Lavatories for male and female pupils shall be installed in the following proportions:

1. One (1) lavatory for each twenty-five (25) pupils or fraction thereof.
2. Two (2) lavatories for each fifty (50) pupils or fraction thereof.
3. One (1) lavatory for each fifty (50) pupils or fraction thereof over fifty (50).
4. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin when provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) One (1) service sink or slop sink shall be installed on each floor of a building.

(4) When detached relocatable classrooms are use, sanitary facilities will not be required, provided it is within a distance not to exceed thirty-five (35) feet from the main structure and there are sufficient fixtures in the main structure to serve the entire capacity of the school *including the relocatable classrooms.*

(5) Water closets for use in the above facilities shall be of the elongated bowl type with a split open front seat.

Section 7. Schools of Higher Education and Similar Educational Facilities. In schools of higher education and similar institutions there shall be installed:

(1) One (1) water closet for each fifty (50) males or one (1) water closet for each twenty-five (25) females or fraction thereof.

(2) One (1) lavatory for each fifty (50) males or females or fraction thereof.

(3) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

(4) Whenever urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than two-thirds (⅔) of the minimum specified.

(5) Water closets for use in above facilities shall be of the elongated bowl type with a split open front seat.

Section 8. Public Garages and Service Stations. Separate toilet rooms with at least a water closet and lavatory for females and a water closet, lavatory and urinal for males shall be provided. *Water closets shall be of the elongated bowl type with a split open front seat.*

Section 9. Churches. Sanitary facilities shall be provided in churches as follows:

(1) One (1) drinking fountain for each 400 persons or fraction thereof.

(2) One (1) water closet for each 150 females or fraction thereof.

(3) One (1) water closet for each 300 males or fraction thereof.

(4) One (1) urinal for each 150 males or fraction thereof.

(5) One (1) lavatory for each 150 persons or fraction thereof.

Section 10. Transient Facilities *(Relates also to 902 KAR 10:010).* (1) Hotels and motels with private rooms shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(2) In the public and service areas there shall be:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each fifteen (15) females or fraction thereof.

(c) One (1) lavatory for each twenty-five (25) males or females or fraction thereof.

(d) One (1) urinal for each twenty-five (25) up to 100 males then one (1) for each additional fifty (50) or fraction thereof.

(e) One (1) bathtub or shower, if needed, for each ten (10) males or females or fraction thereof.

(f) One (1) drinking fountain for each seventy-five (75) or fraction thereof on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings there shall be one (1) water closet, one (1) lavatory and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, they shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be:

(a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) or fraction thereof.

(b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) or fraction thereof.

(c) One (1) urinal for each twenty-five (25) up to 100 males, then one (1) for each additional fifty (50) or fraction thereof.

(d) One (1) lavatory for each ten (10) males or females or fraction thereof.

(e) One (1) bathtub or shower for each ten (10) males or females or fraction thereof.

Section 11. Dormitories: School, Labor or Institutional *(Relates also to 902 KAR 10:040).* In dormitories there shall be installed:

(1) One (1) water closet for up to ten (10) males or one (1) water closet for up to eight (8) females; add one (1) water closet for each additional twenty-five (25) males or fraction thereof and one (1) water closet for each additional twenty (20) females or fraction thereof.

(2) (a) One (1) urinal for each twenty-five (25) males or fraction thereof. Over 150 males add one (1) fixture for each additional fifty (50) males or fraction thereof.

(b) Where urinals are provided for women, the same number shall be provided as for men.

(c) Where urinals are provided, they may be substituted for water closets, not to exceed one-third (⅓) of the required total number of water closets.

(d) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) (a) One (1) lavatory for one (1) to twelve (12) persons. Add one (1) lavatory for each twenty (20) males and each fifteen (15) females.

(b) Separate dental lavatories should be provided in community toilet rooms. A ratio of one (1) dental lavatory to each fifty (50) persons.

(4) One (1) bathtub or shower for each eight (8) persons. Over 150 persons add one (1) fixture for each twenty (20) persons. For womens' dormitories, there shall be installed additional bathtubs at the ratio of one (1) for each thirty (30) women.

(5) One (1) drinking fountain for each seventy-five (75) persons.

(6) One (1) laundry tray or clothes washer for each fifty (50) persons.

(7) One (1) service sink or slop sink for each 100 persons.

Section 12. Hospitals, Nursing Homes and Institutions *(Relates also to 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, 902 KAR 9:010).* Sanitary facilities shall be provided on each floor level and shall conform to the following:

(1) Hospitals:

(a) Wards:

1. One (1) water closet for each ten (10) patients.
2. One (1) lavatory for each ten (10) patients.
3. One (1) tub/shower for each fifteen (15) patients.
4. One (1) drinking fountain for each 100 patients.

(b) Individual rooms: One (1) water closet, one (1) lavatory and one (1) tub/shower.

(c) Waiting rooms: One (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal).

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each twenty (20) females or fraction thereof.

(c) One (1) lavatory for each ten (10) persons or fraction thereof.

(d) One (1) urinal for each fifty (50) males.

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof.

(f) One (1) drinking fountain on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal:

(a) Cell:

1. One (1) prison type water closet.
2. One (1) prison type lavatory.

(b) Day rooms and dormitories:

1. One (1) water closet for each eight (8) inmates or fraction thereof.
2. One (1) lavatory for each eight (8) inmates or fraction thereof.
3. One (1) shower for each fifteen (15) inmates or fraction thereof.
4. One (1) urinal may be substituted for each water closet but in no instance shall the water closets be reduced to less than one-half (½) the number required.
5. One (1) drinking fountain per floor.
6. One (1) service sink or slop sink per floor.

(d) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(e) One (1) drinking fountain on each floor.

(f) One (1) service sink or slop sink per floor.

Section 13. Workshops, Factories, Mercantile and Office Buildings. Separate toilet facilities shall be provided for males and females *on each floor* unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall [be provided on each floor and shall] conform to the following:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100.

(b) One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100.

(c) One (1) urinal for eleven (11) to fifty (50) employees.

(d) Two (2) urinals for fifty-one (51) to 100 employees.

(e) One (1) lavatory for each twenty-five (25) females or fraction thereof, up to 100.

(f) One (1) water closet for each fifteen (15) females or fraction thereof up to 100.

(g) When in excess of 100 there shall be an additional water closet for each thirty (30) males and each thirty (30) females or fraction thereof; one (1) lavatory for each additional fifty (50) males and females or fraction thereof; one (1) urinal for each 100 males or fraction thereof.

(h) One (1) shower for each fifteen (15) persons exposed to skin contamination from irritating, infectious or poisonous materials.

(i) One (1) drinking fountain on each floor for each fifty (50) employees. In excess of 100 employees there shall be an additional drinking fountain on each floor for each additional seventy-five (75) persons.

(j) One (1) service sink or slop sink per floor.

(k) Individual sinks or wash troughs may be used in lieu of lavatories. Twenty-four (24) inches of sink or trough, when provided with water or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile:

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per fifty (50) square feet, may be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet [and no more than one (1) flight of stairs].

(c) 1. One (1) water closet for one (1) to 100 persons.
2. Two (2) water closets for 101 to 200 persons.
3. Three (3) water closets for 201 to 400 persons.
4. One (1) water closet for each 500 males, or 300 females, in excess of 400.
5. One (1) urinal for one (1) to 200 males.
6. Two (2) urinals for 201 to 400 males.
7. Three (3) urinals for 401 to 600 males.
8. One (1) urinal for each 300 males, or fraction thereof, over 600.
9. One (1) lavatory for one (1) to 200 persons.
10. Two (2) lavatories for 201 to 400 persons.
11. Three (3) lavatories for 401 to 700 persons.
12. One (1) lavatory for each 500 persons, or fraction thereof, in excess of 700.
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.
14. One (1) service sink or slop sink per floor.

(3) Office buildings:

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided.

(b) Sanitary facilities shall be provided as indicated in Section 2 and shall conform as follows:

1. One (1) water closet for one (1) to fifteen (15) persons.
2. Two (2) water closets for sixteen (16) to thirty-five (35) persons.
3. Three (3) water closets for thirty-six (36) to fifty-five (55) persons.
4. Four (4) water closets for fifty-six (56) to eighty (80) persons.
5. Five (5) water closets for eighty-one (81) to 110 persons.
6. Six (6) water closets for 111 to 150 persons.
7. One (1) water closet for each forty (40) additional persons.
8. One (1) lavatory for one (1) to fifteen (15) persons.
9. Two (2) lavatories for sixteen (16) to thirty-five (35) persons.
10. Three (3) lavatories for thirty-six (36) to sixty (60) persons.
11. Four (4) lavatories for sixty-one (61) to ninety (90) persons.
12. Five (5) lavatories for ninety-one (91) to 125 persons.
13. One (1) lavatory for each forty-five (45) additional persons.
14. Whenever urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than seventy (70) percent of the minimum specified.
15. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

Section 14. Swimming Pool Bathhouses *(Relates also to 401 KAR 6:030).* (1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, each designated for "Males" or "Men" and the other "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather loading, as defined in 401 KAR 6:030, Section 7(5), and shall conform to the following:

(a) One (1) water closet for each seventy-five (75) males or fraction thereof.

(b) One (1) water closet for each fifty (50) females or fraction thereof.

(c) One (1) urinal for each seventy-five (75) males or fraction thereof.

(d) One (1) lavatory for each 100 persons or fraction thereof.

(e) One (1) shower per each fifty (50) persons or fraction thereof.

(f) One (1) drinking fountain per each 200 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of one (1) hour or less shall have one (1) shower for each six (6) swimmers, or one (1) shower for each ten (10) swimmers if the period is two (2) hours.

(4) Satisfactorily designed and located shower facilities, including warm water and soap, shall be provided for each sex. Showers shall be supplied with water at a temperature of no less than ninety (90) degrees Fahrenheit, and at a flow rate of at least three (3) gallons per minute. Thermostatic, tempering or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathhouse toilet room and shower facilities may be waived when such facilities are conveniently available to pool patrons within 150 feet from the pool.

Section 15. Park Service Buildings or Bathhouses *(Relates to 902 KAR 15:020).* (1) Exept for self-contained recreational vehicle parks, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures specified.

(2) Except for self-contained recreational vehicle parks, sanitary facilities shall be provided as follows:

(a) One (1) to fifteen (15) vehicle spaces:

1. Males: One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females: One (1) water closet, one (1) lavatory and one (1) shower.

(b) Sixteen (16) to thirty (30) vehicle spaces:

1. Males: One (1) water closet, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females: Two (2) water closets, two (2) lavatories and two (2) showers.

(c) Thirty-one (31) to forty-five (45) vehicle spaces:

1. Males: Two (2) water closets, one (1) urinal, three (3) lavatories and three (3) showers.

2. Females: Two (2) water closets, three (3) lavatories and three (3) showers.

(d) Forty-six (46) to sixty (60) vehicle spaces:

1. Males: Two (2) water closets, two (2) urinals, three (3) lavatories and three (3) showers.

2. Females: Three (3) water closets, three (3) lavatories and three (3) showers.

(e) Sixty-one (61) to eighty (80) vehicle spaces:

1. Males: Three (3) water closets, two (2) urinals, four (4) lavatories and four (4) showers.

2. Females: Four (4) water closets, four (4) lavatories and four (4) showers.

(f) Eighty-one (81) to 100 vehicle spaces:

1. Males: Four (4) water closets, two (2) urinals, five (5) lavatories and five (5) showers.

2. Females: Five (5) water closets, five (5) lavatories and five (5) showers.

(g) When over 100 vehicle spaces are provided there shall be one (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof; one (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and one (1) additional urinal for males per additional 100 vehicle spaces.

Section 16. Residential and Day Camp Sites *(Relates to 902 KAR 10:040).* (1) Each residential and day camp site shall be provided with sanitary facilities for each sex as specified.

(2) Sanitary facilities shall be provided as listed below, except, however, day camps shall not be required to provide shower facilities.

(a) One (1) to eighteen (18) persons served:

1. Males: One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females: Two (2) water closets, one (1) lavatory and one (1) shower.

(b) Nineteen (19) to thirty-three (33) persons served:

1. Males: Two (2) water closets, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females: Two (2) water closets, two lavatories and two showers.

(c) Thirty-four (34) to forty-eight (48) persons served:

1. Males: Two (2) water closets, two (2) urinals, two (2) lavatories and three (3) showers.

2. Females: Three (3) water closets, two (2) lavatories and three (3) showers.

(d) Forty-nine (49) to sixty-three (63) persons served:

1. Males: Three (3) water closets, two (2) urinals, three (3) lavatories and four (4) showers.

2. Females: Four (4) water closets, three (3) lavatories and four (4) showers.

(e) Sixty-four (64) to seventy-nine (79) persons served:

1. Males: Three (3) water closets, three (3) urinals, three (3) lavatories and five (5) showers.

2. Females: Five (5) water closets, three (3) lavatories and five (5) showers.

(f) Eighty (80) to ninety-five (95) persons served:

1. Males: Four (4) water closets, three (3) urinals, four (4) lavatories and six (6) showers.

2. Females: Six (6) water closets, four (4) lavatories, and six (6) showers.

(g) When over ninety-five (95) persons are served, there shall be provided: One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served; one (1) additional shower for each twenty (20) persons, or fraction thereof, served; one (1) urinal per fifty (50) additional males or fraction thereof.

(h) Water closets may be substituted for urinals when facilities may be used by both sexes.

Section 17. Retail Food Stores and Restaurants. *Sanitary facilities shall be provided for employees. (Relates to 902 KAR 10:020 and 902 KAR 45:005).*

(1) Food stores:

(a) When in excess of five (5) persons of different sex are

employed, separate facilities must be provided for the employees.

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per fifty (50) square feet, may be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet [and no more than one (1) flight of stairs].

(c) 1. One (1) water closet for one (1) to 100 persons.
2. Two (2) water closets for 101 to 200 persons.
3. Three (3) water closets for 201 to 400 persons.
4. One (1) water closet for each 500 males or 300 females in excess of 400.
5. One (1) urinal for one (1) to 200 males.
6. Two (2) urinals for 201 to 400 males.
7. Three (3) urinals for 401 to 600 males.
8. One (1) urinal for each 300 males or fraction thereof, over 600.
9. One (1) lavatory for one (1) to 200 persons.
10. Two (2) lavatories for 201 to 400 persons.
11. Three (3) lavatories for 401 to 700 persons.
12. One (1) lavatory for each 500 persons or fraction thereof in excess of 700.
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.
14. One (1) service sink or slop sink per floor as required.

(2) Restaurants:

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) In new establishments or establishments that are extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees; provided, that carry-out type food service operations shall be exempted from providing toilet facilities for the use of their patrons.

(c) 1. Two (2) water closets for one (1) to 100 persons.
2. Three (3) water closets for 101 to 200 persons.
3. Four (4) water closets for 201 to 300 persons.
4. One (1) water closet for each additional 200 persons or fraction thereof over 300.

(d) 1. One (1) urinal for one (1) to 150 males.
2. One (1) urinal for each additional 150 males or fraction thereof over 150.

(e) 1. One (1) lavatory for one (1) to 200 persons.
2. Two (2) lavatories for 201 to 400 persons.
3. Three (3) lavatories for 401 to 600 persons.
4. One (1) lavatory for each additional 200 persons or fraction thereof over 600.

(f) 1. One (1) drinking fountain for one (1) to 100 persons.
2. Two (2) drinking fountains for 101 to 500 persons or fraction thereof.

(g) When food is consumed indoors on premises, water stations may be substituted for drinking fountains.

(h) One (1) service sink or slop sink on each floor as required.

(i) Lavatories for handwashing shall be provided in the kitchen area, readily accessible to the employees.

Section 18. Temporary Facilities for Construction Projects. Separate sanitary fixtures shall be provided as scheduled below for both males and females:

(1) One (1) water closet per thirty (30) males or fraction thereof.
(2) One (1) urinal per thirty (30) males or fraction thereof.
(3) One (1) lavatory per thirty (30) males or fraction thereof.
(4) One (1) water closet per twenty (20) females or fraction thereof.
(5) One (1) lavatory per twenty (20) females or fraction thereof.
(6) One (1) drinking fountain per 100 persons or fraction thereof.

Section 19. The fixture requirements of this regulation are also compiled in table form which is available from the Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

CHARLES A. COTTON, Commissioner
ADOPTED: December 14, 1982
APPROVED: NEIL J. WELCH, Secretary
RECEIVED BY LRC: December 15, 1982 at 9:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
(Proposed Amendment)

904 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Cabinet 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 cabinet, 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 cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.272. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application or the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Payment System, revised *January 1, 1983* [July 1, 1982], which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

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

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of April 30 of each year and trending the facility costs to July 1 of the rate year. (Unaudited and/or budgeted cost data may be used if a full year's audited data is unavailable.) Allowable costs will then be indexed for inflation for the rate year, and the maximum set at 110 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 165 percent of 110 percent of the median of allowable trended and indexed costs of all other SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1982, so that the maximum payment amount for the prospective uniform rate year will be at 110 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for SNFs and basic ICFs, except that no maximum (upper limit) shall be imposed.

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

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

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

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

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

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

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship

will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (newly participating facilities), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for property costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care, converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981.Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the clsss) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Division for Medical Assistance shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of training, conventions, meetings, assemblies, conferences, seminars, or any related activities), and legal fees for unsuccessful lawsuits against the cabinet.

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

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

(b) Add to the seller's depreciated basis two-thirds (⅔) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

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

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Stock transfers, except stock transfers followed by liquidation of all company assets and which may be revalued in accordance with Internal Revenue Service rules, are not considered changes of facility ownership. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

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

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

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

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

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

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

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

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

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data)

discovered in the cost basis or establishment of the prospective rate.

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

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

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

(17) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence). The cabinet may also require, as necessary, that facilities whose cost report does not cover a full facility fiscal year shall submit an interim and/or budgeted cost report by April 30 to be used in setting the prospective rate for the facility for the next unform rate year.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participatingfacilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

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

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

(Effective *1-1-83* [7-1-82])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$25.99 & below*	—	—
26.00 - 26.99	$1.38	$ .87
27.00 - 27.99	1.29	.75
28.00 - 28.99	1.18	.62
29.00 - 29.99	1.06	.47
30.00 - 30.99	.92	.31
31.00 - 31.99	.76	.13
32.00 - *34.29* [34.19]	.53	—

Maximum Payment $*34.29* [34.19]

* For a basic per diem of $25.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

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

(Effective 7-1-82)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$31.99 & below*	—	—
32.00 - 33.99	$1.38	$ .87
34.00 - 35.99	1.29	.75
36.00 - 37.99	1.18	.62
38.00 - 39.99	1.06	.47
40.00 - 41.99	.92	.31
42.00 - 43.99	.76	.13
44.00 - 45.99	.53	—

* For a basic per diem of $31.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38 and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

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

(Effective *1-1-83* [7-1-82])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$34.00 & below*	—	—
35.00 - 36.99	$1.38	$ .87
37.00 - 38.99	1.29	.75
39.00 - 40.99	1.18	.62
41.00 - 42.99	1.06	.47
43.00 - 44.99	.92	.31
45.00 - 46.99	.76	.13
47.00 - 49.99	.53	—

Maximum Payment $*52.51* [52.69]**

* For a basic per diem of $34.99 and below, the investment amount will be equal to 7.5 percent, but not to exceed $1.38, and the incentive amount will be equal to 5.0 percent, but not to exceed $.87.

** The maximum payment for hospital based skilled nursing facilities is set at $*81.02* [83.09].

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 110 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 110 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1982 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 110 percent of the median is a lower dollar amount than has been currently set.

Section 5. Rate Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

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

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Social Insurance, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division for Medical Assistance. Such panel shall consist of three (3) members: one (1) member from the Division for Medical Assistance, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Division for Management and Development, Department for Social Insurance. A date for the rate review panel to convene will be established within fifteen (15) days after receipt of the written request. The panel shall issue a binding decision on the issue within ten (10) days of the hearing of the issue. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6, the following definitions shall prevail unless the specific context dictates otherwise.

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

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and non-legend drugs, including urethral catheters, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies.

(f) Psychological and psychiatric therapy (for ICF/MR only).

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

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs.

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

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

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

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

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

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

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

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

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

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

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

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

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

JOHN CUBINE, Commissioner
ADOPTED: December 14, 1982
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: December 15, 1982 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT OF PERSONNEL

101 KAR 1:210. Appeals for employees in the unclassified service.

RELATES TO: KRS 18A.095, 18A.155
PURSUANT TO: KRS 13.082, 18A.095, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed rules for persons in positions enumerated in KRS 18A.115(1)(f), (g), (h), (i), (j), (o), (t) and (v). KRS 18A.155 further provides that these rules shall be approved by the Governor and promulgated according to KRS Chapter 13. KRS 18A.095 grants the right to appeal to the Personnel Board to those unclassified employees who are dismissed, demoted, suspended, or otherwise penalized for cause. This regulation complies with and implements these statutory provisions.

Section 1. Unclassified Employees Right to Appeal. Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the Personnel Board for review thereof.

Section 2. Appeal Procedures for Unclassified Employees. Appeals to the Personnel Board pursuant to KRS 18A.095 and Section 1 of this regulation shall be in accordance with KRS 18A.095 and 101 KAR 1:130.

DEE MAYNARD, Commissioner
ADOPTED: December 9, 1982
APPROVED: JOHN Y. BROWN, JR., Governor
RECEIVED BY LRC: December 15, 1982 at 3:45 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Room 373, Frankfort, Kentucky 40601.

KENTUCKY ENERGY CABINET
Department of Energy Production and Utilization
Division of Alternate Energy Development

115 KAR 2:010. Alternate energy development fund.

RELATES TO: KRS 152A.125(2), Acts c. 444
PURSUANT TO: KRS 152A.180
NECESSITY AND FUNCTION: The following regulation has been developed by the Kentucky Energy Cabinet pursuant to the authority granted by Chapter 152A of the Kentucky Revised Statutes and by the Alternate Energy Project Review Committee in accordance with its mandate in Acts c. 444 approved April 12, 1982, and effective July 15, 1982. The regulation is necessary to assure uniformity in the administration of grants and loans under the alternate energy development fund established by the joint resolution.

Section 1. Program Purpose and Announcements. (1) The goal for the use of the alternate energy development fund is to encourage and promote the development, implementation and construction of alternate energy projects in the Commonwealth.

(2) Funding cycle(s) during which applications will be received for the program will be announced. A deadline for proposals will be established and advertised through appropriate newspapers to effect statewide coverage. Interested parties will be notified about the program upon request to the Kentucky Energy Cabinet. In addition workshops to explain the program are anticipated and will be held as appropriate. More than one (1) funding cycle is anticipated, but this will be dependent upon the continued existence of available funds for the program.

Section 2. Eligibility Requirements. (1) The following may apply for funding (no preference is implied by the order of listing):

(a) Individuals or group of individuals.

(b) Organizations and institutions (including educational institutions), corporations, trusts, foundations, and trade associations.

(c) State agencies and units of local government (including county, municipality, city, town, local public authority and special district agencies). This also includes such intrastate entities as districts, councils of governments, and sponsor groups representing organizations.

(d) Private businesses that are organized for profit or not for profit.

(2) The following projects are eligible for funding:

(a) Each loan and/or grant proposal must involve the research, development, implementation, operation and/or construction of an alternate energy project. Also, projects of renewable resources must be designated within one (1) or more of the categories listed below. The examples of the renewable energy resources are for illustration purposes only.

Categories	Examples
Biomass	waste materials utilization plant production for energy plant conversion for energy
Geothermal	space and water heating/cooling
Hydropower	small-scale hydropower (100KW-30MW) microhydropower (under 100KW)
Solar	active solar passive solar photovoltaics
Wind	production of electricity water pumping

(b) Only proposals for projects conducted in and applicable to use in Kentucky will be eligible for awards under this program.

(c) Proposals requesting financial support in excess of the maximum allowable will be rejected.

(d) Proposals which are not complete or are merely enhancements of a home or business will be rejected.

(e) Proposals which duplicate previous projects funded in Kentucky under the U.S. Department of Energy's Appropriate Technology Small Grants Program will be rejected unless there are extenuating circumstances and proper justification for further consideration. A listing of these projects is included in the application packet used for submission of a project.

(f) Proposals which duplicate the current or past work of the proposer will be rejected unless there are extenuating circumstances.

(3) Project expenditures eligible for funding.

(a) Eligible project expenditures can include construction costs, machinery and equipment costs, financing charges, interest prior to and during construction, engineering and architectural costs, administrative expenses and such other costs necessary or incident to the construction, financing, start up and operation of the project. However, administrative costs will be limited to no more than fifteen percent (15%) of the loan and/or grant cost. Expenses incurred prior to an award are not eligible project expenditures.

(b) Any grantee, eligible for investment and energy tax credits through existing tax laws, must subtract any such credits from the total project cost to determine the cost of the proposal to be considered by the Project Review Committee.

Section 3. Submission of Proposals. (1) Proposals must be submitted within the funding cycle deadline established. A proposal submitted for consideration but not funded in any funding cycle may be resubmitted for consideration in any new funding cycle announced.

(2) A proposal must be submitted on the application form provided for this purpose. Eight (8) copies of the application form for each proposal are necessary for acceptance by the Project Review Committee. (A signed original and reproduced copies will suffice.) Blueprints, drawings, sketches, photographs, and other descriptive materials may be included if essential in explaining the project. However, the Project Review Committee will focus primarily on the application itself and will use any additional information only as a secondary source. All parts of the application form must be completed in full as directed in the application form.

(3) Proposals from businesses, profit and not-for-profit organizations, institutions and governmental agencies must be submitted by applicants who have the authority to obligate the organization to the terms of the program.

(4) Each applicant will be notified immediately by return postcard when a proposal is received by the Kentucky Energy Cabinet.

Section 4. Evaluation of Proposals. (1) After the funding cycle deadline applicants will not be permitted to initiate contact with anyone involved in the review and evaluation process or to make any changes in their proposal. Applicants may only notify the Energy Cabinet in writing of any errors in applicant's proposal. Only minor errors (such as arithmetical, omission of an address, etc.) which are merely a matter of form and not of substance will be considered.

(2) The proposal evaluation process consists of the following steps:

(a) Prescreening process—Proposals will be reviewed by the Kentucky Energy Cabinet to determine whether they contain sufficient information to permit adequate evaluation, and to insure that each proposal meets the published criteria of the program. Notice will be given to the applicant if the application has been eliminated, and the basis for the elimination in this prescreening state. The application may be modified and resubmitted only in a subsequent funding cycle.

(b) Review and selection process—The Project Review Committee will evaluate each proposal not eliminated in the prescreening process. During this evaluation, the applicant may be contacted for additional information or clarification on the project. The committee will judge each application as to how well it meets the following criteria and objectives established for the program:

1. Preferential criteria and objectives.

a. Applicability for contribution to low-income energy users;

b. Potential for job or economic development;

c. Transferability of the technology involved, particularly technology which will assist in future project design;

d. Ability to evaluate the progress and the results of the project;

e. The availability of on-going technical assistance to the project; and

f. The ability to document and disseminate project results to the public.

2. Additional criteria and objectives.

a. The innovative nature of the project and its application;

b. The likelihood of commercialization or other expanded use and adaptation, considering the project's marketing potential and cost/benefit value;

c. Expected energy savings;

d. The extent to which the project impacts the energy needs in Kentucky;

e. The extent the project uses Kentucky resources, materials, and labor;

f. The environmental impact of the project;

g. The existence of institutional barriers that may impede or prevent development of the project;

h. Ability of the applicant to complete the project, given the time and resources available to the applicant; and

i. Whether the project is supported or funded by other outside sources, and whether other sources of support have been sought.

3. In its final analysis, the committee will be guided by the best overall use of available funds in selecting proposals for funding. It will include such considerations as:

a. The distribution of funds by project type, including diversity of methods, approaches, and technologies;

b. The diversity of projects being selected; and

c. The technology proposed for use in the project, considering to what extent the technology is currently implemented throughout Kentucky.

(c) The committee reserves the right to select for funding any, all, or none of the proposals submitted in response to any solicitation. Awards of successful proposals will be announced and all applicants will be notified by mail of the decision on their proposals no later than 180 days after the deadline established for any funding cycle.

Section 5. Limitations and Terms of Funding. When the Project Review Committee selects an alternate energy development project for funding, the Kentucky Energy Cabinet will contract to grant and/or loan to the applicant such amounts needed in the development and completion of the project, subject to the following conditions:

(1) Grants shall be limited to a maximum of twenty-five (25) percent of the total project cost not to exceed $40,000 per project (also see subsection (3) of this section);

(2) Loans shall be limited to a maximum of fifty (50) percent of the total project cost not to exceed $40,000 per project (also see subsection (3) of this section);

(3) Grants and loans singly or in combination subject to the proportions in subsections (1) and (2) of this section shall not exceed a total of $40,000 per project;

(4) Contributions to the total project cost by the proposer may include reasonable and verifiable in-kind contributions as well as cash contributions. For example, hours and rates must be specified for labor;

(5) Every loan made from the fund shall be for a period not to exceed five (5) years and shall carry an interest rate equal to the Bond Buyer Index (twenty (20) bonds) reported in the most recent issue of the weekly Bond Buyer on the date the application is approved; and

(6) Repayment of loans by successful applicants shall be in accordance with the loan agreement.

Section 6. Grant/Loan Offer and Acceptance. (1) Funding of projects will be established by contract to be finalized after grantees are notified. The contract will include such items as:

(a) Detailed scope of services and/or work;

(b) Timetable of tasks to be completed;

(c) Budget details and disbursement schedules;

(d) Reporting and recordkeeping requirements;

(e) Provisions for ownership of patents and copyrights and provision for disposal of income, if any, from the grant project; and

(f) Terms of loan, if applicable.

(2) Project funding will be administered by establishing specific work elements and tying partial payments to the completion of key elements.

Section 7. Reporting Requirements. (1) To insure proper use of funds, successful applicants will be held accountable for project expenses in a manner acceptable to the Kentucky Energy Cabinet. Records, receipts, and vouchers, etc., for the selected projects are subject to audit. Documentation of reliable credit must be furnished with all loan applications. A separate bank account for each project is required.

(2) A grant or loan recipient will be required to submit to the Kentucky Energy Cabinet quarterly reports on projects in progress and a final report within three (3) months after completion of the project. Quarterly reports following a format designated by the Kentucky Energy Cabinet will show progress of project, schedule, and financial activities. The final report will emphasize results and other activities associated with the project.

Section 8. Requirements for Public Access. (1) Individuals authorized by the Kentucky Energy Cabinet may visit the project site at mutually agreed upon times to observe progress, provide guidance, and analyze and publicize projects supported under this program.

(2) Sharing and distributing information developed during construction and/or operation of projects funded is a major goal of this program. Therefore, except for confidential information clearly identified in the project proposal, the results of projects will be made a matter of public record and grantees shall make their projects available for public observation at mutually agreed upon times.

Section 9. Confidentiality of Information. (1) Proposals may include confidential data (i.e., trade secrets and/or confidential commercial or financial information) which the applicant does not want disclosed for any purpose other than evaluation of the proposal. Any confidential data contained in the application must be identified so all reviewers may hold it in confidence. Each page containing confidential data must be clearly marked as directed in the application form. The committee may use or disclose data which the applicant does not so identify.

(2) All unsuccessful applications will be destroyed after six (6) months unless the applicants request their return.

Section 10. Inventions and Ideas. The Kentucky Energy Cabinet anticipates that new technology and considerable valuable data will be generated through the use of program funds. The cabinet encourages inventors to seek patents for and to commercialize their inventions and technology. The cabinet will not interfere with an inventor seeking patent protection, but the inventor will be responsible for filing and prosecution of any patent applications. The Kentucky Energy Cabinet reserves the right to use and disseminate all information, data, and technology derived from use of program funds to the extent such information and technology is not protected by any claim of confiden-

tiality. Any data which are released from confidential status may then be used or disseminated by the cabinet in any way it deems appropriate.

Section 11. Liability and Claims. The Commonwealth of Kentucky and the Alternate Energy Project Review Committee are not liable for any claims that may result from the implementation of this program.

WILLIAM B. STURGILL, Chairman
ADOPTED: November 30, 1982
RECEIVED BY LRC: December 10, 1982 at 3:15 p.m.
SUBMIT COMMENT OR REQEUST FOR HEARING TO: John M. Stapleton, Director, Division of Alternate Energy Development, Department of Energy Production and Utilization, Kentucky Energy Cabinet, P. O. Box 11888, Iron Works Pike, Lexington, Kentucky 40578-1916.

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Real Estate Commission

201 KAR 11:170. Private school approval.

RELATES TO: KRS 324.010(1)(f)
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: To set policies and procedures for private school approval.

Section 1. To obtain a certificate of approval, a real estate school must apply to the commission on forms provided by the commission and supply all information requested concerning curriculum, instructors, and other educational materials and policies.

Section 2. The curriculum for an approval real estate school shall: (1) Include a minimum of forty-eight (48) clock hours of classroom instruction per course;
(2) Be conducted for a maximum of no more than seven (7) hours during a twenty-four (24) hour period; and
(3) Consist of course(s) containing, but not limited to, topics and materials prescribed by the Real Estate Commission.

Section 3. An approved real estate school shall not: (1) Advertise in conjunction with the business of a broker or a brokerage firm; or
(2) Be allowed to discuss, induce, or promote affiliation with any broker or brokerage firm.

Section 4. (1) An approved real estate school shall maintain accurate and permanent records on all students enrolled in course(s). Permanent records shall include each student's record of course(s) completed or attempted, clock hours awarded, and final grade(s).
(2) Temporary records shall be maintained for three (3) years. These records shall include student attendance records and test scores.
(3) A sample "official transcript," as specified in KRS 324.046(3) shall be submitted with the approved school application.

Section 5. An approved real estate school shall permit inspections and monitoring by the commission or its designee to evaluate any aspect of the administration or operation of the school.

Section 6. An approved school shall notify the commission within ten (10) days of any material change from the information originally furnished on the application form or attachments thereto. An approved school shall renew its certification with the Real Estate Commission annually on forms provided by the commission. The annual renewal date shall be based on the initial certification date. It shall be the school's responsibility to renew on or before the annual renewal date.

Section 7. Private school approval may be withdrawn if the commission determines that: (1) Information contained on the application or renewal is inaccurate, misleading, or changed.
(2) The establishment or conduct of the school is not in compliance with these regulations or the instruction is so deficient as to impair the value of the course. Where a school has been given notice of a deficiency under this section, the commission shall give the school an opportunity to correct the deficiency within thirty (30) days.

Section 8. Any effort made directly or indirectly by any school, official or employee thereof or anyone on their behalf to reconstruct the real estate licensing examination or portion thereof shall result in immediate revocation of school approval.

Section 9. The commission shall follow the hearing procedures outlined in KRS 324.170 through 324.200 whenever action is taken to revoke a school's certificate of approval.

ROBERT D. MASSEY, Chairman
ADOPTED: December 13, 1982
RECEIVED BY LRC: December 13, 1982 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Susan G. Stopher, Education Director of the Kentucky Real Estate Commission, 100 East Liberty Street, Suite 204, Louisville, Kentucky 40202.

FINANCE AND ADMINISTRATION CABINET
Department of Administration
Division of Occupations and Professions
Board for Proprietary Education

201 KAR 24:030. Standards for associate degree award.

RELATES TO: KRS 165A.310(4), 165A.370(1)(e)
PURSUANT TO: KRS 165A.340(3), 165A.400
NECESSITY AND FUNCTION: KRS 165A.370 requires that no school be issued a certificate of approval until the board shall have determined the school is in compliance with minimum standards leading to the awarding of an associate degree which indicates the satisfactory completion of a course of study.

Section 1. General Standards. (1) Any institution desiring to offer an associate degree must have been in operation and licensed in Kentucky for a continuous period of at least two (2) years and accredited by a nationally recognized accrediting agency recognized as such by the appropriate federal agency.
(2) Institutions seeking to award associate degrees shall offer the degree in accordance with all regulations and requirements of the board.

(3) An institution shall clearly define its philosophy and objectives within the requested associate degree program and incorporate these definitions into a written statement.

(4) An institution shall clearly determine the potential job market availability for graduates of the associate degree program.

(5) The school may not offer to the public, advertise or enroll students in a new associate degree program until all necessary forms have been submitted to the board office for review and written authorization to initiate these activities received from the board office. At that time, an on-site visit of the proposed new degree program will be scheduled prior to the degree application being submitted to the full board for action. No classes in the program may commence before final board approval.

(6) If approval of the new degree program is granted, a second full-site visit will occur normally within sixty (60) days of the start of the first class. Expenses for all visitations will be borne by the institution.

Section 2. Associate of Arts or Associate of Science Degree. (1) The granting of associate of arts or associate of science degree is limited to accredited junior colleges accredited as such by a nationally recognized accrediting agency.

(2) The associate of arts or associate of science degree may be conferred upon a student who has completed a degree program comprised of a minimum of sixty (60) semester or ninety (90) quarter hours of study. Of the total credits a minimum of thirty (30) standard hours, or the equivalent quarter hours, shall be in the appropriate business, technical or other major field of study as indicated in the course title and description. A minimum of fifteen (15) standard semester, or the equivalent quarter hours, shall be required in general education subjects. General education shall include courses other than the core major offering and shall offer balance to the total program.

(3) At least one-half (½) of those subjects which are part of the curriculum in associate of arts or associate of science programs shall be taught by faculty members possessing graduate degrees, professional degrees, professional certification such as J.D., or M.D., or baccalaureate degrees plus professional certification such as CPA, P.E., or R.N. An exception to the requirement of an advanced degree may be justified for instructors of subjects in areas which are not normally academically credentialed or which are not normally credentialed with graduate degrees.

Section 3. Specialized Associate Degree. (1) The granting of specialized associate degree designated as the associate of applied science degree is limited to schools accredited by a nationally recognized accrediting agency or association recognized by the appropriate federal agency as a business or specialized school.

(2) The associate of applied science degree may be conferred upon a student who has successfully completed an approved course of study in a program comprised of a minimum of sixty (60) semester or ninety (90) quarter hours of credit. This degree does not require the inclusion of general studies courses, but general studies may be a part of the program.

(3) Faculty qualifications shall require that a minimum of a baccalaureate degree is held by faculty, or, that faculty possess the following alternate competency:

(a) Professional recognition in the specialized subject area indicated by licensure or certification.

(b) Post-secondary education or training plus at least two (2) years documented practical experience in the specialty.

Section 4. Additional Standards. (1) Additional standards applicable to all award granting institutions approved by this board include:

(a) The library holdings or resource center material shall include relevant periodical subscriptions and shall contain professionally accepted references in the field or fields of study which are appropriate for the program offered.

(b) The library or resource center must be accessible for students to use the materials and must provide check out opportunity of materials at hours other than when classes are being taught.

(c) There shall be a staff member designated as responsible for the library or learning center and an adequate annual budget for support of the facility and acquisitions of library or learning resource materials must be provided.

(d) All equipment and training aids shall be relevant to the program offered and approved and be in sufficient quality and quantity to accommodate maximum student enrollment. The maximum enrollment shall be determined by available instructional space and qualified instructional personnel.

(e) The board shall provide a review of the program by a professional knowledgeable within the field being considered.

(f) The institution shall provide a listing of the course requirements for the degree and any and all prerequisites required.

(g) There shall be printed in an appropriate document a course description for each course that is required or which can be taken to meet the requirements for the degree and all other promotional literature used shall appropriately identify the correct title of the degree offered and advertised.

(h) Official transcripts, certifications, licenses, and other designations of faculty teaching in the degree program shall be on file at the institution and shall accompany any application for approval, where applicable.

(i) The institution shall have on file an appropriate and current course syllabus for each subject taught.

(j) The institution offering degrees shall provide the board or its evaluators with a copy of their last accreditation self-study and all correspondence with accrediting agencies.

(2) The applicant institution must make the following materials available to the team of evaluators at the time of the on-site visit:

(a) School catalog;
(b) Promotional literature used in program;
(c) Inventory of classroom equipment;
(d) Faculty files;
(e) Course syllabi;
(f) Copy of standard student file;
(g) Copy of standard personnel file;
(h) Total enrollment by program as of last start date;
(i) Organizational chart; and
(j) A list of all personnel indicating part-time and full-time employees.

Section 5. 201 KAR 24:020, Associate degree award standards, is hereby repealed.

A. R. SULLIVAN, Chairman
ADOPTED: December 15, 1982

RECEIVED BY LRC: December 9, 1982 at 10 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. Ted Little, Executive Director, State Board for Proprietary Education, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:050. Definitions and general provisions; KPDES permitting program.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.005, 224.033(19), (21), (22), (23), 224.034, 224.060
NECESSITY AND FUNCTION: KRS Chapter 224 authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into the waters of the Commonwealth. KRS 224.034 empowers the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.). Permits issued pursuant to KRS 224.004 shall be referred to as KPDES permits. This regulation defines essential terms used in connection with the following KPDES regulations: 401 KAR 5:050; 401 KAR 5:055; 401 KAR 5:060; 401 KAR 5:065; 401 KAR 5:070; 401 KAR 5:075; 401 KAR 5:080; and 401 KAR 5:085.

Section 1. Definitions. Whenever used in the KPDES regulations, unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of these regulations, the following terms have the meaning as set forth herein. Terms not further defined in this section have the meaning given by KRS 224.005 and regulations promulgated pursuant thereto.

(1) "Administrator" means the Administrator of the United States Environmental Protection Agency, or an authorized representative.

(2) "Applicable standards and limitations" means all standards and limitations to which a discharge or a related activity is subject under KRS Chapter 224, and regulations promulgated pursuant thereto, including but not limited to effluent limitations, water quality standards, standards of performance, and toxic effluent standards.

(3) "Application" means the forms approved by the cabinet, which are equivalent to the EPA standard NPDES forms for applying for a KPDES permit, including any additions, revisions or modifications to the forms.

(4) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

(5) "Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

(6) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the Commonwealth. BMPs also includes treatment requirements, operating procedures, practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

(7) "Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

(8) "CWA" means the Clean Water Act as subsequently amended (33 U.S.C. 1251 et seq.), otherwise known as the Federal Water Pollution Control Act.

(9) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

(10) "Date of program approval" means the effective date of the administrator's approval of Kentucky's KPDES regulatory program under Section 402 of CWA.

(11) "Direct discharge" means the discharge of a pollutant.

(12) "Director" means the secretary of the cabinet, or an authorized representative. For purposes of permit issuance decisions, the director is the director of the Division of Water, in the Department for Environmental Protection.

(13) "Discharge" or "discharge of a pollutant" means any addition of any pollutant or combination of pollutants to waters of the Commonwealth from any point source. This defintion includes, but is not limited to, additions of pollutants into waters of the Commonwealth from surface runoff which is collected or channelled by man; discharges through pipes, sewers or other conveyances whether publicly or privately owned which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works.

(14) "Discharge monitoring report (DMR)" means the cabinet's form including any subsequent additions, revisions, or modifications, for the reporting of self-monitoring results by permittees.

(15) "Draft permit" means a document prepared under 401 KAR 5:065, Section 3, indicating the director's preliminary decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as provided in 401 KAR 5:065, Section 2, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as provided in 401 KAR 5:065, Section 2, is not a draft permit. A proposed permit is not a draft permit.

(16) "Effluent limitation" means any restriction imposed by the director on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the Commonwealth.

(17) "Effluent limitations guidelines" means a regulation published by the administrator under Section 304(b) of CWA (33 U.S.C. Section 1314(b)) to adopt or revise effluent limitations.

(18) "Environmental Protection Agency (EPA)" means the United States Environmental Protection Agency.

(19) "Facility or activity" means any KPDES point source, or any other facility or activity, including land or appurtenances thereto, that is subject to regulation under the KPDES program.

(20) "General permit" means any KPDES permit authorizing a category of discharges under KRS Chapter 224 within a geographical area, issued under 401 KAR 5:055.

(21) "Hazardous substance" means any substance designated under 40 CFR Part 116.

(22) "Indirect discharger" means a nondomestic discharger introducing pollutants to a publicly owned treatment works.

(23) "Kentucky Pollutant Discharge Elimination System (KPDES)" means the Kentucky program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements. The KPDES regulations are: 401 KAR 5:050, 401 KAR 5:055, 401 KAR 5:060, 401 KAR 5:065, 401 KAR 5:070, 401 KAR 5:075, 401 KAR 5:080 and 401 KAR 5:085.

(24) "Interstate agency" means an agency of which Kentucky and one (1) or more states is a member established by or under an agreement or compact, or any other agency, of which Kentucky and one (1) or more other states are members, having substantial powers or duties pertaining to the control of pollution as determined and approved by the secretary or administrator under the CWA or KRS Chapter 224.

(25) "Major facility" means any KPDES facility or activity classified as such by the director in cooperation with the regional adminstrator.

(26) "Maximum daily discharge limitation" means the highest allowable daily discharge.

(27) "Municipality" means a city, district, or other public body created by or under the Kentucky Revised Statutes and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or a designated and approved management agency under Section 208 of CWA (33 U.S.C. 1258).

(28) "National Pollutant Discharge Elimination System (NPDES)" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements.

(29) "New discharger" means any building, structure, facility or installation:

(a) 1. From which there is or may be a new or additional discharge of pollutants at a site at which on October 18, 1972 it had never discharged pollutants; and

2. Which has never received a finally effective NPDES or KPDES permit for discharges at that site; and

3. Which is not a new source.

(b) This definition includes an indirect discharger which commences discharging into waters of the Commonwealth. It also includes any existing mobile point source that begins discharging at a location for which it does not have an existing permit.

(30) "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

(a) After promulgation of EPA's standards of performance which are applicable to such source; or

(b) After proposal of EPA's standards of performance which are applicable to such source, but only if the federal standards are promulgated within 120 days of their proposal.

(31) "Owner or operator" means the owner or operator of any facility or activity subject to regulation under the KPDES program.

(32) "Permit" means an authorization, license, or equivalent control document issued by the cabinet to implement the requirements of the KPDES regulations. Permit does not include any permit which has not yet been the subject of final agency action, such as a draft permit or a proposed permit.

(33) "Person" means an individual, association, partnership, corporation, municipality, state or federal agency, or an agent or employee thereof.

(34) "Point source" means any discernible, confined, and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel, or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(35) "Pollutant" means as defined in KRS 224.005(28) except:

(a) Radioactive materials which are regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.);

(b) Sewage from vessels; or

(c) Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by the appropriate state agency and if the state agency determines that the injection or disposal will not violate any applicable law or regulation.

(36) "Primary industry category" means any industry category listed in Section 10 of 401 KAR 5:060.

(37) "Privately owned treatment works" means any device or system which is used to treat wastes from any facility whose operator is not the operator of the treatment works and which is not a POTW.

(38) "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

(39) "Proposed permit" means a KPDES permit prepared after the close of the public comment period and, when applicable, any public hearing and administrative appeals, which is sent to EPA for review before final issuance by the cabinet. A proposed permit is not a draft permit.

(40) "Publicly owned treatment works (POTW)" means any device or system used in the treatment, including recycling and reclamation, of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a municipality. This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(41) "Recommencing discharger" means a source which recommences discharge after terminating operations.

(42) "Regional administrator" means the regional administrator of the Region IV office of the EPA or the authorized representative of the regional administrator.

(43) "Schedule of compliance" means a schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements leading to com-

pliance with KRS Chapter 224 and regulations promulgated pursuant thereto.

(44) "Secondary industry category" means any industry category which is not a primary industry category.

(45) "Sewage from vessels" means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under Section 312 of CWA (33 U.S.C Section 1324).

(46) "Sewage sludge" means the solids, residues, and precipitate separated from or created in sewage by the unit processes of a publicly owned treatment works. Sewage as used in this definition means any wastes, including wastes from humans, households, commercial establishments, industries, and storm water runoff, that are discharged to or otherwise enter a publicly owned treatment works.

(47) "Site" means the land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity.

(48) "Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136.

(49) "Toxic pollutant" means any pollutant listed as toxic in 401 KAR 5:060, Section 14.

(50) "Variance" means any mechanism or provision under the KPDES regulations which allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines.

(51) "Waters of the Commonwealth" means as defined in KRS 224.005(26), except groundwater.

(52) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstance do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Section 2. Compatibility With the CWA. The KPDES regulations promulgated pursuant to KRS Chapter 224 are intended to be compatible with the federal regulations adopted pursuant to CWA.

Section 3. Conflicting Provisions. The provisions of the KPDES regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found by a court of competent jurisdiction to be contradictory, the more stringent provisions shall apply.

Section 4. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pursuant thereto is found to be invalid by a court of competent jurisdiction, the remaining KPDES regulations shall not be affected or diminished thereby.

Section 5. Abbreviations and Acronyms. The following abbreviations and acronyms, as used throughout the KPDES regulations, shall have the meaining given below:

(1) "BAT" means best available technology economically achievable;

(2) "BCT' means best conventional pollutant control technology;

(3) 'BOD" means biochemical oxygen demand;

(4) "BPT" means best practicable technology currently available;

(5) "BMPs" means best management practices;

(6) "COD" means chemcial oxygen demand;

(7) "CFR" means code of federal regulation, as subsequently amended;

(8) "DMR" means discharge monitoring report;

(9) "KAR" means Kentucky Administrative Regulation;

(10) "KPDES" means Kentucky Pollutant Discharge Elimination System;

(11) "KRS" means Kentucky Revised Statutes;

(12) "NPDES" means National Pollutant Discharge Elimination System;

(13) "POTW" means publicly owned treatment works;

(14) "SIC" means standard industrial classification; and

(15) "TSS" means total suspended solids.

Section 6. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 3 p.m.
See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:055. Scope and applicability of the KPDES program.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082,224.033(19), (21), (22), (23), 224.034, 224.060, 224.994(1), (4)
NECESSITY AND FUNCTION: KRS 224.033(21) provides that the Natural Resources and Environmental Protection Cabinet may require for persons discharging into the waters of the Commonwealth, by regulation, technological levels of treatment and effluent limitations. KRS 224.034(1) provides that the cabinet may issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the conditions imposed in 33 U.S.C. Sections 1342(b) and 1342(d), KRS 224.034(1) requires that any exemptions granted in the issuance of such permits shall be pursuant to 33 U.S.C. Section 1311, 1312 and 1326(a). Further, KRS 224.034(4) requires that the cabinet shall not impose under any permit issued pursuant to this regulation any effluent limitation, monitoring requirement or other condition which is more stringent than the effluent limitation, monitoring requirement or other condition which would have been applicable under the federal regulation if the permit were issued by the federal government. This regulation contains the scope and applicability of the KPDES program including specific inclusions and exclusions, prohibitions, requirements for general permits, and requirements for disposal into wells, into POTWS and by land application.

Section 1. Applicability of the KPDES Requirements. The KPDES program requires permits for the discharge of pollutants from any point source into waters of the Commonwealth.

(1) Specific inclusions. The following are point sources requiring KPDES permits for discharges. These terms are further defined in 401 KAR 5:060, Sections 5 through 12.

(a) Concentrated animal feeding operations;

(b) Concentrated aquatic animal production facilities;

(c) Discharges into aquaculture projects;

(d) Discharges from separate storm sewers; and

(e) Silviculture point sources.

(2) Specific exclusions. The following discharges do not require KPDES permits:

(a) Any discharge of sewage from vessels, effluent from properly functioning marine engines, laundry, shower, and galley sink wastes, or any other discharge incidental to the normal operation of a vessel. This exclusion does not apply to rubbish, trash, garbage, or other such materials discharged overboard; nor to other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as an energy or mining facility, a storage facility or a seafood processing facility, or when secured to a storage facility or a seafood processing facility, or when secured in waters of the Commonwealth for the purpose of mineral or oil exploration or development.

(b) Discharges of dredged or fill material into waters of the Commonwealth which are regulated under Section 404 of CWA (33 U.S.C. Section 1314).

(c) The introduction of sewage, industrial wastes, or other pollutants into publicly owned treatment works by indirect discharges. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the Commonwealth are eliminated. A KPDES permit is required for the introduction of pollutants to privately owned treatment works or to other discharges through, pipes, sewers, or other conveyances owned by the Commonwealth of Kentucky, a municipality, or other party not leading to treatment works.

(d) Any discharge in compliance with the instructions of an on-scene coordinator pursuant to 40 CFR 1510 (The National Oil and Hazardous Substances Pollution Plan) or 33 CFR 153.10(e) (Pollution by Oil and Hazardous Substances) or discharges in compliance with the state hazardous substance contingency plan issued pursuant to KRS 224.877(5).

(e) Any introduction of pollutants from non-point source agricultural and silvicultural activities, including runoff from orchards, cultivated crops, pastures, range lands, and forest lands, but not discharges form concentrated animal feeding operations as defined in Section 5 of 401 KAR 5:060, discharges from concentrated aquatic animal production facilities as defined in Section 6 of 401 KAR 5:060, discharges to aquaculture projects as defined in Section 7 of 401 KAR 5:060, and discharges from silvicultural point sources as defined in Section 9 of 401 KAR 5:060.

(f) Return flows from irrigated agriculture.

(g) Discharges into a privately owned treatment works, except as the director may otherwise require under 401 KAR 5:065, Section 2(12).

Section 2. Prohibitions. No permit may be issued: (1) When the conditions of the permit do not provide for compliance with the applicable requirements of KRS Chapter 224, or regulations promulgated pursuant thereto;

(2) By the director where the regional administrator has objected to issuance of the permit in writing under the procedures specified in 40 CFR 123.75;

(3) When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of Kentucky and all affected states;

(4) When, in the judgment of the secretary of the U.S. Army, acting through the Chief of Engineers, anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge;

(5) For the discharge of any radiological, chemical, or biological warfare agent or high-level radioactive waste;

(6) For the discharge inconsistent with a plan or plan amendment approved by EPA;

(7) To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. The owner or operator of a new source or new discharger proposing to discharge into a water segment which does not meet Kentucky water quality standards or is not expected to meet those standards even after the application of the effluent limitations required by the KPDES regulations and for which the cabinet has performed a pollutant load allocation for the pollutants to be discharged, must demonstrate, before the close of the public comment period, that:

(a) There are sufficient remaining pollutant load allocations to allow for the discharge; and

(b) The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with Kentucky water quality standards.

Section 3. Variance Requests by Non-POTWs. A discharger which is not a publicly owned treatment works (POTW) may request a variance from otherwise applicable effluent limitations under any of the following statutory or regulatory provisions within the times specified in this section:

(1) Fundamentally different factors. A request for a variance based on the presence of "fundamentally different factors" from those on which the effluent limitations guideline was based shall be made by the close of the public comment period under Section 5 of 401 KAR 5:075. The request shall explain how the requirements of 401 KAR 5:080, Section 3, have been met.

(2) Non-conventional pollutants. A request for a variance from the BAT requirements for "non-conventional" pollutants, pursuant to Section 8(1) of this regulation because of the economic capability of the owner or operator, or pursuant to Section 8(2) of this regulation because of certain environmental considerations, must be made as follows. A completed request must be submitted no later than the close of the public comment period under Section 5 of 401 KAR 5:075 demonstrating that the applicable requirements of 401 KAR 5:080 have been met.

(3) Innovative technology. An extension under Section 8(3) of this regulation from the deadline in Section 1 of 401 KAR 5:080 for best available technology (BAT), based on the use of innovative technology, may be requested no later than the close of the public comment period under Section 5 of 401 KAR 5:075 for the discharger's initial permit requiring compliance with applicable effluent limitations. The request shall demonstrate that the requirements of Section 3 of 401 KAR 5:080 have been met.

(4) Water quality related effluent limitations. A modification under Section 8(4) of this regulation for

achieving water quality related effluent limitations may be requested no later than the close of the public comment period under 401 KAR 5:075, Section 5, on the permit from which the modification is sought.

(5) Thermal discharges. A variance under Section 8(5) of this regulation for the thermal component of any discharge must be filed with a timely application for a permit under 401 KAR 5:060, except that if thermal effluent limitations are established by EPA or are based on Kentucky water quality standards the request for a variance may be filed by the close of the public comment period under Section 5 of 401 KAR 5:075.

Section 4. Variance Requests by POTWs. A discharger which is a publicly owned treatment works (POTW) may request a variance from otherwise applicable EPA effluent limitations. A modification under Section 8(4) of this regulation shall be requested no later than the close of the public comment period under Section 5 of 401 KAR 5:075 on the permit from which the modification is sought.

Section 5. Expedited Variance Procedures and Time Extensions. Notwithstanding the time requirements in Sections 3 and 4 of this regulation, the director may notify a permit applicant before a draft permit is issued under Section 3 of 401 KAR 5:075 that the draft permit will likely contain limitations which are eligible for variances. In the notice the director may require the applicant as a condition of consideration of any potential variance request to submit a request explaining how the requirements of 401 KAR 5:080 applicable to the variance have been met. The director may require the submittal within a specified reasonable time after receipt of the notice. The notice may be sent before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance.

Section 6. General Permits. (1) Coverage. The director may issue a general permit in accordance with the following:

(a) Area. The general permit will be written to cover a category of discharges described in the permit under paragraph (b) of this subsection, except those covered by individual permits, within a geographic area. The area will correspond to existing geographic or political boundaries, such as:

1. Designated planning areas under Sections 208 and 303 of CWA (33 U.S.C. 1288 and 1313);
2. City, county, or state political boundaries;
3. State highway systems;
4. Standard metropolitan statistical areas as defined by the University of Louisville Urban Studies Center, consistent with the U.S. Office of Management and Budget;
5. Urbanized areas as designated by the University of Louisville Urban Studies Center consistent with the U.S. Bureau of the Census; or
6. Any other appropriate division or combination of boundaries.

(b) Sources. The general permit will be written to regulate, within the area described in paragraph (a) of this subsection; either:

1. Separate storm sewers; or
2. A category of point sources other than separate storm sewers if the sources all:

a. Involve the same or substantially similar types of operations;

b. Discharge the same types of wastes;

c. Require the same effluent limitations or operating conditions;

d. Require the same or similar monitoring; and

e. In the opinion of the director, are more appropriately controlled under a general permit than under individual permits.

(2) Administration.

(a) General permits may be issued, modified, revoked and reissued, or terminated in accordance with applicable requirements of 401 KAR 5:075.

(b) Requiring an individual permit.

1. The director may require any person authorized by a general permit to apply for and obtain an individual KPDES permit. Any interested person may petition the director to take action under this paragraph. Cases where an individual KPDES permit may be required include the following:

a. The discharger(s) is a significant contributor of pollution as determined by the factors set forth in Section 8(3)(b) of 401 KAR 5:060;

b. The discharger is not in compliance with the conditions of the general KPDES permit;

(c) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source;

d. Effluent limitation guidelines are promulgated for point sources covered by the general KPDES permit;

e. A Kentucky Water Quality Management Plan containing requirements applicable to such point sources is approved; or

f. The requirements of subsection (1) of this section are not met.

2. Any owner or operator authorized by a general permit may request to the excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under 401 KAR 5:060, Section 1, to the director with reasons supporting the request. The request shall be submitted no later than ninety (90) days after the notice by the cabinet in accordance with 401 KAR 5:075, Section 5. The request shall be processed under 401 KAR 5:075. If the reasons cited by the owner or operator are adequate to support the request, the cabinet may issue an individual permit.

3. When an individual KPDES permit is issued to an owner or operator otherwise subject to a general KPDES permit, the applicability of the general permit to the individual KPDES permittee is automatically terminated on the effective date of the individual permit.

4. A permittee, excluded from a general permit solely because he already has an individual permit, may request that the individual permit be revoked. the permittee shall then request to be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source.

Section 7. Disposal of Pollutants Into Wells, into POTWs or by Land Application. (1) When part of a discharger's process wastewater is not being discharged into waters of the Commonwealth because it is disposed into a well, into a POTW, or by land application thereby reducing the flow or level of pollutants being discharged into waters of the Commonwealth, applicable effluent standards and limitations for the discharge in a KPDES permit permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and stan-

dards in the permit shall be calculated by one (1) of the following methods:

(a) If none of the waste from a particular process is discharged into waters of the Commonwealth, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards.

(b) In all cases other than those described in paragraph (a) of this subsection, effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater now to be treated and discharged into waters of the Commonwealth, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 401 KAR 5:080, Section 3, to make them more stringent if discharges to wells, publicly owned treatment works, or by land application change the character or treatability of the pollutants being discharged to receiving waters. This method may be algebraically expressed as:

$$P = E \times N/T$$

When P is the permit effluent limitation, E is the limitation derived by applying effluent guidelines to the total waste stream, N is the wastewater flow to be treated and discharged to waters of the Commonwealth and T is the total wastewater flow.

(2) Subsection (1) of this section shall not apply to the extent that promulgated effluent limitations guidelines:

(a) Control concentrations of pollutants discharged but not mass; or

(b) Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into POTWs.

(3) Subsection (1) of this section does not alter a discharger's obligation to meet any more stringent requirements established under 401 KAR 5:065.

Section 8. Variances Available to KPDES Applicants. (1) Economic capability. The director, with the concurrence of EPA, may modify the BAT requirements set out in 401 KAR 5:080, Section 1, for a point source, upon a showing by the owner or operator of that point source, satisfactory to the director that the modified requirement will:

(a) Represent the maximum use of technology within the economic capability of the owner or operator; and

(b) Result in reasonable further progress toward the elimination of the discharge of pollutants.

(2) Environmental considerations.

(a) The director, with the concurrence of EPA, may modify the BAT requirement set out in 401 KAR 5:080, Section 1, for a point source which does not discharge toxic pollutants identified in Section 6 of 401 KAR 5:080, conventional pollutants, or the thermal component of that discharge upon a showing by the owner or operator satisfactory to the director that:

1. The modified requirement will result, at a minimum, in compliance with the BPT requirement identified in 401 KAR 5:080 or Kentucky water quality standards, whichever is applicable;

2. The modified requirement will not result in an additional requirement on any other point or non-source point; and

3. The modification will not:

a. Interfere with the attainment or maintenance of that water quality which will assure protection of public water supplies, protection and propagation of a balanced population of shellfish, fish, and wildlife, and allow recreational activities in and on the water; and

b. Result in the discharge of pollutants in quantities which may reasonably be anticipated to pose an unacceptable risk to human health or the environment because of bioaccumulation, persistency in the environment, acute toxicity, chronic toxicity, including carcinogenicity, mutagenicity or teratogenicity, or synergistic propensities.

(b) If an owner or operator of a point source applies for a modification under this section for any pollutant, that owner or operator will be eligible to apply for a modification under subsection (1) of this section with respect to that pollutant only during the same time period as he is eligible to apply for a modification under this section.

(3) Innovative technology.

(a) The director may establish a date for complying with the deadline for achieving BAT set out in Section 1 of 401 KAR 5:080 no later than July 1, 1987, if the owner or operator establishes to the satisfaction of the director the following:

1. That the existing production capacity of the facility will be replaced with an innovative production process which will result in an effluent reduction significantly greater than that required by the limitation otherwise applicable to that facility, and which moves toward the state's goal of eliminating the discharge of all pollutants; or

2. That an innovative control technique will be installed which has a substantial likelihood for enabling the facility to comply with the applicable effluent limitation by achieving a significantly greater effluent reduction than that required by the applicable effluent limitation, and which moves toward the state's goal of eliminating the discharge of all pollutants; or

3. That an innovative system will be installed which has the potential for significantly lower costs than the system which has been determined by the director to be economically achievable.

(b) The innovative system must have the potential for industrywide application.

(c) The director may not modify any requirement under this section which applies to a pollutant on the toxic pollutant list set out at 401 KAR 5:080, Section 6.

(4) Water quality related effluent limitations. The director may modify water quality related effluent limitations, promulgated to assure protection of specific portions of waters of the Commonwealth, which are established in addition to effluent limitations for achieving BAT, if the following conditions are met:

(a) The person affected by such limitation demonstrates that there is no reasonable relationship between the economic and social costs of the effluent limitation and the benefits to be obtained; and

(b) The request for modification is made no later than the close of the public comment period under 401 KAR 5:075, Section 5, on the permit from which the modification is sought.

(5) Thermal pollution.

(a) The director may impose an effluent limitation for the thermal component of a discharge from a point source if the owner or operator can establish to the satisfaction of the director that the original effluent limitation proposed by the director is more stringent than necessary to assure the protection and propagation of a balanced indigenous population of shellfish, fish and wildlife in and on the body of water into which the discharge will be made.

(b) The effluent limitation imposed by the director upon request by the owner or operator will take into account the interaction of the thermal component with other pollutants, and will assure the protection and propagation of a balanced, indigenous population of shellfish, fish and wildlife in and on that body of water.

Section 9. Suspension of an NPDES Regulation. The director may suspend any permit requirement already expressly suspended by EPA under CWA. In the KPDES program, suspension will be effected by giving notice to permittees. Provisions suspended on the date of adoption of the KPDES regulations are noted in the respective regulation.

Section 10. Certified Laboratories. The cabinet will designate public agencies, private consulting firms, institutions, or other types of analytical laboratories which can provide the services required under KPDES regulations.

(1) Certification guidelines. Such laboratories shall meet all eligibility requirements specified in laboratory certification guidelines published by the cabinet.

(2) All data required to be included in KPDES permit applications, under 401 KAR 5:060, Section 4(7) and (13); in monitoring and records under 401 KAR 5:065, Section 1(10) and (12)(d), and Section 2(8); and, as required by the cabinet, must be supplied by a laboratory certified by the cabinet.

(3) Requirement to apply. Any person who desires to be certified shall apply to the cabinet and provide all information necessary to establish required qualifications.

(4) Laboratories shall be deemed to hold interim certification on the effective date of this regulation unless otherwise notified by the cabinet.

Section 11. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary
ADDOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 3 p.m.
See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:060. KPDES application requirements.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(19), (21), (22), (23), 224.034, 224.060
NECESSITY AND FUNCTION: KRS 224.033(19) authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.034 further empowers the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the conditions imposed in 33 U.S.C. Sections 1342(b) and 1342(d) and that any exemptions granted shall be pursuant to the Federal Water Pollution Control Act. This regulation sets forth the application requirements for all KPDES permits and contains additional requirements for general and specific categories of dischargers.

Section 1. Applying for a KPDES Permit. (1) Application requirements.

(a) Any person who is required to have a permit, including new applicants and permittees with expiring permits shall complete, sign, and submit an application to the director as described in this regulation and 401 KAR 5:055. On the date of KPDES program approval by EPA, all persons permitted or authorized under NPDES shall be deemed to hold a KPDES permit, including those expired permits which EPA has continued in effect according to 40 CFR 122.5, continuation of expiring permits.

(b) Any person who is required to have a permit and who does not have an effective permit, shall submit a complete application to the director in accordance with this section and 401 KAR 5:075. A complete application shall include a BMP program, if necessary, under 401 KAR 5:080, Section 5. The following are exceptions to the application requirements:

1. Persons covered by general permits under 401 KAR 5:055, Section 6;
2. Discharges excluded under 401 KAR 5:055, Section 1; and
3. Users of a privately owned treatment works unless the director requires otherwise under 401 KAR 5:070, Section 2.

(2) Time to apply. Any person proposing a new discharge shall submit an application at least 180 days before the date on which the discharge is to commence, unless permission for a later date has been granted by the director.

(3) Duty to apply. When a facility or activity is owned by one (1) person but is operated by another person, it is the operator's duty to obtain a permit.

(4) Duty to reapply.

(a) Any person with a currently effective permit shall submit a new application at least 180 days before the expiration date of the existing permit, unless permission for a later date has been granted by the director. The director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.

(b) Continuation of expiring permits. The conditions of an expired permit continue in force until the effective date of a new permit if:

1. The permittee has submitted a timely application under subsection (2) of this section which is a complete application for a new permit; and
2. The director, through no fault of the permittee, does not issue a new permit with an effective date under 401 KAR 5:075, Section 11, on or before the expiration date of the previous permit.
3. Effect. Permits continued under this paragraph remain fully effective and enforceable until the effective date of a new permit.
4. Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit the director may choose to do any or all of the following:

a. Initiate enforcement action based upon the permit which has been continued;
b. Issue a notice of intent to deny the new permit under 401 KAR 5:075, Section 3(2);

c. Issue a new permit under 401 KAR 5:075 with appropriate conditions; or

d. Take other actions authorized by the KPDES regulations.

(5) Completeness. The director will not issue a KPDES permit before receiving a complete application for a permit. A permit application is complete when the cabinet receives an application form with any supplemental information which is completed to the director's satisfaction.

(6) Information requirements. All applicants for KPDES permits shall provide the following information to the director, using the application form provided by the director.

(a) The activities being conducted which require the applicant to obtain a KPDES permit.

(b) Name, mailing address, and location of the facility for which the application is submitted.

(c) From one (1) to four (4) SIC codes which best reflect the principal products or services provided by the facility.

(d) The operator's name, address, telephone number, ownership status, and status as to federal, state, private, public, or other entity.

(e) A listing of all other relevant environmental permits, including air pollution, water quality and solid or hazardous waste permits issued by the cabinet or other state or federal permits as requested.

(f) A topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structure and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within one (1) mile of the facility property boundary.

(g) A brief description of the nature of the business.

(h) Additional information may also be required of new sources, new dischargers and major facilities to determine any significant adverse environmental effects of the discharge.

(7) Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under this regulation for a period of at least three (3) years from the date the application is signed.

(8) Service of process. Every applicant and permittees shall provide the cabinet and others for receipt of any legal nature or service process. The last address provided to the cabinet pursuant to this provision shall be the address at which the cabinet may tender any legal notice including but not limited to service of process in connection with any enforcement action. Service, whether by bond or by mail, shall be complete upon tender of the notice, process or order and shall not be deemed incomplete because of refusal to accept or if the addressee is not found.

Section 2. Confidentiality of Information. (1) In accordance with KRS 224.035 any information submitted to the cabinet pursuant to the KPDES regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the cabinet may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in KRS 224.035.

(2) Information, which includes effluent data, required by KPDES application forms provided by the director under Section 1 of this regulation may not be claimed confidential. Information contained in KPDES permits or permit applications may not be claimed as confidential business information.

Section 3. Signatories to Permit Applications and Reports. (1) Applications. All permit applications shall be signed as follows:

(a) For a corporation: by a principal executive officer of at least the level of vice-president;

(b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

(2) Reports. All reports required by permits and other information requested by the director shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if the following conditions are met:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or position of equivalent responsibility;

(c) The written authorization is submitted to the director.

(3) Changes to authorization. If an authorization under subsection (2) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section must be submitted to the director prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

Section 4. Application Requirements for Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. Existing manufacturing, commercial, mining, and silvicultural dischargers applying for KPDES permits shall provide the following information to the director, using application forms provided by the director:

(1) Outfall location. The latitude and longitude to the nearest fifteen (15) seconds and the name of the receiving water shall be provided by the applicant.

(2) Line drawing. A line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units shall be included in the application. Similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under subsection (3) of this section. The water balance shall show approximate average flows at in-

take and discharge points and between units, including treatment units. If a water balance cannot be determined the applicant may provide a pictorial description of the nature and amount of any sources of water and any collection and treatment measures.

(3) Average flows and treatment. The applicant shall provide a narrative identification of each type of process, operation, or production area which contributes wastewater to the effluent for each outfall, including process wastewater, cooling water; and storm water runoff; the average flow which each process contributes; and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge. Processes, operations or production areas may be described in general terms, for example, dye-making reactor, distillation tower. For a privately owned treatment works, this information shall include the identity of each user of the treatment works.

(4) Intermittent flows. If any of the discharges described in subsection 3 of this section are intermittent or seasonal, the applicant shall provide a description of the frequency, duration and flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks.

(5) Maximum production. If an EPA effluent guideline applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline shall be included. The reported measure shall reflect the actual production of the facility as required by 401 KAR 5:065, Section 1.

(6) Improvements. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates shall be included.

(7) Effluent characteristics. Information on the discharge of pollutants specified in this subsection shall be provided by the applicant. When quantitative data for a pollutant is required, the applicant must collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but shall provide a description of the method. When an applicant has two (2) or more outfalls with substantially identical effluents, the director may allow the applicant to test only one (1) outfall and report that the quantitative data also applies to the substantially identical outfalls. The requirements in paragraphs (c) and (d) of this subsection that an applicant shall provide quantitative date for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant shall report such pollutants as present. Grab samples must be used for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform. For all other pollutants, twenty-four (24) hour composite samples must be used. An applicant is expected to know or have reason to believe that a pollutant is present in an effluent based on an evaluation of the expected use, production, or storage of the pollutant, or on any previous analyses for the pollutant.

(a)1. Every applicant shall report quantitative data for every outfall for the following pollutants:

a. Biochemical oxygen demand (BOD).
b. Chemical oxygen demand.
c. Total organic carbon.
d. Total suspended solids.
e. Ammonia (as N).
f. Temperature (both winter and summer).
g. pH.

2. At the applicant's request, the director may waive the reporting requirements for one (1) or more of the pollutants listed in subparagraph 1 of this paragraph.

(b) Each applicant with processes in one (1) or more primary industry category, listed in Section 10 of this regulation, and contributing to a discharge, shall report quantitative data for the following pollutants in each outfall containing process wastewater:

1. The organic toxic pollutants in the fractions designated in Section 13(1) of this regulation for the applicant's industrial category or categories unless the applicant qualifies as a small business under subsection (8) of this section. Section 13(2) of this regulation lists the organic toxic pollutants in each fraction. The fractions result from the sample preparation required by the analytical procedure which uses gas chromotography/mass spectrometry. A determination that an applicant falls within a particular industrial category for the purposes of selecting fractions for testing is not conclusive as to the applicant's inclusion in that category for any other purposes.

2. The pollutants listed in Section 13(3) of this regulation: the toxic metals, cyanide, and total phenols.

(c) Each applicant must report for each outfall quantitative data for the following pollutants, if the applicant knows or has reason to believe that the pollutant is discharged from the outfall:

1. All pollutants listed in Section 13(2) or (3) of this regulation, the toxic pollutants, for which quantitative data is not otherwise required under paragraph (b) of this subsection except that an applicant qualifying as a small business under subsection 8 of this section is not required to analyze for the pollutants listed in Section 13(2) of this regulation, the organic toxic pollutants.

2. All pollutants in Section 13(4) of this regulation, certain conventional and nonconventional pollutants.

(d) Each applicant shall indicate any knowledge or to believe that any of the pollutants in Section 13(5) of this regulation, certain hazardous substances and asbestos is discharged from each outfall. For every pollutant expected to be discharged, the applicant shall briefly describe the reasons the pollutant is expected to be discharged, and report any quantitative data for any pollutant.

(e) Each applicant shall report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) if it:

1. Uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP); 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

2. Knows or has reason to believe that TCDD is or may be present in an effluent.

(8) Small business exemption. An applicant which qualifies as a small business under one (1) of the following criteria is exempt from the requirements in paragraphs (b)1 or (c)1 of this subsection to submit quantitative data for the pollutants listed in Section 13(2) of this regulation, organic toxic pollutants:

(a) For coal mines, a probable total annual production of less than 100,000 tons per year.

(b) For all other applicants, gross total annual sales averaging less than $100,000 per year, in second quarter 1980 dollars.

(9) Used or manufactured toxics. The application shall include a listing of any toxic pollutant which the applicant:

(a) Does use or manufacture as an intermediate or final product or byproduct currently; or

(b) Expects to use or manufacture as an intermediate or final product or byproduct during the next five (5) years.

(10) Potential discharges. The applicant shall provide a description of the expected levels of and the reasons for any discharges of pollutants which the applicant knows or has reason to believe will exceed two (2) times the values reported in subsection (7) of this section over the next five (5) years.

(11) Biological toxicity tests. The applicant shall identify any biological toxicity tests which it knows or has reason to believe have been made within the last three (3) years on any of the applicant's discharges or on a receiving water in relation to a discharge.

(12) Contract analyses. If a contract laboratory or consulting firm performed any of the analyses required by subsection (7) of this regulation, the identity of each laboratory or firm and the analyses performed shall be included in the application.

(13) Additional information. In addition to the information reported on the application form, applicants shall provide to the director, upon request, other information as the director may reasonably require to assess the discharges of the facility and to determine whether to issue a KPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and requirements to determine the cause of the toxicity.

Section 5. Concentrated Animal Feeding Operations: Specific Application Requirements. (1) Permit required. Concentrated animal feeding operations are point sources subject to the KPDES permit program.

(2) Definitions.

(a) "Animal feeding operation" means a lot or facility, other than an aquatic animal production facility, where the following conditions are met:

1. Animals, other than aquatic animals, have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12) month period; and

2. Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

(b) Two (2) or more animal feeding operations under common ownership are considered, for the purposes of the KPDES regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.

(c) "Concentrated animal feeding operation" means an "animal feeding operation" which meets the criteria in Section 11 of this regulation or which the director designates under subsection (3) of this section.

(3) Case-by-case designation of concentrated animal feeding operations.

(a) The director may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the Commonwealth. In making this designation the director will consider the following factors:

1. The size of the animal feeding operation and the amount of wastes reaching waters of the Commonwealth;

2. The location of the animal feeding operation relative to waters of the Commonwealth;

3. The means of conveyance of animal wastes and process wastewaters into waters of the Commonwealth;

4. The slope, vegetation, rainfall, and other factors affecting the likelihood or frequency of discharge of animal wastes and process wastewaters into waters of the Commonwealth; and

5. Other relevant factors.

(b) No animal feeding operation with less than the numbers of animals set forth in Section 11 of this regulation will be designated as a concentrated animal feeding operation unless:

1. Pollutants are discharged into waters of the Commonwealth through a manmade ditch, flushing system, or other similar manmade device; or

2. Pollutants are discharged directly into the waters of the Commonwealth which originate outside of the facility and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(c) A permit application will not be required from a concentrated animal feeding operation designed under this section until the director or an authorized representative has conducted an on-site inspection of the operation and determined that the operation should and could be regulated under the KPDES permit program.

(4) Information required. New and existing concentrated animal feeding operations shall provide the following information to the director, using the application form provided by the director:

(a) The type and number of animals in open confinement and housed under roof.

(b) The number of acres used for confinement feeding.

(c) The design basis for the runoff diversion and control system, if one exists, including the number of acres of contributing drainage, the storage capacity, and the design safety factor.

Section 6. Concentrated Aquatic Animal Production Facilities: Specific Application Requirements. (1) Permit required. Concentrated aquatic animal production facilities, as defined in this section, are point sources subject to the KPDES permit program.

(2) Definitions. "Concentrated aquatic animal production facility" means a hatchery, fish farm, or other facility which meets the criteria in Section 12 of this regulation or which the director designates under subsection (3) of this section.

(3) Case-by-case designation of concentrated aquatic animal production facilities.

(a) The director may designate any warm or cold water aquatic animal production facility as a concentrated aquatic animal production facility upon determining that it is a significant contributor of pollution to the waters of the Commonwealth. In making this designation the director will consider the following factors:

1. The location and quality of the receiving waters of the Commonwealth;

2. The holding, feeding, and production capacities of the facility;

3. The quantity and nature of the pollutants reaching waters of the Commonwealth; and

4. Other relevant factors.

(b) A permit application will not be required from a concentrated aquatic animal production facility designated under this section until the director or authorized representative has conducted on-site inspection of the facility and

has determined that the facility should and could be regulated under the KPDES permit program.

(4) Information required. New and existing concentrated aquatic animal production facilities shall provide the following information to the director, using the application form provided by the director:

(a) The maximum daily and average monthly flow from each outfall.

(b) The number of ponds, raceways, and similar structures.

(c) The name of the receiving water and the source of intake water.

(d) For each species of aquatic animals, the total yearly and maximum harvestable weight.

(e) The calendar month of maximum feeding and the total mass of food fed during that month.

Section 7. Aquaculture Projects: Specific Application Requirements. (1) Permit required. Discharges into aquaculture projects, as defined in this section, are subject to the KPDES permit program and in accordance with 401 KAR 5:080, Section 2.

(2) Definitions.

(a) "Aquaculture project" means a defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater plants and animals.

(b) "Designated project area" means the portions of the waters of the Commonwealth within which the permittee or permit applicant plans to confine the cultivated species, using a method or plan of operation, including, but not limited to, physical confinement, which, on the basis of reliable scientific evidence, is expected to ensure that specific individual organisms comprising an aquaculture crop will enjoy increased growth attributable to the discharge of pollutants, and be harvested within a defined geographic area.

Section 8. Separate Storm Sewers: Specific Application Requirements. (1) Permit requirement. Separate storm sewers, as defined in this section are point sources subject to the KPDES permit program. Separate storm sewers may be permitted either individually or under a general permit. A KPDES permit for discharges into waters of the Commonwealth from a separate storm sewer covers all conveyances which are a part of that separate storm sewer system, even though there may be several owners or operators of these conveyances. However, discharges into separate storm sewers from point sources which are not part of the separate storm sewer systems may also require a permit.

(2) Definition and criteria.

(a) "Separate storm sewer" means a conveyance or system of conveyances, including pipes, conduits, ditches, and channels, primarily used for collecting and conveying storm water runoff and which is either:

1. Located in an urbanized area as designated by the University of Louisville's Urban Studies Center consistent with the Bureau of the Census; or

2. Not located in an urbanized area but designated under subsection (3) of this section.

(b) Except as provided in paragraph (c) of this subsection, a conveyance or system of conveyances operated primarily for the purpose of collecting and conveying storm water runoff which is not located in an urbanized area and has not been designated by the director under subsection (3) of this section is not considered a point source and is not subject to the provisions of this subsection.

(c) Conveyances which discharge process wastewater or storm water runoff contaminated by contact with wastes, raw materials, or pollutant-contaminated soil, from lands or facilities used for industrial or commercial activities, into waters of the Commonwealth or into separate storm sewers are point sources that must obtain KPDES permits but are not separate storm sewers.

(d) Whether a system of conveyances is or is not a separate storm sewer for purposes of this section shall have no bearing on whether the system is eligible for funding under Title II of CWA.

(3) Case-by-case designation of separate storm sewers. The director may designate a storm sewer not located in an urbanized area as a separate storm sewer. This designation may be made to the extent allowed or required by EPA promulgated effluent guidelines for point sources in the separate storm sewer category; or when:

(a) A Kentucky water quality management plan which contains requirements applicable to such point sources is approved by EPA; or

(b) The director determines that a storm sewer is a significant contributor of pollution to the waters of the Commonwealth. In making this determination the director will consider the following factors.

1. The location of the discharge with respect to waters of the Commonwealth;

2. The size of the discharge;

3. The quantity and nature of the pollutants reaching waters of the Commonwealth; and

4. Other relevant factors.

Section 9. Silvicultural Activities: Specific Application Requirements. (1) Permit requirement. Silvicultural point sources, as defined in this section, are point sources subject to the KPDES permit program.

(2) Definitions.

(a) "Silvicultural point source" means any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the Commonwealth. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff.

(b) "Rock crushing and gravel washing facilities" means facilities which process crushed and broken stone, gravel, and riprap.

(c) "Log sorting and log storage facilities" means facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water or stored on land where water is applied intentionally on the logs.

Section 10. Primary Industry Categories. Any KPDES permit issued to dischargers in the following categories shall include effluent limitations and a compliance schedule to meet the requirements of the KPDES regulations whether or not applicable effluent limitations guidelines have been promulgated.

(1) Adhesives and sealants.

(2) Aluminum forming.
(3) Auto and other laundries.
(4) Battery manufacturing.
(5) Coal mining.
(6) Coil coating.
(7) Copper forming.
(8) Electorical and electronic components.
(9) Electroplating.
(10) Explosives manufacturing.
(11) Foundries.
(12) Gum and wood chemicals.
(13) Inorganic chemicals manufacturing.
(14) Iron and steel manufacturing.
(15) Leather tanning and finishing.
(16) Mechanical products manufacturing.
(17) Nonferrous metals manufacturing.
(18) Ore mining.
(19) Organic chemicals manufacturing.
(20) Paint and ink formulation.
(21) Pesticides.
(22) Petroleum refining.
(23) Pharmaceutical preparations.
(24) Photographic equipment and supplies.
(25) Plastics processing.
(26) Plastic and synthetic materials manufacturing.
(27) Porcelain enameling.
(28) Printing and publishing.
(29) Pulp and paper mills.
(30) Rubber processing.
(31) Soap and detergent manufacturing.
(32) Steam electric power plants.
(33) Textile mills.
(34) Timber products processing.

Section 11. Criteria for Determining a Concentrated Animal Feeding Operation. An animal feeding operation is a concentrated animal feeding operation for purposes of Section 5 of this regulation if either of the following criteria are met:

(1) Criteria of number only. The facility meets the criteria if more than the numbers of animals specified in any of the following categories are confined:

(a) 1,000 slaughter and feeder cattle;
(b) 700 mature dairy cattle, whether milked or dry cows;
(c) 2,500 swine each weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds;
(d) 500 horses;
(e) 10,000 sheep or lambs;
(f) 55,000 turkeys;
(g) 100,000 laying hens or broilers, if the facility has continuous overflow watering;
(h) 30,000 laying hens or broilers, if the facility has a liquid manure handling system;
(i) 5,000 ducks; or
(j) 1,000 animal units.

(2) Criteria of number and condition of the discharge. The facility meets the criteria if more than the following number and types of animals are confined:

(a) 300 slaughter or feeder cattle;
(b) 200 mature dairy cattle, whether milker or dry cows;
(c) 750 swine each weighing over twenty-five (25) kilograms, approximately fifty-five (55) pounds;
(d) 150 horses;
(e) 3,000 sheep or lambs;
(f) 16,500 turkeys;
(g) 30,000 laying hens or broilers, if the facility has continuous overflow watering;
(h) 9,000 laying hens or broilers, if the facility has a liquid manure handling system;
(i) 1,500 ducks; or
(j) 300 animal units; and
(k) Either one (1) of the following conditions are met:

1. Pollutants are discharged into waters of the Commonwealth through a manmade ditch, flushing system or other similar manmade device; or

2. Pollutants are discharged directly into waters of the Commonwealth which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

(3) Special provision. No animal feeding operation is a concentrated animal feeding operation as defined in subsections (1) and (2) of this section if such animal feeding operation discharges only in the event of a twenty-five (25) year, twenty-four (24) hour storm event.

(4) Definitions.

(a) "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: the number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4, plus the number of swine weighting over twenty-five (25) kilograms (approximately fifty-five (55) pounds) multiplited by 0.4, plus the number of sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

(b) "Manmade" means constructed by man and used for the purpose of transporting wastes.

Section 12. Criteria for Determining a Concentrated Aquatic Animal Production Facility. A hatchery, fish farm, or other facility is a concentrated aquatic animal production facility for purposes of Section 6 of this regulation if it contains, grows, or holds aquatic animals in either of the following categories:

(1) Cold water aquatic animals. Cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least thirty (30) days per year but does not include:

(a) Facilities which produce less than 9,090 harvest weight kilograms (approximately 20,000 pounds) of aquatic animals per year; and

(b) Facilities which feed less than 2,272 kilograms (approximately 5,000 pounds) of food during the calendar month of maximum feeding.

(c) Cold water aquatic animals include, but are not limited to the Salmonidoe family of the fish; e.g. trout and salmon.

(2) Warm water aquatic animals. Warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures which discharge at least thirty (30) days per year, but does not include:

(a) Closed ponds which discharge only during periods of excess runoff; or

(b) Facilities which produce less than 45,454 harvest weight kilograms (approximately 100,000 pounds) of aquatic animals per year.

(c) "Warm water aquatic animals" include, but are not limited to, the Ameiuride, Centrachidae and Cyprinidae families of fish; e.g., respectively, catfish, sunfish and minnows.

Section 13. KPDES Permit Application Testing Requirements. (1) Table I—Testing Requirements for Organic Toxic Pollutants for Industrial Category for Existing Dischargers

Industrial category	GC/MS fraction[1]			
	Volatile	Acid	Base/neutral	Pesticide
Adhesives and sealants	(*)	(*)	(*)	—
Alumimum forming	(*)	(*)	(*)	—
Auto and other laundries	(*)	(*)	(*)	(*)
Battery manufacturing	(*)	—	(*)	—
Coal mining	(*)	(*)	(*)	(*)
Coil coating	(*)	(*)	(*)	—
Cooper forming	(*)	(*)	(*)	—
Electric and electronic components	(*)	(*)	(*)	(*)
Electroplating	(*)	(*)	(*)	—
Explosives manufacturing	—	(*)	(*)	—
Foundries	(*)	(*)	(*)	—
Gum and wood chemicals	(*)	(*)	(*)	(*)
Inorganic chemicals manufacturing	(*)	(*)	(*)	—
Iron and steel manufacturing	(*)	(*)	(*)	—
Leather tanning and finishing	(*)	(*)	(*)	(*)
Mechanical products manufacturing	(*)	(*)	(*)	—
Nonferrous metals manufacturing	(*)	(*)	(*)	(*)
Ore mining	(*)	(*)	(*)	(*)
Organic chemicals manufacturing	(*)	(*)	(*)	(*)
Paint and ink formulation	(*)	(*)	(*)	(*)
Pesticides	(*)	(*)	(*)	(*)
Petroleum refining	(*)	(*)	(*)	(*)
Pharmaceutical preparations	(*)	(*)	(*)	—
Photographic equipment and supplies	(*)	(*)	(*)	(*)
Plastic and synthetic materials manufacturing	(*)	(*)	(*)	(*)
Plastic processing	(*)	—	—	—
Porcelain enameling	(*)	—	(*)	(*)
Printing and publishing	(*)	(*)	(*)	(*)
Pulp and paper mills	(*)	(*)	(*)	(*)
Rubber processing	(*)	(*)	(*)	—
Soap and detergent manufacturing	(*)	(*)	(*)	—
Steam electric power plants	(*)	(*)	(*)	—
Textile mills	(*)	(*)	(*)	(*)
Timber products processing	(*)	(*)	(*)	(*)

[1]The toxic pollutants in each fraction are listed in Table II.
*Testing required.

(2) Table II—Organic Toxic Pollutants in Each of Four (4) Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GC/MS)

(a) Volatiles

1V acrolein
2V acrylonitrile
3V benzene
4V bis (chloromethyl) ether
5V bromoform
6V carbon tetrachloride
7V chlorobenzene
8V chlorodibromomethane
9V chloroethane
10V 2-chloroethylvinyl ether
11V chloroform
12V dichlorobromomethane
13V dichlorodifluoromethane
14V 1,1-dichloroethane
15V 1,2-dichloroethane
16V 1,1-dichloroethylene
17V 1,2-dichlorpropane
18V 1,2-dichloropropylene
19V ethylbenzene
20V methyl bromide
21V methyl chloride
22V methylene chloride
23V 1,1,2,2-tetrachloroethane
24V tetrachloroethylene
25V toluene
26V 1,2-trans-dichloroethylene
27V 1,1,1-trichloroethane
28V 1,1,2-trichloroethane
29V trichloroethylene
30V trichlorofluoromethane
31V vinyl chloride

(b) Acid compounds

1A 2-chlorophenol
2A 2,4-dichlorophenol
3A 2,4-dimethylphenol
4A 4,6-dinitro-o-cresol
5A 2,4-dinitrophenol
6A 2-nitrophenol
7A 4-nitrophenol
8A p-chloro-m-cresol
9A pentachlorophenol
10A phenol
11A 2,4,6-trichlorophenol

(c) Base/neutral

1B acenaphthene
2B acenaphthylene
3B anthracene
4B benzidine
5B benzo(a)anthracene
6B benzo(a)pyrene
7B 3,4-benzofluoranthene
8B benzo(ghi)perylene
9B benzo(k)fluoranthene
10B bis(2-chloroethoxy)methane
11B bis(2-chloroethyl)ether
12B bis(2-chloroisopropyl)ether
13B bis(2-ethylhexyl)phthalate
14B 4-bromophenyl phenyl ether
15B butylbenzyl phthalate
16B 2-chloronaphthalene
17B 4-chlorophenyl phenyl ether
18B chrysene
19B dibenzo(a,h)anthracene
20B 1,2-dichlorobenzene
21B 1,3-dichlorobenzene
22B 1,4-dichlorobenzene
23B 3,3-dichlorobenzidine
24B diethyl phthalate
25B dimethyl phthalate
26B di-n-butyl phthalate
27B 2,4-dinitrotoluene
28B 2,6-dinitrotoluene
29B di-n-octyl phthalate
30B 1,2-diphenylhydrazine (as azobenxene)
31B fluoranthene
32B fluorene
33B hexachlorobenzene
34B hexachlorobutadiene
35B hexachlorocyclopentadiene
36B hexachloroethane
37B indeno(1,2,3-cd)pyrene
38B isophorone
39B naphthalene
40B nitrobenzene
41B N-nitrosodimethylamine
42B N-nitrosodi-n-propylamine
43B N-nitrosodiphenylamine
44B phenanthrene
45B pyrene
46B 1,2,4-trichlorobenzene

(d) Pesticides.

1P aldrin
2P α-BHC
3P β-BHC
4P γ-BHC
5P δ-BHC
6P chlordane
7P 4,4'-DDT
8P 4,4'-DDE
9P 4,4'-DDD
10P dieldrin
11P α-endosulfan
12P β-endosulfan
13P endosulfan sulfate
14P endrin
15P endrin aldehyde
16P heptachlor
17P heptachlor epoxide
18P PCB-1242
19P PCB-1254
20P PCB-1221
21P PCB-1232
22P PCB-1248
23P PCB-1260
24P PCB-1016
25P toxaphene

(3) Table III—Other Toxic Pollutants: Metals, Cyanide, and Total Phenols

(a) antimony, total
(b) arsenic, total
(c) beryllium, total
(d) cadmium, total
(e) chromium, total
(f) copper, total
(g) lead, total
(h) mercury, total
(i) nickel, total
(j) selenium, total
(k) silver, total
(l) thallium, total
(m) zinc, total
(n) cyanide, total
(o) phenols, total

(4) Table IV—Conventional and Nonconventional

Pollutants Required to be Tested by Existing Dischargers if Expected to be Present
(a) bromide
(b) chlorine, total residual
(c) color
(d) fecal coliform
(e) fluoride
(f) nitrate-nitrite
(g) nitrogen, total organic
(h) oil and grease
(i) phosphorus, total
(j) radioactivity
(k) sulfate
(l) sulfide
(m)sulfite
(n) surfactants
(o) aluminum, total
(p) barium, total
(q) boron, total
(r) cobalt, total
(s) iron, total
(t) magnesium, total
(u) molybdenum, total
(v) manganese, total
(w) tin, total
(x) titanium, total

(5) Table V—Toxic Pollutants and Hazardous Substances Required to be Identified by Existing Dischargers if Expected to be Present
(a) Toxic pollutants-asbestos
(b) Hazardous substance
1. acetaldehyde
2. allyl alcohol
3. allyl chloride
4. amyl acetate
5. aniline
6. benzonitrile
7. benzyl chloride
8. butyl acetate
9. butylamine
10. captan
11. carbaryl
12. carbofuran
13. carbon disulfide
14. chlorpyrifos
15. coumaphos
16. cresol
17. crotonaldehyde
18. cyclohexane
19. 2,4-D(2,4-dichlorophenoxy acetic acid)
20. diazinon
21. dicamba
22. dichlobenil
23. dichlone
24. 2,2-dichloropropionic acid
25. dichlorvos
26. diethyl amine
27. dimethyl amine
28. dintrobenzene
29. diquat
30. disulfoton
31. diuron
32. epichlorohydrin
33. ethanolamine
34. ethion
35. ethylene diamine
36. ethylene dibromide
37. formaldehyde
38. furfural
39. guthion
40. isoprene
41. isopropanolamine
42. kelthane
43. kepone
44. malathion
45. mercaptodimethur
46. methoxychlor
47. methyl mercaptan
48. methyl methacrylate
49. methyl parathion
50. mevinphos
51. mexacarbate
52. monethyl amine
53. monomethyl amine
54. naled
55. napthenic acid
56. nitrotoluene
57. parathion
58. phenolsulfanate
59. phosgene
60. propargite
61. propylene oxide
62. pyrethrins
63. quinoline
64. resorcinol
65. strontium
66. strychnine
67. styrene
68. 2,4,5-T(2,4,5-trichlorophenoxy acetic acid)
69. TDE(tetrachlorodiphenylethane)
70. 2,4,5-TP (2,-(2,4,5-trichlorophenoxy) propanoic acid)
71. trichlorofon
72. Triethylamine
73. trimethylamine
74. uranium
75. vanadium
76. vinyl acetate
77. xylene
78. xylenol
79. zirconium

Section 14. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

* NOTE: The Environmental Protection Agency has suspended until further notice 40 CFR 122.53(d)(7)(ii)(A) as it applies to the categories listed below. The Natural Resources and Environmental Protection Cabinet hereby suspends the corresponding section of this regulation, Section 4(7)(b)1, until such time as EPA publishes notice in the Federal Register of a final decision on this provision. Categories of dischargers for which Section 4(7)(b)1 of this regulation is suspended for categories and subcategories of the primary industries listed in Section 10 of 401 KAR 5:060.

1. Coal mines.
2. Testing and reporting for all four (4) organic fractions in the Greige Mills Subcategory of the Textile Mills industry and testing and reporting for the pesticide fraction in all other subcategories of this industrial category.
3. Testing and reporting for the volatile, base/neutral and pesticide fractions in the Base and Precious Metals

Subcategory of the Ore Mining and Dressing industry, and testing and reporting for all four (4) fractions in all other subcategories of this industrial category.

4. Testing and reporting for all four (4) GC/MS fractions in the Porcelain Enameling industry.

5. Testing and reporting for the pesticide fraction in the Tall Oil Rosin Subcategory and Rosin-Based Derivatives Subcategory of the Gum and Wood Chemicals industry and testing and reporting for the pesticide and base/neutral fractions in all other subcategories of this industrial category.

6. Testing and reporting for the pesticide fraction in the Leather Tanning and Finishing, Paint and Ink Formulation, and Photographic Supplies industrial categories.

7. Testing and reporting for the acid, base/neutral and pesticide fractions in the Petroleum Refining industrial category.

8. Testing and reporting for the pesticide fraction in the Papergrade Sulfite Subcategories of the Pulp Paper industry; testing and reporting for the base/neutral and pesticide fractions in the following subcategories: Deink Dissolving Draft and Paperboard from Waste Paper; testing and reporting for the volatile, base/neutral and pesticide fractions in the following subcategories: BCT Bleached Kraft, Semi-Chemical and Nonintegrated Fine Papers; and testing and reporting for the acid, base/neutral, and pesticide fractions in the following subcategories: Fine Bleached Kraft, Dissolving Sulfite Pulp, Groundwood-Fine Papers, Market Bleached Kraft, Tissue from Wastepaper, and Nonintegrated-Tissue Papers.

9. Testing and reporting for the base/neutral fraction in the Once-Through Cooling Water, Fly Ash and Bottom Ash Transport Water process wastestreams of the Steam Electric Power Plant industrial category.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: Decmeber 15, 1982 at 3 p.m.
See public hearing scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:065. KPDES permit conditions.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(11), (19), (21), (22), 224.034, 224.060, 224.994(1), (4)
NECESSITY AND FUNCTION: KRS 224.033(19) authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.034 further empowers the cabinet to issue federal permits pursuant to 33 U.S.C. 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the conditions omposed in 33 U.S.C. Sections 1342(b) and 1342(d) and that any exemptions granted shall be pursuant to the Federal Water Pollution Control Act. This regulation sets forth the conditions applicable to all KPDES permits and the procedures for establishing and calculating permit conditions.

Section 1. Conditions Applicable to all KPDES Permits. All conditions applicable to KPDES permits will be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit. In addition to conditions required in all KPDES permits, the director will establish conditions as required on a case-by-case basis under Section 2 of this regulation and 401 KAR 5:070.

(1) Duty to comply.

(a) General requirement. The permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of KRS Chapter 224, among which are the following remedies: enforcement action, permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

(b) Specific duties.

1. The permitee shall comply with effluent standards or prohibitions established under 40 CFR Part 129, for toxic pollutants within the time provided in the federal regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

2. Any person who violates a permit condition as set forth in the KPDES regulations is subject to penalties under KRS 224.994(1) and (4).

(2) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit as required in 401 KAR 5:060, Section 1.

(3) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. Upon reduction, loss, or failure of the treatment facility, the permittee, to the extent necessary to maintain compliance with the permit, shall control production of all discharges until the facility is restored or an alternative method of treatment is provided.

(4) Duty to mitigate. The permittee shall take all reasonable steps to minimize or correct any adverse impact on the environment resulting from noncompliance with this permit.

(5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control and related appurtenances which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems when necessary to achieve compliance with the conditions of the permit.

(6) Permit actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) Property rights. This permit does not convey any property rights of any kind, or any exclusive privilege.

(8) Duty to provide information. The permittee shall furnish to the director, within a reasonable time, any information which the director may request to determine whether cause exists for modifying, revoking and reissu-

ing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the director, upon request, copies of records required to be kept by this permit.

(9) Inspection and entry. The permittee shall allow the director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records pertinent to the KPDES program are or may be kept;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facilities, equipment, including monitoring and control equipment, practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by KRS Chapter 224 any substances or parameters at any location.

(10) Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the director at any time.

(c) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

(d) Monitoring shall be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.

(e) Any person who falsifies, tampers with, or knowlingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be subject to penalties under KRS 224.994(4).

(11) Signatory requirement. All applications, reports, or information submitted to the director shall be signed and certified as indicated in 401 KAR 5:060, Section 3. Any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance shall, upon conviction, be subject to penalties under KRS 224.994(4).

(12) Reporting requirements.

(a) Planned changes. The permittee shall give notice to the director as soon as possible of any planned physical alteration or additions to the permitted facility.

(b) Anticipated noncompliance. The permittee shall give advance notice to the director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

(c) Transfers. This permit is not transferable to any person except after notice to the director. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under KRS Chapter 224.

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit. Monitoring results shall be reported as follows:

1. Monitoring results must be reported on a Discharge Monitoring Report (DMR).
2. If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in the permit, the results of this monitoring shall be included in the calculation and reporting of the date submitted in the DMR.
3. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the director in the permit.

(e) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date;

(f) Twenty-four (24) hour reporting. The permittee shall orally report any noncompliance which may endanger health or the environment, within twenty-four (24) hours from the time the permittee becomes aware of the circumstances. This report shall be in addition to and not in lieu of any other reporting requirement applicable to the noncompliance. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours. The following shall be included as information which must be reported within twenty-four (24) hours.

1. Any unanticipated bypass which exceeds any effluent limitation in the permit, as indicated in subsection (13) of this section.
2. Any upset which exceeds any effluent limitation in the permit.
3. Violation of a maximum daily discharge limitation for any of the pollutants listed by the director in the permit to be reported within twenty-four (24) hours, as indicated in Section 2(7) of this regulation.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (d), (e) and (f) of this subsection, at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this subsection.

(h) Other information. Where the permittee becomes aware that it failed to submit any relevant fact in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

(13) Occurrence of a bypass.

(a) Definitions.

1. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.
2. "Severe property damage" means substantial

physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. A bypass is not subject to the provisions of paragraphs (c) and (d) of this subsection.

(c) Notice.

1. Anticipated bypass. If the permittee knows in advance of the need for a bypass, it shall submit prior notice, if possible at least ten (10) days before the date of the bypass.

2. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required in paragraph (f) of subsection (12), twenty-four (24) hour notice.

(d) Prohibition of bypass.

1. Bypass is prohibited, and the director may take enforcement action against a permittee for bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satified if the permittee could have installed adequate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The permittee submitted notices as required under pargraph (c) of this subsection.

2. The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three (3) conditions listed in subparagraph 1a, b and c of this paragraph.

(14) Occurrence of an upset.

(a) Definition. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) Effect of an upset. An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of paragraph (c) of this subsection are met.

(c) Conditions necessary for a demonstration of upset. A permittee who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous operating logs, of other relevant evidence that:

1. An upset occurred and that the permittee can identify the specific cause(s) of the upset;

2. The permitted facility was at the time being properly operated;

3. The permittee submitted notice of the upset as required in paragraph (f) of subsection (12); and

4. The permittee complied with any remedial measures required under subsection (4) of this section.

(d) Burden of proof. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

(15) Additional conditions applicable to specified categories of KPDES permits. The following conditions, in addition to others set forth in this regulation apply to all KPDES permits within the categories specified below:

(a) Existing manufacturing, commercial, mining, and silvicultural dischargers. In addition to the reporting requirements under subsections (12), (13) and (14) of this section, any existing manufacturing, commercial, mining, and silvicultural discharger shall notify the director as soon as it knows or has reason to believe:

1. That any activity has occurred or may occur which could result in the discharge of any toxic pollutant which is not limited in the permit, if that discharge may exceed the highest of the following "notification levels:"

a. One hundred micrograms per liter (100 μg/1);

b. Two hundred micrograms per liter (200 μg/1) for acrolein and acrylonitrile; five hundred micrograms per liter (500 μg/1) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one (1) milligram per liter (1 mg/1) for anitmony;

c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 401 KAR 5:060, Section 4(7) or (10);

d. The level established by the director in accordance with subsection (6) of Section 2 of this regulation.

2. That is has begun or expects to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application under 401 KAR 5:060, Section 4(9).

(b) POTWs. POTWs shall provide adequate notice to the director of the following:

1. Any new introduction of pollutants into that POTW from an indirect discharger which would be subject ot the KPDES regulations if it were directly discharging those pollutants; and

2. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit.

3. For purposes of this paragraph, adequate notice shall include information on: the quality and quantity of effluent introduced into the POTWs; and, any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW.

Section 2. Establishing Permit Conditions. For the purpose of this section, permit conditions include any statutory or regulatory requirement which takes effect prior to the final administrative disposition of a permit. An applicable requirement may be any requirement which takes effect prior to the modification or revocation or reissuance of a permit, to the extent allowed in 401 KAR 5:070, Section 6. New or reissued permits, and to the extent allowed under 401 KAR 5:070, Section 6 modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in this section. In addition to the conditions established under Section 1 of this regulation each KPDES permit will include conditions meeting the following requirements as applicable.

(1) Technology-based effluent limitations and standards as required by 40 CFR Chapter I, Subchapter N, or new source performance standards promulgated by EPA or case-by-case effluent limitations or based on a combination of those standards in accordance with 401 KAR 5:080, Section 1(2) will be included, as applicable.

(2) Other effluent limitations and standards of KRS Chapter 224 shall be included applicable. If any applicable toxic effluent standard or prohibition, including any schedule of compliance specified in such effluent standard or prohibition, is promulgated by EPA for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the director will institute proceedings under these regulations to modify or revoke and reissue the permit to conform to the toxic effluent standard or prohibition.

(3) Reopener clause, for any discharger within a primary industry category, as listed in 401 KAR 5:060, Section 10, requirements under the KPDES regulations will be incorporated as applicable, as follows:

(a) On or before June 30, 1981.

1. If applicable standards or limitations have not yet been promulgated, the permit will include a condition stating that if an applicable standard or limitation is promulgated by EPA and that effluent standard or limitation is more stringent than any effluent limitation in the permit or controls a pollutant not limited in the permit, the permit will be promptly modified or revoked and reissued to conform to that effluent standard or limitation.

2. If applicable standards or limitations have been promulgated or approved, the permit will include those standards or limitations.

(b) After June 30, 1981, any permit issued will include effluent limitations and a compliance schedule to meet the applicable requirements indicated in Section 1(1)(b) of this regulation, whether or not applicable effluent limitations guidelines have been promulgated or approved by EPA. These permits need not incorporate the clause required by paragraph (a) of this subsection.

(c) The director will promptly modify or revoke and reissue any permit containing the clause required under paragraph (a) of this subsection to incorporate an applicable EPA effluent standard or limitation which is promulgated or approved after the permit is issued if that effluent standard or limitation is more stringent than any effluent limitation in the permit, or controls a pollutant not limited in the permit.

(4) Water quality standards and state requirements shall be included as applicable. Any requirements in additon to or more stringent than EPA's effluent limitations guidelines or standards will be included, when necessary to:

(a) Achieve water quality standards established under KRS Chapter 224 and regulations promulgated pursuant thereto;

(b) Attain or maintain a specified water quality through water quality related effluent limits established under Section 302 of CWA (33 U.S.C. Section 1312);

(c) Conform to applicable water quality requirements when the discharge affects a state other than Kentucky;

(d) Incorporate any more stringent limitations, treatment standards, or schedule of compliance requirements established under federal or state law or regulations in accordance with Section 301(b)(1)(c) of CWA (33 U.S.C. Section 1311(b)(1)(c)).

(e) Ensure consistency with the requirements of any Kentucky Water Quality Management Plan approved by EPA.

(f) Incorporate alternative effluent limitations or standards where warranted by "fundamentally different factors," under 401 KAR 5:080, Section 3.

(5) Toxic pollutants. Limitations established under subsections (1), (2) or (4) of this section, to control pollutants meeting the criteria listed in paragraph (a) of this subsection will be includedin the permit, if applicable. Limitations will be established in accordance with paragraph (b) of this subsection. An explanation of the development of these limitations will be included in the fact sheet under 401 KAR 5:075, Section 5.

(a) Limitations will control all toxic pollutants which:

1. The director determines, based on information reported in a permit application under 401 KAR 5:060, Section 4(7) or (10), or in a notification under Section 1(15)(a) of this regulation or on other information, are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 401 KAR 5:080, Section 1(2)(c); or

2. The discharger does or may use or manufacture as an intermediate or final product or byproduct.

(b) The requirement that the limitations control the pollutants meeting the criteria of paragraph (a) of this subsection will be satisfied by:

1. Limitations on those pollutants; or

2. Limitations on other pollutants which, in the judgment of the director, will provide treatment of the pollutants under paragraph (a) of this subsection to the levels required by 401 KAR 5:080, Section 1(2)(c).

(6) Notification level. A "notification level" which exceeds the notification level of Section 1(15)(a)1a,b, or c of this regulation, upon a petition from the permittee or on the director's initiative will be incorporated as a permit condition, if applicable. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriated to the permittee under 401 KAR 5:080, Section 1(2)(c).

(7) Twenty-four (24) hour reporting. Pollutants for which the permittee will report violations of maximum daily discharge limitations under Section 3(12)(f) of this regulation (twenty-four (24) hour reporting) shall be listed as such in the permit. This list will include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance.

(8) Monitoring requirements. The permit will incorporate, as applicable in addition to subsection (12) of Section 1 of this regulation, the following monitoring requirements:

(a) To assure compliance with permit limitations, requirements to monitor;

1. The mass, or other measurement specified in the permit, for each pollutant limited in the permit;

2. The volume of effluent discharged from each outfall;

3. Other measurements as appropriate; including pollutants in internal waste streams under Section 3(9) of this regulation; pollutants in intake water for net limitations under Section 3(8) of this regulation; frequency, rate of discharge, etc., for noncontinuous discharges under Section 3(5) of this regulation; and pollutants subject to notification requirements under Section 1(15)(a) of this regulation.

4. According to test procedures approved under 40 CFR Part 136 for the analyses of pollutants having approved methods under the federal regulation, and according to a test procedure specified in the permit for pollutants with no approved methods.

(b) Requirements to report monitoring results with a frequency dependent on the nature and effect of the charge, but in no case less than once a year.

(9) Pretreatment program for POTWs. If applicable to

the facility the permit will incorporate as a permit condition requirements for POTWs to:

(a) Identify, in terms of character and volume of pollutants, any significant indirect dischargers into the POTW subject to pretreatment standards under the KPDES regulations.

(b) Submit a local program when required by and in accordance with Section 2(1) of this regulation to assure compliance with pretreatment standards to the extent applicable in the KPDES regulations. The local program will be incorporated into the permit as described in Section 2(1) of this regulation, (40 CFR Part 403). The program shall require all indirect dischargers to the POTW to comply with the applicable reporting requirements.

(10) Best management practices shall be included as a permit condition, as applicable, to control or abate the discharge of pollutants when:

(a) Applicable under the KPDES regulations for the control of toxic pollutants and hazardous substances from ancillary activities;

(b) Numeric effluent limitations are infeasible; or

(c) The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of KRS Chapter 224.

(11) Reissued permits. The permit will include a condition concerning reissued permits, as applicable. When a permit is renewed or reissued, interim limitations, standards or conditions which are at least as stringent as any final limitations, standards, or conditions in the previous permit will be incorporated unless the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Section 6 of 401 KAR 5:070. The following may be exceptions from this provision:

(a) If the discharger has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case the limitations in the renewed or reissued permit may reflect the level of pollutant control actually achieved, but will not be less stringent than required by the subsequently promulgated effluent limitations guidelines;

(b) If the subsequently promulgated effluent guidelines are based on best conventional pollutant control technology (BCT);

(c) If the circumstances on which the previous permit was based have materially and substantially changed since the time the permit was issued and would constitute cause for permit modification or revocation and reissuance under Section 6 of 401 KAR 5:070;

(d) If there is increased production at the facility which results in significant reduction in treatment efficiency, then the permit limitations will be adjusted to reflect any decreased efficiency resulting from increased production and raw waste loads, but in no event will permit limitations be less stringent than those required by subsequently promulgated standards and limitations.

(12) Privately owned treatment works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this regulation will be imposed as applicable. Alternatively, the director may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. The director's decision to issue a permit with no conditions applicable to any user, to impose conditions on one (1) or more users, to issue separate permits or to require separate applications, and the basis for that decision will be stated in the fact sheet for the draft permit for the treatment works.

(13) Grants. Any conditions imposed in grants made by the director to POTWs which are reasonably necessary for the achievement of federally issued effluent limitations will be required as applicable.

(14) Sewage sludge. Requirements will be imposed, as applicable, governing the disposal of sewage sludge from publicly owned treatment works, in accordance with 401 KAR 2:101.

(15) Coast Guard. When a permit is issued to a facility that may operate at certain times as a means of transportation over water, the permit will be conditioned as applicable. A condition that the discharge shall comply with any applicable federal regulations promulgated by the secretary of the department in which the Coast Guard is operating which establish specifications for safe transportation, handling, carriage, and storage of pollutants shall be imposed if applicable.

(16) Navigation. Any conditions that the Secretary of the United States Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with 401 KAR 5:075, Section 9, will be included as applicable.

(17) Duration of permits shall be imposed, as set forth in 401 KAR 5:070, Section 1.

Section 3. Calculating KPDES Permit Conditions. The following provisions will be used to calculate terms and conditions of the KPDES permit.

(1) Outfalls and discharge points. All permit effluent limitations, standards, and prohibitions will be established for each outfall or discharge point of the permitted facility, except as otherwise provided: under Section 2(10) of this regulation; with BMPs where limitations are infeasible; and under subsection (9) of this section, limitations on internal waste streams.

(2) Production-based limitations.

(a) In the case of POTWs, permit limitations, standards, or prohibitions will be calculated based on design flow.

(b) Except in the case of POTWs, calculation of any permit limitations, standards, or prohibitions which are based on production, or other measure of operation, will be based not upon the designed production capacity but rather upon a reasonable measure of actual production of the facility, such as the production during the high month of the previous year, or the monthly average for the highest of the previous five (5) years. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production will correspond to the time period of the calculated permit limitations; for example, monthly production will be used to calculate average monthly discharge limitations.

(3) Metals. All permit effluent limitations, standards, or prohibitions for a metal will be expressed in terms of the total metal, that is, the sum of the dissolved and suspended fractions of the metal, unless:

(a) An applicable effluent standard or limitation has been promulgated by EPA and specifies the limitation for the metal in the dissolved or valent form; or

(b) In establishing permit limitations on a case-by-case

basis under 401 KAR 5:080, it is necessary to express the limitation on the metal in the dissolved or valent form in order to carry out the provisions of KRS 224.034.

(4) Continuous discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, unless impracticable will be stated as:

(a) Maximum daily and average montly discharge limitations for all dischargers other than publicly owned treatment works; and

(b) Average weekly and average monthly discharge limitations for POTWs.

(5) Non-continuous discharges. Discharges which are not continuous, as defined in 401 KAR 5:050, Section 1(7), shall be particularly described and limited, considering the following factors, as appropriate:

(a) Frequency: for example, a batch discharge shall not occur more than once every three (3) weeks;

(b) Total mass: for example, not to exceed 100 kilograms of zinc and 200 kilograms of chromium per batch discharge;

(c) Maximum rate of discharge of pollutants during the discharge: for example, not to exceed two (2) kilograms of zinc per minute; and

(d) Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure: for example, shall not contain at any time more than 0.1 mg/l zinc or more than 250 grams of zinc in any discharge.

(6) Mass limitations.

(a) All pollutant limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass except:

1. For pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass;

2. When applicable standards and limitations are expressed in terms of other units of measurement; or

3. If in establishing permit limitations on a case-by-case basis under 401 KAR 5:080, Section 1, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation, for example, discharges of TSS from certain mining operations, and permit conditions ensure that dilution will not be used as a substitute for treatment.

(b) Pollutants limited in terms of mass additionally may be limited in terms of other units of measurement, and the permit will require the permittee to comply with both limitations.

(7) Pollutants in intake water. Except as provided in subsection (8) of this section, effluent limitations imposed in permits will not be adjusted for pollutants in the intake water.

(8) Net limitations.

(a) Upon request of the discharger, effluent limitations or standards imposed in a permit will be calculated on a net basis; that is, adjusted to reflect credit for pollutants in the discharger's intake water, if the discharger demonstrates that its intake water is drawn from the same body of water into which the discharge is made and if:

1.a. The applicable federally promulgated effluent limitations and standards specifically provide that they will be applied on a net basis; or

b. The discharger demonstrates that pollutants present in the intake water will not be entirely removed by the treatment systems operated by the discharger; and

2. The permit contains conditions requiring:

a. The permittee to conduct additional monitoring, for example, for flow and concentration of pollutants, as necessary to determine continued eligibility for and compliance with any such adjustments; and

b. The permittee to notify the director if eligibility for an adjustment under this section has been altered or no longer exists. In that case, the permit may be modified accordingly under Section 6 of 401 KAR 5:070.

(b) Permit effluent limitations or standards adjusted under this paragraph will be calculated on the basis of the amount of pollutants present after any treatment steps have been performed on the intake water by or for the discharger. Adjustments under this subsection will be given only to the extent that pollutants in the intake water which are limited in the permit are not removed by the treatment technology employed by the discharger. In addition, effluent limitations or standards will not be adjusted to the extent that the pollutants in the intake water vary physically, chemically, or biologically from the pollutants limited in the permit. Nor will effluent limitations or standards be adjusted to the extent that the discharger significantly increases concentrations of pollutants in the intake water, even though the total amount of pollutants might remain the same.

(9) Internal waste streams.

(a) When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by Section 2(8) of this regulation shall also be applied to the internal waste streams.

(b) Limits on internal waste streams will be imposed only when the fact sheet under 401 KAR 5:075, Section 4, sets forth the exceptional circumstances which make such limitations necessary, such as wehn the final discharge point is inaccessible, for example, under ten (10) meters of water, the wastes at the point of discharge are so diluted as to make monitoring impracticable, or the interferences among pollutants at the point of discharge would make detection or analysis impracticable.

(10) Disposal of pollutants into wells, into POTWs, or by land application. Permit limitations and standards shall be calculated as provided in 401 KAR 5:055, Section 7.

(11) Secondary treatment information. Permit conditions that involve secondary treatment will be written as provided in 40 CFR Part 133.

Section 4. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary

ADOPTED: December 15, 1982

RECEIVED BY LRC: December 15, 1982 at 3 p.m.

See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:070. Provisions of the KPDES permit.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(19), (21), (22), (23), 224.034(1), (4), 224.060
NECESSITY AND FUNCTION: KRS 224.034(1) provides that the Natural Resources and Environmental Protection Cabinet may issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the conditions imposed in 33 U.S.C. Sections 1342(b) and 1342(d). KRS 224.034(1) requires that any exemptions granted in the issuance of NPDES permits shall be pursuant to 33 U.S.C. Sections 1311, 1312 and 1326(a). Further KRS 224.034(4) requires that the cabinet shall not impose under any permit issued pursuant to this section any effluent limitation, monitoring requirement or other condition which is more stringent than the effluent limitation, monitoring requirement or other condition which would have been applicable under the federal regulation if the permit were issued by the federal government. This regulation contains the basis for provisions, terms, and effect of a KPDES permit, including permit duration, schedule of compliance, and basis for permit modification, revocation and reissuance.

Section 1. Duration of Permits. (1) KPDES permits will be effective for a fixed term not to exceed five (5) years. Except as provided in 401 KAR 5:065, Section 1(1)(b), the term of a permit will not be extended by modification beyond this maximum duration. The director may issue a permit for a duration that is less than the full five (5) year term.

(2) A permit may be issued for the full term if the permit includes effluent limitations and a compliance schedule to meet the requirements of 401 KAR 5:080, Section 1(2)2c, d and e, whether or not applicable federal effluent limitations guidelines have been promulgated or approved.

Section 2. Schedules of Compliance. (1) The permit may, when appropriate, specify a schedule of compliance leading to compliance with KRS Chapter 224 and regulations promulgated pursuant thereto.

(a) Time for compliance. Any schedules of compliance under this section will require compliance as soon as possible. In addition, schedules of compliance will require compliance not later than the applicable statutory deadline as specified in 401 KAR 5:080.

(b) The first KPDES permit issued to a new source, a new discharger which commenced discharge after August 13, 1979, or a recommencing discharger will not contain a schedule of compliance under this section.

(c) Interim dates. Except as provided in subsection (2)(a)2 of this section, if a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule will set forth interim requirements and the dates for their achievement.

1. The time between interim dates will not exceed one (1) year.

2. If the time necessary for completion of any interim requirement, such as the construction of a control facility, is more than one (1) year and is not readily divisible into stages for completion, the permit will specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(d) Reporting. The permit will be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports.

(2) Alternative schedules of compliance. A KPDES permit applicant or permittee may cease conducting regulated activities, by termination of direct discharge for KPDES sources, rather than continue to operate and meet permit requirements as follows:

(a) If the permittee decides to cease conducting regulated activites at a given time within the term of a permit which has already been issued:

1. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

2. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit will contain a schedule leading to termination which will ensure timely compliance no later than the statutory deadline.

(c) If the permittee is undecided whether to cease conducting regulated activities, the director may issue or modify a permit to contain two (2) schedules as follows:

1. Both schedules will contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

2. One (1) schedule will lead to timely compliance no later than the deadline contained in 401 KAR 5:080;

3. The second schedule will lead to cessation of regulated activities by a date which will ensure timely compliance no later than the deadline, specified in 401 KAR 5:080; and

4. Each permit containing two (2) schedules will include a requirement that after the permittee has made a final decision under subparagraph 1 of this paragraph it shall follow the schedule leading to compliance if the decision is to continue conducting regulationed activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(d) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the director, such as a resolution of the board of directors of a corporation.

Section 3. Requirements for Recording and Reporting of Monitoring Results. All permits will specify:

(1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods, including biological monitoring methods when appropriate;

(2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; and

(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in 401 KAR 5:065, Sections 1 and 2. Reporting shall be no less frequent than specified in Section 2 of this regulation.

Section 4. Effect of a Permit. (1) Except for any toxic effluent standards and prohibitions included in 401 KAR 5:065, Section 1(1)(b), compliance with a KPDES permit during its term constitutes compliance, for purposes of enforcement, with the KPDES program. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in Sections 6 and 7 of this regulation.

(2) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(3) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations.

Section 5. Transfer of Permits. (1) Transfers by modification. Except as provided in subsection (2) of this section, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued, under Section 6 of this regulation, or if a minor modification has been made to identify the new permittee and incorporate such other requirements as may be necessary under the KPDES regulations.

(2) Automatic transfers. As an alternative to transfers under subsection (1) of this section, any KPDES permit may be automatically transferred to a new permittee if:

(a) The current permittee notifies the director at least thirty (30) days in advance of the proposed transfer date in paragraph (b) of this subsection;

(b) The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between them.

(c) The director does not notify the existing permittee and the proposed new permittee of an intent to modify or revoke and reissue the permit. A modification under this paragraph may also be a minor modification under Section 6(3) of this regulation. If this notice is not received, the transfer is effective on the date specified in the agreement mentioned in paragraph (b) of this subsection.

Section 6. Modification or Revocation and Reissuance of Permit. When the director receives any information, for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under 401 KAR 5:075 or conducts a review of the permit file the director may determine whether or not one (1) or more of the causes listed in subsections (1) and (2) of this section for modification or revocation and reissuance or both exist. If cause exists, the director may modify or revoke and reissue the permit accordingly, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. If cause does not exist under this section, the director shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in subsection (3) of this section for "minor modifications" the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 401 KAR 5:075 must be followed.

(1) Causes for modification. The following are causes for modification but not revocation and reissuance of permits unless the permittee agrees to revocation and reissuance as well as modification of a permit.

(a) Alterations. If there are material and substantial alterations or additions made to the permitted facility or activity which occurred after permit issuance, such alterations may justify the application of permit conditions that are different or absent in the existing permit.

(b) Information. If the director has received information, cause may exist for modification. KPDES permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance, except for revised regulations, guidance or test methods which would have justified application of different conditions at the time of permit issuance. In addition, the applicant must show that the information would have justified the application of different permit conditions at the time of issuance. For KPDES general permits this cause shall include any information indicating that cumulative effects on the environment are unacceptable.

(c) New regulations. If the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued then cause may exist for modification. However, the permit may be modified only as follows:

1. For promulgation of amended standards or regulations, when:

a. The permit condition requested to be modified was based on EPA effluent limitation guidelines or water quality standards;

b. EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline or has approved a cabinet action with regard to a water quality standard on which the permit condition was based; and

c. A permittee requests modification in accordance with Section 2 of 401 KAR 5:075, within ninety (90) days after the amendment, revision or withdrawal is promulgated.

2. For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA promulgated effluent limitation guidelines, if the remand and stay concern that portion of the guidelines on which the permit condition was based and a request is filed by the permittee in accordance with Section 2 of 401 KAR 5:075 within ninety (90) days of judicial remand.

(d) Compliance schedules. A permit may be modified if the director determines good cause exists for modification of a compliance schedule, based on an act of God, strike, flood or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case will a KPDES compliance schedule be modified to extend beyond an applicable statutory deadline in 401 KAR 5:080.

(e) In addition the director may modify a permit:

1. When the permittee has filed a request for a variance under 401 KAR 5:055, Section 8 or for "fundamentally different factors" within the time specified in 401 KAR 5:080, Section 3 and the director processes the request under the applicable provisions.

2. When required to incorporate as applicable toxic effluent standard or prohibition under 401 KAR 5:065, Section 2(2).

3. When required by the "reopener" conditions in a

permit, which are established in the permit under Section 2(3) of 401 KAR 5:065, for toxic effluent limitations, or 401 KAR 5:065, Section 2 (40 CFR 403.10(e), pretreatment program).

4. Upon request of a permittee who qualifies for effluent limitations on a net basis under Section 3(8) of 401 KAR 5:065.

5. When a discharger is no longer eligible for net limitations, as provided in Section 2(8)(a)2b of 401 KAR 5:065.

6. As necessary under EPA effluent limitations guidelines concerning compliance schedule for development of a pretreatment program.

7. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 401 KAR 5:080, Section 1(2)(c).

8. When the permittee begins or expects to begin to use or manufacture as an intermediate or final product or byproduct any toxic pollutant which was not reported in the permit application under 401 KAR 5:060, Section 4.

9. To establish a "notification level" as provided in Section 2(6) of 401 KAR 5:065.

10. To modify a schedule of compliance to reflect the time lost during the construction of an innovative or alternative facility, in the case of the POTW which has received a grant under CWA 202(a)(3) (33 U.S.C. Section 1282(a)(3)) for 100% of the cost to modify or replace facilities constructed with a grant for innovative or alternative wastewater technology under CWA Section 202(a)(2) (33 U.S.C. Section 1282(a)(2)). In no case will the compliance schedule be modified to extend beyond an applicable statutory deadline for compliance indicated in 401 KAR 5:080.

11. Upon failure of the director to notify an affected state whose waters may be affected by a discharge from Kentucky.

(2) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively revoke or reissue a permit:

(a) Cause exists for termination under Section 7 of this regulation and the director determines that modification or revocation and reissuance is appropriate.

(b) The director has received notification of a proposed transfer of the permit. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

(3) Minor modifications of permits. Upon the consent of the permittee, the director may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 401 KAR 5:075. Any permit modification not processed as a minor modification under this section will be made for cause and with a 401 KAR 5:075 draft permit and public notice as required under this section. Minor modifications may only:

(a) Correct typographical errors;

(b) Require more frequent monitoring or reporting by the permittee;

(c) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirements; or

(d) Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the director.

(e) Change the construction schedule for a discharger which is a new source.

(f) Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits.

Section 7. Termination of Permit. (1) The following are causes for terminating a permit during its term, or for denying a renewal application:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant fact at any time; or

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination.

(d) KPDES permits may be modified or terminated when there is a change in any condition that requires either a temporary or a permanent reduction or elimination of any discharge controlled by the permit for example, plant closure or termination of discharge by connection to a POTW.

(2) The director will follow the applicable procedures of 401 KAR 5:075 in terminating a KPDES permit under this section.

Section 8. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary

ADOPTED: December 15, 1982

RECEIVED BY LRC: December 15, 1982 at 3 p.m.

See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:075. Cabinet review procedures for KPDES permits.

RELATES TO: KRS 224.005, 224.033(5),(9),(23)

PURSUANT TO: KRS 13.082, 224.033(8), (11), (19), (22), 224.034, 224.081, 224.083, 224.085.

NECESSITY AND FUNCTION: KRS 224.033(19) authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.034(1) establishes that the cabinet may issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the condi-

tions imposed in 33 U.S.C. Section 1342(b) and 1342(d). This regulation sets forth the procedures through which the cabinet will follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits.

Section 1. Review of the Application. (1) Any person who requires a permit under the KPDES programs shall complete, sign and submit to the director an application for the permit as required under 401 KAR 5:060, Section 1. Applications are not required for KPDES general permits. However, operators who elect to be covered by a general permit shall submit written notification to the director at such time as the director indicates in Section 3 of this regulation.

(2) The director will not begin the processing of a permit until the applicant has fully complied with the application requirements for the permit, as required by 401 KAR 5:060, Section1.

(3) Permit applications shall comply with the signature and certification requirements of 401 KAR 5:060, Section 3.

(4) The director will review for completeness every application for a KPDES permit. Each application submitted by a KPDES new source or KPDES new discharger will be reviewed for completeness by the director within thirty (30) days of its receipt. Each application for a KPDES permit submitted by an existing source will be reviewed for completeness within sixty (60) days of receipt. Upon completing the review, the director will notify the applicant in writing whether the application is complete. If the application is incomplete, the director will list the information necessary to make the application complete. When the application is for an existing source, the director will specify in the notice of deficiency a date for submitting the necessary information. The director will notify the applicant that the application is complete upon receiving this information. After the application is completed, the director may request additional information from an applicant when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

(5) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under KRS Chapter 224 and regulations promulgated pursuant thereto.

(6) If the director decides that a site visit is necessary for any reason in conjunction with the processing of an application, the director will notify the applicant and a date will be scheduled.

(7) The effective date of an application is the date on which the director notifies the applicant that the application is complete as provided in subsection (4) of this section.

(8) For each application from a major KPDES new source, or major KPDES new discharger, the director will no later than the effective date of the application, prepare and mail to the applicant a project decision schedule. The schedule will specify target dates by which the director intends to:

(a) Prepare a draft permit;

(b) Give public notice;

(c) Complete the public comment period, including any public hearing;

(d) Issue a final permit; and

(e) Complete any formal proceedings under this regulation.

(9) Conflicts of interest.

(a) The director who issues a permit will be subject to the KPDES policy memorandum concerning conflicts of interest.

(b) Any person aggrieved by the issuance of a permit under the KPDES regulations may challenge the permit pursuant to Section 14 of this regulation if the policy memorandum has been violated.

(c) The hearing officer will remand any permit issued in violation of the policy memorandum to the cabinet for reconsideration.

(d) Following remand, any cabinet employee who reconsiders the permit will be subject to the policy memorandum set forth in paragraph (a) of this subsection. The reconsideration will require a new public comment period and public hearing only if information offered during earlier permit proceedings was excluded by the director as a direct result of a conflict of interest.

Section 2. Review Procedures for Permit Modification, Revocation and Reissuance, or Termination. (1) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person, including the permittee, or upon the director's initative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in 401 KAR 5:070, Sections 6 or 7. All requests shall be in writing and shall contain facts or reasons supporting the request.

(2) If the director decides the request is not justified, the director will send the requester a brief written response giving a reason for the decision. Denials of requests for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings.

(3) If the director tentatively decides to modify or revoke and reissue a permit under 401 KAR 5:070 Section 6, the director shall prepare a draft permit under Section 3 of this regulation incorporating the proposed changes. The director may request additional information and, in the case of a modified permit, may require the submission of an updated permit application. In the case of revoked and reissued permits, the director will require the submission of a new application.

(a) In a permit modification under this section, only those conditions to be modified will be reopened when a new draft permit is prepared. All other aspects of the existing permit will remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(b) "Minor modifications" as defined in 401 KAR 5:070, Section 6(3) are not subject to the requirements of this section.

(4) If the director tentatively decides to terminate a permt under 401 KAR 5:070, Section 7, the director will issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedure as any draft permit prepared under Section 3 of this regulation.

Section 3. Draft Permits. (1) Once an application is complete, the director will tentatively decide whether to prepare a draft permit or to deny the application.

(2) If the director makes a preliminary decision to deny the permit application, the director will issue a notice of intent to deny. A notice of intent to deny the permit applica-

tion is a type of draft permit which follows the same procedure as any draft permit prepared under this section. If the director's determination under Section 11 of this regulation is that the preliminary decision to deny the permit application was incorrect, the director will withdraw the notice of intent to deny and proceed to prepare a draft permit under subsection (4) of this section.

(3) If the director makes a preliminary decision to issue a KPDES general permit, the director will prepare a draft general permit in accordance with subsection (4) of this section.

(4) If the director decides to prepare a draft permit, the director will prepare a draft permit that contains the following information:

(a) All conditions under 401 KAR 5:065, Section 1;

(b) All compliance schedules under 401 KAR 5:070, Section 2;

(c) All monitoring requirements under 401 KAR 5:070, Section 3; and

(d) Effluent limitations, standards, prohibitions and conditions under 401 KAR 5:060, 401 KAR 5:065, 401 KAR 5:070, 401 KAR 5:075 and 401 KAR 5:080 and all variances that are to be included.

(5) All draft permits prepared by the cabinet under this section will be accompanied by a fact sheet and will be based on the administrative record, publicly noticed, and make available for public comment. The director will give notice of opportunity for a public hearing, issue a final decision and respond to comments. A demand for a hearing may be made pursuant to KRS 224.081 and Section 14 of this regulation following the issuance of a final decision.

Section 4. Fact Sheets. (1) A fact sheet will be prepared for every draft permit for a major KPDES facility or activity, for every KPDES general permit, for every KPDES draft permit that incorporates a variance or requires an explanation under subsection (4) of this section, and for every draft permit which the director finds is the subject of widespread public interest or raises major issues. The fact sheet will briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The director will send this fact sheet to the applicant and, on request, to any other persons.

(2) The fact sheet will include, when applicable:

(a) A brief description of the type of facility or activity which is the subject of the draft permit;

(b) A quantitative description of the discharges described in the application;

(c) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;

(d) Reasons why any requested variances or alternatives to required standards do or do not appear justified;

(e) A description of the procedures for reaching a final decision on the draft permit including:

1. The beginning and ending dates of the comment period under Section 5 of this regulation and the address where comments will be received;

2. Procedures for requesting a hearing and the nature of that hearing; and

3. Any other procedures under KRS 224.081 and Section 14 of this regulation by which the public may participate in the final decision.

(f) Name and telephone number of a person to contact for additional information.

(3) Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guidelines or performance standard provisions, and reasons why they are applicable or an explanation of how the alternate effluent limitations were developed;

(4) (a) When the draft permit contains any of the following conditions, an explanation of the reasons why such conditions are applicable:

1. Limitations to control toxic pollutants under 401 KAR 5:065, Section 2(5);

2. Limitations on internal waste streams under 401 KAR 5:065, Section 2(8); or

3. Limitations on indicator pollutants under 401 KAR 5:080, Section 1(3).

(b) For every permit to be issued to a treatment works owned by a person other than the Commonwealth or a municipality, or explanation of the director's decision on regulation of users under 401 KAR 5:065, Section 2(12).

(5) When appropriate, a sketch or detailed description of the location of the discharge described in the application.

Section 5. Public Notice of Permit Actions and Public Comment Period. (1) Scope.

(a) The director will give public notice that the following actions have occurred:

1. A permit application has been tentatively denied under Section 3(2) of this regulation;

2. A draft permit has been prepared under Section 3(4) of this regulation;

3. A hearing has been scheduled under Section 7 of this regulation; and

4. A KPDES new source determination has been made in accordance with the definition in 401 KAR 5:050.

(b) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under Section 2 of this regulation. Written notice of that denial will be given to the requester and to the permittee.

(c) Public notices may describe more than one (1) permit or permit action.

(2) Timing.

(a) Public notice of the preparation of a draft permit, including a notice of intent to deny a permit application, required under subsection (1) of this section will allow at least thirty (30) days for public comment.

(b) Public notice of a public hearing will be given at least thirty (30) days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit and the two (2) notices may be combined.

(3) Methods. Public notice of activities described in subsection (1)(a) of this section will be given by the following methods:

(a) The cabinet may mail a notice to the persons listed in subparagraphs 1 through 5 of this paragraph any person otherwise entitled to receive notice under this paragraph may waive their rights to receive notice for any classes and categories of permits.

1. The applicant, except for KPDES general permittees and Region IV, EPA.

2. Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources, the Advisory Council on Historic Preservation, Kentucky Historic Society and other appropriate government authorities, including any affected sates;

3. The U.S. Army Corps of Engineers, the U.S. Fish and Wildlife Service and the National Marine Fisheries Service;

4. Any User identified in the permit application of a privately owned treatment works; and

5. Persons on a mailing list developed by:

a. Including those who request in writing to be on the list;

b. Soliciting persons for area lists from participants in past permit proceedings in that area; and

c. Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as newsletters, environmental bulletins, or state law journals. The cabinet may update the mailing list from time to time by requesting written indication of continued interest from those listed. The cabinet may delete from the list the name of any person who failes to respond to such a request.

(b) For major permits and KPDES general permits, the cabinet may publish a notice in a daily or weekly newspaper within the area affected by the facility or activity;

(c) In a manner constituting legal notice to the public under Kentucky law; and

(d) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(4) Contents.

(a) All public notices. All public notices issued under this part will contain the following minimum information:

1. Name and address of the office processing the permit action for which notice is being given;

2. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of KPDES draft general permits under 401 KAR 5:055, Section 6;

3. A brief description of the business conducted at the facility or activity described in the permit application or the draft permit, for KPDES general permits when there is no application;

4. Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit as the case may be, fact sheet, and the application;

5. A brief description of the comment procedures required by Sections 6 and 7 of this regulation and the time and place of any hearing that will be held, including a statement of procedures to request a hearing, unless a hearing has already been scheduled, and other procedures by which the public may participate in the final permit decision;

6. A general description of the location of each existing or proposed discharge point and the name of the receiving water. For draft general permits, this requirement will be satisfied by a map or description of the permit area; and

7. Any additional information considered necessary or proper.

(b) Public notices for hearings. In addition to the general public notice described in paragraph (a) of this subsection the public notice for a permit hearing under Section 7 of this regulation will contain the following information:

1. Reference to the date of previous public notices, relating to the permit;

2. Date, time, and place of the hearing;

3. A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(c) Requests under 401 KAR 5:055, Section 8(5). In addition to the information required under subsection (4)(a) of this section public notice of a KPDES draft permit for a discharge under 401 KAR 5:065 request has been filed under 401 KAR 5:055, Section 3 will include;

1. A statement that the thermal component of the discharge is subject to effluent limitations under 401 KAR 5:065, Section 2(1) and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under CWA Section 301 or 306 (33 U.S.C. Sections 1311 or 1316); and

2. A statement that a 401 KAR 5:065, Section 7 request has been filed and that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request.

3. If the applicant has filed an early screening request under 401 KAR 5:080, Section 4(3) for variance a statement that the applicant has submitted such plan.

(5) In addition to the general public notice described in subsection (4)(a) of this section all persons identified in paragraphs (3)(a)1, 2, 3, and 4 of this section will be mailed a copy of the fact sheet, the permit application (if any) and the draft permit (if any).

Section 6. Public Comments and Requests for Public Hearings. During the public comment period provided under Section 5 of this regulation any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments will be considered in making the final decision and shall be answered as provided in Section 12 of this regulation.

Section 7. Public Hearings. (1) The director will hold a public hearing when a significant degree of public interest in a draft permit is found on the basis of requests. The director also may hold a public hearing at his or her discretion, whenever, for instance, such a hearing might clarify one (1) or more issues involved in the permit decision.

(2) Public notice of the hearing will be given as specified in Section 5 of this regulation.

(3) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under Section 5 of this regulation will automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(4) A tape recording or written transcript of the hearing shall be made availablve to the public.

Section 8. Obligation to Raise Issues and Provide Information During the Public Comment Period. All persons, including applicants, who believe any condition of a draft permit is inappropriate or that the director's preliminary decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall raise all reasonably ascertainable issues and submit all reasonably available arguments and factual grounds supporting their position, including all supporting material, by the close of the public comment period including any public hearing under Section 5 of this regulation. All supporting materials shall be included in full and may not be

incorporated by reference, unless they consist of state or federal statutes and regulations, EPA or the cabinet's documents of general applicability, or other generally available reference materials. Commenters shall make supporting material not already included in the record available to the cabinet as directed by the director. A comment period longer than thirty (30) days may be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they should be freely established under Section 5 of this regulation to the extent. Nothing in this section shall be construed to prevent any person agrieved by a final permit decision from filing a demand for a hearing under KRS 224.081 and Section 14 of this regulation.

Section 9. Conditions Requested by the Corps of Engineers and Other Government Agencies (1) If during the comment period for a KPDES draft permit, the district engineer of the Corps of Engineers advises the director in writing that anchorage and navigation of any of the waters of the Commonwealth would be substantially impaired by the granting of a permit, the permit shall be denied and the applicant so notified. If the district engineer advises the director that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, then the director will include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the district engineer shall be made through the applicable procedures of the Corps of Engineers, and may not be made through the procedures provided in this regulation. If the conditions are stayed by a court of competent jurisdiction or by applicable procedures of the Corps of Engineers, those conditions will be considered stayed in the KPDES permit for the duration of that stay.

(2) If during the comment period the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, or any other state or federal agency with jurisdiction over fish, wildlife, or public health advises the director in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the director may include the specified conditions in the permit to the extent they are determined necessary to carry out the provisions of KRS Chapter 224.

(3) In appropriate cases the director may consult with one (1) or more of the agencies referred to in this section before issuing a draft permit and may reflect their views in the fact sheet or the draft permit.

Section 10. Reopening of the Public Comment Period. (1) If any data information or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the director may take one (1) or more of the following actions:

(a) Prepare a new draft permit, appropriately modified, under Section 3 of this regulation;

(b) Prepare a revised fact sheet under Section 4 of this regulation and reopen the comment period; or

(c) Reopen and extend the comment period under Section 5 of this regulation to give interested persons the opportunity to comment on the information or arguments submitted.

(2) Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under Section 5 of this regulation should define the scope of the reopening.

(3) Public notice of any of the above actions will be issued under Section 5 of this regulation.

Section 11. Issuance and Effective Date of Permit. After the close of the public comment period under Section 5 of this regulation, the director will issue, deny, modify, revoke, reissue or terminate a permit. The director will notify the applicant and each person who has submitted written comments or requested notice of that determination. For the purpose of this section, a final permit decision shall mean a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

Section 12. Response to Comments. At the time that any final permit decision is issued under Section 11 of this regulation the director shall issue a response to comments. This response will:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and

(2) Briefly describe and respond to all significant comments on the draft permit raised during the public comment period or during any hearing. This response will fully consider all comments resulting from any hearing conducted under this regulation.

(3) The response to comments will be available to the public. Any demand for a hearing on this response shall be filed according to procedures specified in KRS 224.081, 224.083, 224.085 and any regulations promulgated pursuant thereto.

Section 13. Decision on Variances. (1) The director may grant or deny requests for the following variances:

(a) After consultation with the regional administrator, an extension based on the use of innovative technology; or

(b) A variance under 401 KAR 5:055, Section 8 for thermal pollution.

(2) The director may deny, or forward to the regional administrator with a written concurrence, or submit to EPA without recommendation a completed request for:

(a) A variance based on the presence of "fundamentally different factors" from those on which an effluent limitations guideline was based;

(b) A variance based on the economic capability of the applicant under 401 KAR 5:055, Section 8;

(c) A variance based on water quality related effluent limitations under 401 KAR 5:055, Section 8.

(3) The regional administrator may deny, forward, or submit to the EPA Director of Water Enforcement and Permits with a recommendation for approval, a request for variance listed in subsection (2) of this section that is forwarded by the director.

(a) The EPA Director of Water Enforcement and Permits may approve or deny any variance request submitted under subsection (3) of this section. If the EPA Director of Water Enforcement and Permits approves the variance, the director may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied will identify the applicable procedures for appealing that decision.

Section 14. Hearings under KRS 224.081. (1) A determination under Section 11 when issued by the director, will be subject to a demand for a hearing pursuant to KRS 224.081(2).

(2) Any person aggrieved by the issuance of a final permit may demand a hearing pursuant to KRS 224.081(2).

(3) Any hearing held pursuant to this section will be subject to the provisions of KRS 224.083 and 224.085.

(4) Failure to raise issued pursuant to Section 8 of this regulation will not preclude an aggrieved person from making a demand for a hearing pursuant to KRS 224.081(2).

Section 15. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 3 p.m.
See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:080. Criteria and standards for the Kentucky Pollutant Discharge Elimination System.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033(19), (21), (23), 224.034(1), (4), 224.060
NECESSITY AND FUNCTION: KRS 224.033(19) authorizes the Natural Resources and Environmental Protection Cabinet to issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe, permits to discharge into any waters of the Commonwealth. KRS 224.034 provides that the cabinet may issue federal permits pursuant to 33 U.S.C. Section 1342(b) of the Federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.) subject to the conditions imposed in 33 U.S.C. Sections 1342(b) and 1342(d). This section further provides that any exemptions granted in the issuance of KPDES permits shall be pursuant to 33 U.S.C. Sections 1311, 1312 and 1326(a). This regulation sets forth the criteria and standards for the KPDES permitting system.

Section 1. Criteria and Standards for Technology-Based Treatment Requirements. (1) Purpose and scope. This section establishes criteria and standards for the imposition of technology-based treatment requirements in KPDES permits including the application of EPA promulgated effluent limitations and case-by-case determinations of effluent limitations.

(2) Compliance with technology-based treatment requirements in KPDES permits.

(a) General. Technology-based treatment requirements represent the minimum level of control that will be imposed in a KPDES permit. Permits will contain the following technology-based treatment requirements in accordance with the deadlines indicated herein:

1. For POTW's effluent limitations based upon:

a. Secondary treatment as required by CWA Section 301(b)(1)(B) (33 U.S.C. Section1311(b)(1)(B))—from date of permit issuance; and

b. The best practicable waste treatment technology as required by CWA Section 301(b)(1)(A) (33 U.S.C. Section (b)(1)(A))—not later than July 1, 1983; and

2. For dischargers other than POTWs, except as otherwise provided in the KPDES regulations, effluent limitations requiring:

a. The best practicable control technology currently available (BPT) as required by CWA Section 301(b)(1)(A) (33 U.S.C. Section 1311(b)(1)(A))—from date of permit issuance;

b. For conventional pollutants, the best conventional pollutant control technology (BCT)—not later than July 1, 1984;

c. For all toxic pollutants referred to in Section 7 of this regulation as required by CWA Section 301(b)(2)(A) (33 U.S.C. Section 1311(b)(2)(A)) the best available technology economically achievable (BAT)—not later than July 1, 1984;

d. For all toxic pollutants other than those listed in Section 7 of this regulation effluent limitations based on the BAT not later than three (3) years after the date such effluent limitations are incorporated into a KPDES permit; and

e. For all pollutants which are neither toxic nor conventional pollutants, effluent limitations based on BAT not later than three (3) years after the date such effluent limitations are incorporated into a KPDES permit, or July 1, 1984, whichever is later, but in no case later than July 1, 1987.

(b) Variances and extensions.

1. The following variance from technology-based treatment requirements is authorized by KRS Chapter 224 and may be applied for under 401 KAR 5:055. For dischargers other than POTWs:

a. Economic variance from BAT, as indicated in 401 KAR 5:055, Seciton 8(1);

b. Water quality related variance from BAT, as indicated in 401 KAR 5:055, Section 8(4); and

c. Thermal variance from BPT, BCT and BAT, under Section 4 of this regulation, may be authorized.

2. An extension of the BAT deadline may be applied for under 401 KAR 5:055, Section 8(3) for dischargers other than POTWs, for use of innovative technology.

(c) Methods of imposing technology-based treatment requirements in permits. Technology-based treatment requirements may be imposed through one (1) of the following three (3) methods:

1. Application of EPA-promulgated effluent limitations to dischargers by category or subcategory. These effluent limitations are not applicable to the extent that they have been withdrawn by EPA or remanded. In the case of a court remand, determinations underlying effluent limitations shall be binding in permit issuance proceedings where those determinations are not required to be re-examined by a court remanding the regulations. In addition, dischargers may seek fundamentally different factors variances from these effluent limitations under 401 KAR 5:055, and Section 3 of this regulation.

2. On a case-by-case basis to the extent that EPA-promulgated effluent limitations are inapplicable. The permit writer shall consider:

a. The appropriate technology for the category or class of point sources of which the applicant is a member, based upon all available information, including EPA draft or proposed development documents or guidance; and

b. Any unique factors relating to the applicant.

3. Through a combination of the methods in paragraph (c)1 and 2 of this subsection. Where EPA-promulgated effluent limitations guidelines only apply to certain aspects of the discharger's operation, or to certain pollutants,

other aspects or activities are subject to regulation on a case-by-case basis in order to carry out the provisions of KRS Chapter 224.

4. Limitations developed under paragraph (c)2 of this subsection may be expressed, where appropriate, in terms of toxicity if it is shown that the limits reflect the appropriate requirements of KRS Chapter 224.

(d) Technology-based treatment requirements are applied prior to or at the point of discharge.

(e) Technology-based treatment requirements cannot be satisfied through the use of "non-treatment" techniques such as flow augmentation and in-stream mechanical aerators. However, these techniques may be considered as a method of achieving water quality standards on a case-by-case basis when:

1. The technology-based treatment requirements applicable to the discharge are not sufficient to achieve the standards;

2. The discharger agrees to waive any opportunity to request a variance under 401 KAR 5:055, Sections 3 and 4; and

3. The discharger demonstrates that such a technique is the preferred environmental and economic method to achieve the standards after consideration of alternatives such as advanced waste treatment, recycle and reuse, land disposal, changes in operating methods, and other available methods.

(f) Technology-based effluent limitations will be established under this regulation for solids, sludges, filter backwash, and other pollutants removed in the course of treatment or control of wastewaters in the same manner as for other pollutants.

(g)1.The director may set a permit limit for a conventional pollutant at a level more stringent than the best conventional pollution control technology (BCT), or a limit for a nonconventional pollutant which will not be subject to modification where:

a. Effluent limitations guidelines specify the pollutant as an indicator for a toxic pollutant, or

b.(i) The limitation reflects BAT-level control of discharges of one (1) or more toxic pollutants which are present in the waste stream, and a specific BAT limitation upon the toxic pollutant(s) is not feasible for economic or technical reasons;

(ii) The permit identifies which toxic pollutants are intended to be controlled by use of the limitation; and

(iii) The fact sheet required by 401 KAR 5:075, Section 4, sets forth the basis for the limitation, including a finding that compliance with the limitations will result in BAT-level control of the toxic pollutant discharges identified in paragraph (g)1b(ii) of this subsection, and a finding that it would be economically or technically infeasible to directly limit the toxic pollutant(s).

2. The director may set a permit limit for a conventional pollutant at a level more stringent than BCT when:

a. Effluent limitations guidelines specify the pollutant as an indicator for a hazardous substance; or

b.(i) The limitation reflects BAT-level control of discharges, or an appropriate level of one (1) or more hazardous substance(s) which are present in the waste stream, and a specific BAT, or other appropriate limitation upon the hazardous substances which are present in the waste stream, and a specific BAT, or other appropriate limitation upon the hazardous substance is not feasible for economic or technical reasons;

(ii) The permit identifies which hazardous substances are intended to be controlled by use of the limitation; and

(iii) The fact sheet, required by 401 KAR 5:075, Section 4, sets forth the basis for the limitation, including a finding that compliance with the limitations will result in BAT-level, or other appropriate level, control of the hazardous substances discharges identified in paragraph (g)1b(ii) of this subsection, and a finding that it would be economically or technically infeasible to directly limit the hazardous substance(s).

(iv) Hazardous substances which are also toxic pollutants are subject to paragraph (g)1 of this subsection.

3. The director may not set a more stringent limit under the preceding paragraphs if the method of treatment required to comply with the limit differs from that which would be required if the toxic pollutant(s) or hazardous substance(s) controlled by the limit were limited directly.

4. Toxic pollutants identified under paragraph (g)1 of this subsection remain subject to 401 KAR 5:060, Section 1(15), which requires notification of increased discharges of toxic pollutants above levels reported in the application form.

Section 2. Criteria for Issuance of Permits to Aquaculture Projects. (1) Purpose and scope.

(a) This section establishes guidelines for approval of any discharge of pollutants associated with an aquaculture project.

(b) This section authorizes, on a selective basis, controlled discharges which would otherwise be unlawful under KRS Chapter 224 in order to determine the feasibility of using pollutants to grow aquatic organisms which can be harvested and used beneficially.

(c) Permits issued for discharges into aquaculture projects under this section are KPDES permits and are subject to all applicable requirements. Any permit will include such conditions, including monitoring and reporting requirements, as are necessary to comply with the KPDES regulations. Technology-based effluent limitations need not be applied to discharges into the approved project except with respect to toxic pollutants.

(2) Criteria.

(a) No KPDES permit will be issued to an aquaculture project unless:

1. The director determines that the aquaculture project:

a. Is intended by the project operator to produce a crop which has significant direct or indirect commercial value, or is intended to be operated for research into possible production of such a crop; and

b. Does not occupy a designated project area which is larger than can be economically operated for the crop under cultivation or than is necessary for research purposes.

2. The applicant has demonstrated, to the satisfaction of the director, that the use of the pollutant to be discharged to the aquaculture project shall result in an increased harvest of organisms under culture over what would naturally occur in the area;

3. The applicant has demonstrated, to the satisfaction of the director, that if the species to be cultivated in the aquaculture project is not indigenous to the immediate geographical area, there shall be minimal adverse effects on the flora and fauna indigenous to the area, and the total commercial value of the introduced species is at least equal to that of the displaced or affected indigenous flora and fauna;

4. The director determines that the crop shall not have a significant potential for human health hazards resulting from its consumption; and

5. The director determines that migration of pollutants from the designated project area to waters of the Commonwealth outside of the aquaculture project will not cause or contribute to a violation of the applicable standards and limitations applicable to the supplier of the pollutant that would govern if the aquaculture project were itself a point source. The approval of an aquaculture project will not result in the enlargement of a pre-existing mixing zone area beyond what had been designated for the original discharge.

(b) No permit will be issued for any aquaculture project in conflict with a plan or an amendment to a plan approved by EPA.

(c) Designated project areas will not include a portion of a body of water large enough to expose a substantial portion of the indigenous biota to the conditions within the designated project area.

(d) Any pollutants not required by or beneficial to the aquaculture crop shall not exceed applicable standards and limitations when entering the designated project area.

Section 3. Criteria and Standards for Determining Fundamentally Different Factors. (1) Purpose and scope.

(a) This section establishes the criteria and standards to be used in determining whether effluent limitations alternative to those required by promulgated EPA effluent limitations guidelines, hereinafter referred to as "national limits," shall be imposed on a discharger because factors relating to the discharger's facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in development of the national limits. This section applies to all national limits promulgated by EPA.

(b) This case-by-case review will only be done if data specific to that discharger indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to a discharger's facilities, equipment, processes or other facilities related to the discharger are fundamentally different from the factors considered during the development of the national limits may request a fundamentally different factors variance under 401 KAR 5:055, Section 3. In addition, such a variance may be proposed by the director in the draft permit.

(2) Criteria.

(a) A request for the establishment of effluent limitations under this section, fundamentally different factors variance, will be approved only if:

1. There is an applicable national limit which is applied in the permit and specifically controls the pollutant for which alternative effluent limitations or standards have been requested;

2. Factors relating to the discharge controlled by the permit are fundamentally different from those considered by EPA in establishing the national limits; and

3. The request for alternative effluent limitations or standards is made in accordance with the procedural requirements of 401 KAR 5:075.

(b) A request for the establishment of effluent limitations less stringent than those required by national limits guidelines will be approved only if:

1. The alternative effluent limitation requested is not less stringent than justified by the fundamental difference;

2. The alternative effluent limitation or standard will ensure compliance with the KPDES regulations and KRS Chapter 224; and

3. Compliance with the national limits, either by using the technologies upon which the national limits are based or by other control alternative, would result in:

a. A removal cost wholly out of proportion to the removal cost considered during development of the national limits; or

b. A non-water quality environmental impact, including energy requirements, fundamentally more adverse than the impact considered during development of the national limits.

(c) A request for alternative limits more stringent than required by national limits will be approved only if:

1. The alternative effluent limitation or standard requested is no more stringent than justified by the fundamental difference; and

2. Compliance with the alternative effluent limitation or standard would not result in:

a. A removal cost wholly out of proportion to the removal cost considered during development of the national limits; or

b. A non-water quality environmental impact, including energy requirements, fundamentally more adverse than the impact considered during development of the national limits.

(d) Factors which may be considered fundamentally different are:

1. The nature or quality of pollutants contained in the raw waste load of the applicant's process wastewater;

2. The volume of the discharger's process wastewater and effluent discharged;

3. Non-water quality environmental impact of control and treatment of the discharger's raw waste load;

4. Energy requirements of the application of control and treatment technology;

5. Age, size, land availability, and configuration as they relate to the discharger's equipment or facilities, processes employed, process changes, and engineering aspects of the application of control technology; and

6. Cost of compliance with required control technology.

(e) A variance request or portion of such a request under this section will not be granted on any of the following grounds:

1. The infeasibility of installing the required waste treatment equipment within the time allowed in Section 1 of this regulation;

2. The assertion that the national limits cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factor(s) listed in paragraph (d) of this section;

3. The discharger's ability to pay for the required waste treatment; or

4. The impact of a discharge on local receiving water quality.

(3) Method of application.

(a) A written request for a variance under this regulation shall be submitted in duplicate to the director in accordance with 401 KAR 5:075.

(b) The burden is on the person requesting the variance to explain that:

1. Factor(s) listed in subsection (2) of this section regarding the discharger's facility are fundamentally different from the factors EPA considered in establishing the national limits. The requester shall refer to all relevant material and information, such as the published guideline regulations development document, all associated technical and economic data collected for use in developing each national limit, all records of legal proceedings, and all

the proposed BMP program modification, the permit will be modified in accordance with 401 KAR 5:075, provided that the director may waive the requirements for public notice and opportunity for hearing on such modification if the director determines that the modification is not significant. The BMP program, or modification thereof, shall be fully implemented as soon as possible but not later than one (1) year after permit issuance, modification, or revocation and reissuance unless the director specifies a later date in the permit.

(d) The discharger shall maintain a description of the BMP program at the facility and shall make the description available to the director upon request.

(e) The owner or operator of a facility subject to this regulation shall amend the BMP program in accordance with the provisions of this regulation whenever there is a change in facility design, construction, operation, or maintenance which materially affects the facility's potential for discharge of significant amounts of hazardous or toxic pollutants into the waters of the Commonwealth.

(f) If the BMP program proves to be ineffective in achieving the general objective of preventing the release of significant amounts of toxic or hazardous pollutants to those waters and the specific objectives and requirements under paragraph (b) of this subsection, the permit and/or the BMP program shall be subject to modification to incorporate revised BMP requirements.

Section 6. Toxic Pollutants. References throughout the KPDES regulations establish specific requirements for discharges of toxic pollutants. The following listing identifies those toxic pollutants required to be considered for each of these KPDES requirements:

(1) Acenaphthene.
(2) Acrolein.
(3) Acrylonitrile.
(4) Aldrin/dieldrin.
(5) Antimony and compounds.
(6) Arsenic and compounds.
(7) Asbestos.
(8) Benzene.
(9) Benzidine.
(10) Beryllium and compounds.
(11) Cadmium and compounds.
(12) Carbon tetrachloride.
(13) Chlordane (technical mixture and metabolites).
(14) Chlorinated benzenes (other than dichlorobenzenes).
(15) Chlorinated ethanes (including 1,2-dichloroethane, 1,1,1-trichloroethane, and hexachloroethane).
(16) Chloroalkyl ethers (chloromethyl, chloroethyl, and mixed ethers).
(17) Chlorinated naphthalene.
(18) Chlorinated phenols (other than those listed elsewhere; includes trichlorophenols and chlorinated cresols).
(19) Chloroform.
(20) 2-chlorophenol.
(21) Chromium and compounds.
(22) Copper and compounds.
(23) Cyanides.
(24) DDT and metabolites.
(25) Dichlorobenzenes (1,2-, 1,3-, and 1,4- dichlorobenzenes).
(26) Dichlorobenzidine.
(27) Dichloroethylenes (1,1- and 1,2-dichloroethylene).
(28) 2,4-dichlorophenol.
(29) Dichloropropane and dichloropropene.
(30) 2,4-dimethylphenol.
(31) Dinitrotoluene.
(32) Diphenylhydrazine.
(33) Endosulfan and metabolites.
(34) Endrin and metabolites.
(35) Ethylbenzene.
(36) Fluoranthene.
(37) Haloethers (other than those listed elsewhere; includes chlorophenylphenyl ethers, bromophenylphenyl ether, bis(dischloroisopropyl) ether, bis(chloroethyoxy) methane and polychlorinated diphenyl ethers).
(38) Halomethanes (other than those listed elsewhere; includes methylene chlorid methylchloride, methylbromide, bromoform, dichlorobromomethane, trichlorofluoromethane, dichlorodifluoromethane).
(39) Heptachlor and metabolites.
(40) Hexachlorobutadiene.
(41) Hexachlorocyclohexane (all isomers).
(42) Hexachlorocyclopentadiene.
(43) Isophorone.
(44) Lead and compounds.
(45) Mercury and compounds.
(46) Naphthalene.
(47) Nickel and compounds.
(48) Nitrobenzene.
(49) Nitrophenols (including 2,4-dinitrophenol, dinitrocresol).
(50) Nitrosamines.
(51) Pentachlorophenol.
(52) Phenol.
(53) Phthalate esters.
(54) Polychlorinated biphenyls (PCSs).
(55) Polynuclear aromatic hydrocarbons (including benzanthracenes, benzopyrenes, benzofluoranthene, chrysenes, dibenzanthracenes, and indenopyrenes).
(56) Selenium and compounds.
(57) Silver and compounds.
(58) 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD).
(59) Tetrachloroethylene.
(60) Thallium and compounds.
(61) Toluene.
(62) Toxaphene.
(63) Trichloroethylene.
(64) Vinyl chloride.
(65) Zinc and compounds.
(66) The term "compounds" shall include organic and inorganic compounds.

Section 7. Date of Applicability. The provisions of this regulation shall become effective upon the date of program approval.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 3 p.m.
See public hearings scheduled on page 765.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water

401 KAR 5:085. KPDES discharge permit and variance fees.

RELATES TO: KRS 224.020, 224.033(19), (20), 224.034, 224.060, 224.073
PURSUANT TO: KRS 13.082, 224.033(17)
NECESSITY AND FUNCTION: This regulation defines the assessment of fees applicable to the issuance of discharge permits and variances. This regulation establishes permit and variance requirements in addition to those requirements of 401 KAR 5:005, 5:031, 5:045, 5:055, 5:060, 5:065, 5:070, 5:075 and 5:080 as are necessary to implement the fee schedule established herein.

Section 1. Applicability. The provisions of this regulation shall apply to the owner or operator of each source required by 401 KAR 5:060, Section 1 to have a permit except for publicly owned sources and sources permitted under a general permit issued under 401 KAR 5:055, Section 6.

Section 2. Definitions. The following definitions described terms used in this regulation. Terms not further defined in this regulation have the meaning given by KRS 224.005 or, if not defined, the meaning attributed by common use.

(1) "Agriculture operation" means operations that use confined feeding in livestock or livestock-byproduct production with manure handling facilities that qualify as concentrated animal feeding operations in accordance with 401 KAR 5:050.

(2) "Conventional pollutant" means biochemical oxygen demand (BOD), chemical oxygen demand (COD), total organic carbon (TOC), total suspended solids (TSS), ammonia (as N), bromide, chlorine (total residual), color, fecal coliform, fluoride, nitrate, kjeldahl nitrogen, oil and grease, and phosphorus.

(3) "Large non-publicly owned treatment work (POTW)" means facilities which either discharge a design flow rate greater than or equal to 1,000,000 gallons per day, or receives greater than or equal to 50,000 gallons per day of industrial process wastewater.

(4) "Major industry" means industries that generate and discharge process-related wastewater while engaged in commercial activities including resource recovery, manufacturing, products distribution, and wholesale and retail trade. These industries discharge a design flow rate greater than or equal to 1,000,000 gallons per day of process wastewater containing a mix of "conventional," "nonconventional," and thermal pollutants.

(5) "Minor industry" means industsries that generate and discharge process-related wastewater while engaged in commercial activities including resource recovery, manufacturing, products distribution, and wholesale and retail trade. These industries discharge a design flow rate less than 1,000,000 gallons per day of process wastewater containing a mix of "conventional," "nonconventional," and thermal pollutants.

(6) "Non-conventional pollutant" means all pollutants not considered to be a "conventional pollutant" as defined in this regulation and including priority pollutants indentified in Section 13 of 401 KAR 5:060.

(7) "Non-process industry" means industries that generate and discharge non-process wastewater while engaged in commercial activities including manufacturing, resource recovery, products distributions, and wholesale and retail trade. These industries discharge a design flow rate less than 10,000 gallons per day of non-process wastewater, for example, non-contact cooling or stockpile run-off, and discharge wastewater that neither contains nor are likely to contain toxic materials. If any of the above conditions is not met, then the discharge is considered to be a "minor industry."

(8) "Small non-publicly owned treatment work (POTW)" means facilities which either discharge a design flow rate less than 1,000,000 gallons per day, or receive less than 50,000 gallons per day of industrial process wastewater.

(9) "Surface mining operation" means those facilities required to have a permit by 405 KAR Chapter 16.

Section 3. Filing Fees. (1) Any owner or operator who submits an application for a permit to discharge from a wastewater treatment unit will be assessed a filing fee in the amount of twenty (20) percent of the base fee in Section 4(2)(a) of this regulation.

(2) Any owner or operator who submits an application for a variance will include with the application a filing fee in the amount of the base fee in Section 6(2)(a) of this regulation.

(3) A filing fee is not refundable if a discharge permit or variance application to which it is related is denied or withdrawn.

(4) The filing fee will be applied toward the discharge permit or variance fee assessed respectively in Section 4 and 6 of this regulation.

Section 4. Discharge Permit Fees. (1)(a) Every owner or operator who is issued a discharge permit shall be assessed a discharge permit fee in accordance with the provisions set forth in subsection (2) of this section.

(b) Upon making the determination that the discharge permit can be issued, under 401 KAR 5:075, Section 11, the cabinet will notify the applicant and send a bill for the discharge permit fee. The discharge permit will be issued by the cabinet upon receipt of the total amount of the permit fee less the filing fee. Failure by the applicant to pay the assessed permit fee on or before the due date shall result in the forfeiture of the filing fee and denial of the permit.

(2) Each discharge permit fee will be determined by adding the base fee in paragraph (a) of this subsection with all other applicable component fees listed in paragraph (b) of this subsection.

(a) Base fee. The base fee for a discharge permit for any point source water pollutant shall depend on the type of wastewater treatment unit or facility and the required permit action. The amount of the base fee will be assessed according to the following schedule:

Facility Category	1st Issuance and Renewals New and Existing Facilities
Major industry	$1,000
Minor industry	400
Non-process industry	100
Large non-POTW	300
Small non-POTW	100
Agriculture	200
Surface mining operation	50

(b) Component fees. The component fee for each addition necessary to complete the evaluation of the discharge permit shall be as follows:

1. Redraft permit based on agencies' comments .. $ 80.
2. Public hearing and 33 USC Section 1311 variances .....$325.

(3) The provisions of this section will apply with respect to fees for temporary discharge permits except that the fee as determined by subsection (2) of this section will be multiplied by the ratio of the length of time covered by the temporary discharge permit to five (5) years.

Section 5. Duplicate Discharge Permit Fee. Upon application for the issuance of a duplicate discharge permit, the duplicate permit shall be issued by the cabinet upon receipt of a fifteen (15) dollar fee.

Section 6. Variance Fee. (1) Any owner or operator granted a variance by the cabinet shall be assessed a variance fee. Upon determining that the variance can be granted, the cabinet shall notify the applicant and send a bill for the variance fee. Failure by the applicant to pay the variance fee on or before the due date shall result in the forfeiture of the filing fee and denial of the variance. The variance shall be granted by the cabinet upon receipt of the total amount of the variance fee less the filing fee.

(2) Variance fees shall be determined by adding the base fee in paragraph (a) of this subsection with the component fee, if applicable, listed in paragraph (b) of this subsection.

(a) Base fee. The base fee for a variance for any point source water pollutant shall be equal to $270, the cost of reviewing the feasibility of the variance request reviewing the applicant's plan of study for the hydrologic-water quality investigation, assessment, or appraisal.

(b) Component fee. The component fee for completing an evaluation of a variance request shall be equal to $690, the cost of a technical review of the study data, results, and conclusions, and for making the variance recommendation.

Section 7. Terms of Payment. (1) Payment of a discharge permit or variance fee, and a duplicate discharge permit fee, as the case may be, will be made within thirty (30) days of the billing date.

(2) Payment of a filing fee shall accompany the application for a discharge permit or variance.

(3) With respect to all fees assessed in Sections 3, 4, 5, and 6 of this regulation, payment, if mailed, should be sent by certified mail. Certified checks or money orders, if used, shall be payable to the Kentucky State Treasurer.

Section 8. Date of Applicability. The provisions of this regulation will become effective upon the date of program approval.

JACKIE SWIGART, Secretary
ADOPTED: December 15, 1982
RECEIVED BY LRC: December 15, 1982 at 2:30 p.m.
See public hearings scheduled on page 765.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board

902 KAR 20:155. Air ambulance services.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(1)(2)
PURSUANT TO: KRS 13.082, 216B.040(2), 216B.105
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate 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 and services of air ambulances.

Section 1. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Emergency care air ambulance transportation" means health care transportation provided on an emergency or scheduled basis in any rotary or fixed wing aircraft to persons who are sick, injured or otherwise incapacitated and who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical health.

(4) "FAA" means the Federal Aviation Administration.

(5) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

Section 2. Licensure. No person shall provide emergency care air ambulance services without having first obtained a license from the board. (1) The license shall designate the Kentucky geographic area to be served.

(2) The licensee shall designate the number of aircraft to be operated and provide the licensure agency with identifying information (e.g., type of aircraft, serial number, aircraft identification number, etc.). Additional aircraft shall not be operated until the licensure agency has been notified and has verified that the aircraft meets the requirements of this regulation. This shall not preclude the service from utilizing a similarily equipped back-up aircraft on a temporary basis without notifying the licensure agency when the primary aircraft is out of service for maintenance.

(3) The licensee shall inform the licensure agency of its arrangements for back-up vehicles prior to initial licensure and of any changes which occur after initial licensure.

Section 3. Standards for the Operation of Emergency Care Air Ambulance Transportation Services. The air ambulance service shall comply with the following standards:

(1) The operator of the air ambulance service shall have a valid Air Taxi/Commerical Operators Certificate pursuant to FAA Regulation Title 14 CFR Part 135.

(2) There shall be a means of securing the litter and attached patient.

(3) Personnel.

(a) The air ambulance service shall be under the medical direction of a licensed physician who is qualified to provide emergency services for the patient being transported and whose responsibilities shall include:

1. Advising the medical flight attendant of precautions to be taken prior to and during the flight;

2. Developing staffing requirements for all air ambulance transports based on the patient's condition;
3. Assuring that adequate supplies and equipment are on-board to care for the patient being transferred;
4. Developing patient care protocols;
5. Monitoring and evaluating the quality of patient care;
6. Providing individual consultation to air ambulance personnel; and
7. Developing in-service training program for all medical flight attendants.

(b) While transporting a patient each air ambulance shall be staffed by not less than one (1) pilot with a valid commercial operator's certificate and one (1) medical flight attendant per patient. The attendant(s) shall remain with the patient(s) at all times during transport.

(c) Each medical flight attendant shall be certified as an emergency medical technician by the Cabinet for Human Resources pursuant to 902 KAR 13:010 through 13:090 or shall be a licensed physician or registered nurse.

(d) An air ambulance service operating as an advanced life support unit shall meet the applicable requirements of 201 KAR 9:101-9:171.

(4) Equipment. Each air ambulance shall provide emergency care equipment as required by 902 KAR 20:115, Section 3(3) for ground ambulances, stored on-board or in modular prepackaged form so as to be available for rapid loading and easy access aboard the aircraft at the time of response to a call.

(5) Communications. The vehicle shall have radio capability to communicate ground-to-air, air-to-air and air-to-ground. This shall include two (2) way radio communication equipment compatible with the state-wide ambulance to hospital emergency radio communications system with capability to commumicate with ground personnel to properly coordinate the landing, physicians directing patient management and primary medical responders on the ground who may be caring for the patient.

(6) Records and reports. All air ambulance services shall keep accurate records and reports concerning the transportation of each emergency patient which are maintained at the headquarters of the licensee and are available for periodic review as deemed necessary by the board. The service shall provide a full record to the receiving facility of any treatment administered at the pick-up location or during transit. Required records and reports shall include:

(a) The Kentucky Emergency Medical Service Run Report Form. Completed forms shall be forwarded to the Cabinet for Human Resources in accordance with submission dates established by that cabinet; and

(b) Employee records including a resume of each employee's training and experience and evidence of current certification.

FRANK W. BURKE, SR., Chairman
ADOPTED: December 14, 1982
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: December 15, 1982 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services, Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 2:115. Eligibility, criteria for home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by P.L. 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. 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 and benefits criteria for each of three (3) components of energy assistance, regular, crisis, and Project Warmup, under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet.

Section 2. Definitions. Terms used in HEAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) A "fully vulnerable household" is any household living in non-subsidized housing which pays all energy costs directly to the energy provider or any household which rents non-subsidized housing whose energy costs are included in the rent payment.

(6) "Regular component" is that portion of benefits reserved as energy assistance for heating for households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability.

(7) "Crisis component" is that portion of benefits reserved for use as emergency energy assistance after the regular component is terminated for eligible households in emergency or crisis situations.

(8) "Project Warmup" is that component of HEAP administered by local governments and other local organizations under contract with the cabinet to provide benefits to eligible households who are without adequate heat.

Section 3. Eligibility Criteria. (1) A household must

meet the following conditions of eligibility for receipt of a HEAP payment under the regular and crisis components:

(a) The household must be fully vulnerable for energy cost.

(b) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(c) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and CETA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$500	$6,000
2	600	7,200
3	700	8,400
4 or more	800	9,600

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, and prepaid burial policies.

(e) Applicants for the crisis component must attest that an immediate need for energy exists because the household is financially incapable of meeting their energy costs at the time of application or within fifteen (15) days. The thirty (30) day extension of service prior to energy cut-off granted by Public Service Commission regulations does not affect eligibility for the crisis component.

(2) A household must meet the following conditions of eligibility for receipt of a Project Warmup component benefit:

(a) The household must be without adequate heat.

(b) The household must meet the income and assets criteria contained in subsection (1)(b) through (d) of this section.

(c) The applicant for shelter cannot be, in the opinion of the contracting agency, a threat to the health and/or welfare of other Project Warmup recipients.

(3) Households are eligibile to receive benefits under either the regular or crisis component and Project Warmup.

Section 4. Benefit Levels. (1) Payment amounts for the regular and crisis components are set at a level to serve a maximum number of households while providing a reasonably adequate payment relative to energy costs. The highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(a) Payments to eligible households will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales

Scale A.
Energy Sources: LP Gas (Propane), Fuel Oil, Electricity, Wood, Kerosene

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or more
$ 0-300	$275	$300
301-600	238	263
over 600	200	225

Scale B.
Energy Source: Natural Gas, Coal

Monthly Household Income	Payment Amount Household Size 1 and 2	Payment Amount Household Size 3 or more
$ 0-300	$225	$250
301-600	188	213
over 600	150	175

(b) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the regular or crisis components may be reduced proportionately.

(2) Benefits to eligible households under the Project Warmup component shall be in the form of temporary shelter, blankets, space heater(s), short term fuel supplies, or the payment of utility reconnection fees and deposits if such payment will enable the household to obtain heat. Other benefits may be provided which directly or indirectly assist households in obtaining energy. Benefits will be available only in counties which contract with the cabinet for the provision of these services.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Payment authorization under the regular and crisis components is of two (2) types.

(a) If the recipient utilizes an energy provider who has a continuous billing cycle, payment is authorized by a two (2) party check made payable to the provider and the recipient.

(b) When there is no continuous billing cycle or heating is included as an undesignated portion of rent, payment shall be made by a check payable to the recipient and the provider/landlord whenever feasible.

(c) When a two (2) party check is not feasible, the recipient shall sign an affidavit prior to receipt of funds stating that benefits received under HEAP shall be utilized solely for home energy.

(2) Under the regular or crisis components, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy. The household will decide how to divide payment if more than one (1) provider is used.

(3) For Project Warmup, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency as necessary.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 7. Time Standards. The cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:
(1) Applications for the regular component shall be accepted beginning January 3, 1983, and ending no later than January 14, 1983, at the close of business.
(2) Applications for the crisis component shall be accepted beginning January 17, 1983.
(3) Applications shall be processed in the order taken until funds are expended. HEAP regular and crisis components shall be terminated by the secretary when actual and projected program expenditures have resulted in utilization of available funds.
(4) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.
(5) Project Warmup may be implemented by contracting agencies on December 15, 1982 and must be implemented no later than January 1, 1983. Benefits shall be provided until funds are exhausted or March 31, 1983, whichever comes first.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance.

(2) Up to $1.6 million shall be reserved for Project Warmup.
(3) Benefit funds available for the regular and crisis components shall be equally divided between the two (2) components. Regular component funds unobligated by the close of business January 14, 1983, shall be available for use in the crisis component.

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:
(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;
(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;
(3) HEAP recipients shall not be treated differently than households not receiving benefits; and
(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided.
(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

JOHN CUBINE, Commissioner
ADOPTED: December 14, 1982
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: December 15, 1982 at 4 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 November 22-23, 1982 Meeting

(Subject to subcommittee approval at the December 20 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Monday, November 22, and on Tuesday, November 23, 1982, at 10 a.m., in Room 103 of the Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senator James Bunning; Representatives Albert Robinson and James Bruce.

Guests: Representative Gene Cline and Representative Clayton Little; Claudia Eskpp, Ashland Coal Inc.; Jim Ahler, Board of Accountancy; Gary Payne and Brady Miracle, Board of Elections; Tom Carter, Board of Medical Licensure; Mary Romelfanger and Sharon Weisenbeck, Board of Nursing; J. H. Voige, Board of Pharmacy; Ked Fitzpatrick, John Walker, Irving Bell, Suzanne Turner, Dr. David Allen and Terry Morrison, Cabinet for Human Resources; James Judy, Ky. Association of Health Care Facilities; J. Michael Noyes and Hughes Walker, Department of Agriculture; Ronda Paul, Department of Banking and Securities; Kathy Williams, L. W. True, Arnold Guess and Gary Bale, Department of Education; John Warren, Fayette County Public Schools; Don McCormick, Department of Fish and Wildlife Resources; Carl Smoak, Les Westerfield, Carl VanCleve and Jim Klosterman, Department of Housing, Buildings and Construction; Dee Maynard and Gene Taylor, Department of Personnel; Arthur Hatterick, Jr. and Libby Walthall, State Personnel Board; Patrick Watts, Department of Insurance; Tom Johnson, Glenn Fountain, Clara Rising, Stanley Rising and John Weaver, Ky. Ginseng Growers Association; Richard Hannan and Marc Evans, Ky. Nature Preserves Commission; Roger McCann, Hisham Saaid, Larry Wilson and Martha Hall, Natural Resources and Environmental Protection Cabinet; Charles Moore, Jr., Tim Helson, Thomas Townes, Phil Thomas and John Daunhauer, Transportation Cabinet; O. B. Arnold, Ky. Household Carriers Association; C. R. Roberts, University of Kentucky; Andrew Cammack, Environmental Quality Commission; Jim Thompson; and James Looney.

Press: Herb Sparrow, Bill Bergstrom and Sy Ramsey, Associated Press; Gil Lawson, State Journal.

Staff: Susan Harding, Joe Hood, Dan Risch, June Mabry, Shirley Hart, Carla Arnold, Paula Payne, Bob Fallon, Harold Bernard, Bob Doris, Gay Trevino, Don Judy and Jerry Bailey.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Senator Bunning, seconded by Representative Bruce, the minutes of the October 27 meeting were approved.

The following regulation was recommended for deferral by the subcommittee until the December 21 meeting:

ENERGY AND AGRICULTURE CABINET
Department of Agriculture
Marketing Service
302 KAR 45:010. Ginseng, general provisions.

On November 22, Sen. Bunning moved to recommend rejection of 101 KAR 1:055 because it did not conform to statutory authority; motion passed, 2 yeas, 1 nay. On November 23, Senator Bunning moved to reconsider the action taken by the subcommittee on November 22 to recommend rejection of 101 KAR 1:055 to the Legislative Research Commission; motion passed. On motion of Representative Robinson, seconded by Representative Bruce, the following regulation was recommended for deferral:

FINANCE AND ADMINISTRATION CABINET
Department of Personnel
Personnel Rules
101 KAR 1:055. Compensation plan, pay for performance.

The subcommittee recommended that no action be taken on the following emergency regulations:

STATE BOARD OF ELECTIONS
Electronic Voting Systems
31 KAR 2:010E. Electronic voting systems.

COMMERCE CABINET
Department of Fish and Wildlife Resources
Game
301 KAR 2:113E. Deer hunting on the Blue Grass Ordnance Depot.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining and Enforcement
General Provisions
405 KAR 7:050E. Coal processing waste disposal sites.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Motor Vehicle Commission
601 KAR 21:010E. Meetings.
601 KAR 21:030E. Applications.
601 KAR 21:050E. Dealer/salesperson.
601 KAR 21:070E. Change of ownership.
601 KAR 21:090E. Trade names.
601 KAR 21:110E. Motor vehicle auction dealer.
601 KAR 21:130E. Procedures.
601 KAR 21:140E. Repeal.

The subcommittee recommended that the following regulations be approved for filing:

STATE BOARD OF ELECTIONS
Electronic Voting Systems
31 KAR 2:010. Electronic voting systems. (As amended.)

FINANCE AND ADMINISTRATION CABINET
Department of Personnel
Personnel Rules
101 KAR 1:030. Personnel Board procedure.
101 KAR 1:110. Promotion, transfer, demotion and detail to special duty.
101 KAR 1:130. Appeals.
101 KAR 1:140. Service regulations. (As amended with technical corrections.)
101 KAR 1:150. Incentive programs.
101 KAR 1:200. Rules for unclassified service. (As amended with technical corrections.)
Division of Occupations and Professions
Board of Accountancy
201 KAR 1:045. Subjects of examination; grading; reexamination.
201 KAR 1:050. Certificate application.
Board of Pharmacy
201 KAR 2:160. Licenses; inactive status. (As amended.)
Board of Medical Licensure
201 KAR 9:040. Fee schedule.
Board of Nursing Education and Nurse Registration
201 KAR 20:095. Inactive licensure status.
201 KAR 20:205. Standards for continuing education offerings.
201 KAR 20:215. Contact hours.
201 KAR 20:220. Provider approval.
201 KAR 20:225. Reinstatement of a lapsed license.

COMMERCE CABINET
Department of Fish and Wildlife Resources
Game
301 KAR 2:055. Pits and blinds; restrictions.
301 KAR 2:113. Deer hunting on the Blue Grass Ordnance Depot.
301 KAR 2:140. Spring gun and archery season for wild turkey.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Devision of Air Pollution
General Administrative Procedures
401 KAR 50:010. Definitions and abbreviations.
New Source Standards
401 KAR 59:005. General provisions.
401 KAR 59:010. New process operations.
Existing Source Standards
401 KAR 61:005. General provisions.
401 KAR 61:015. Existing indirect heat exchangers.
401 KAR 61:020. Existing process operations.
401 KAR 61:075. Steel plants and foundries using existing electric arc furnaces.
401 KAR 61:140. Existing by-product coke manufacturing plants.

EDUCATION AND HUMANITIES CABINET
Department of Education
School District Finance
702 KAR 3:030. Insurance requirements. (As amended.)
Administration
706 KAR 1:010. Interim three-year plan for vocational rehabilitation services.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Motor Vehicle Commission
601 KAR 21:010. Meetings.
601 KAR 21:030. Applications.
601 KAR 21:050. Dealer/salesperson.
601 KAR 21:070. Change of ownership.
601 KAR 21:090. Trade names.
601 KAR 21:110. Motor vehicle auction dealer.
601 KAR 21:130. Procedures.
601 KAR 21:140. Repeal.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Agents, Consultants, Solicitors and Adjusters
806 KAR 9:030. Adjusters; examinations, licenses, restrictions.
806 KAR 9:060. Identification cards. (As amended.) (Roll call vote—3 yeas, 1 nay.)
806 KAR 9:070. Examination retake limits.
Rates and Rating Organizations
806 KAR 13:011. Repeal of 806 KAR 13:010.
Insurance Premium Finance Companies
806 KAR 30:010. Application for license procedure.
806 KAR 30:080. Financial requirements for insurance premium finance companies.
Health Maintenance Organizations
806 KAR 38:020. Agents' licenses. (As amended with technical corrections.)
Prepaid Dental Plan Organizations
806 KAR 43:010. Prepaid dental plan organization agent license. (As amended with technical corrections.)

Department of Banking and Securities
Securities
808 KAR 10:010. Forms for application, registration; reporting and compliance. (Senator Bunning—pass.)
808 KAR 10:150. Registration exemptions. (Senator Bunning—pass.)
Department of Housing, Buildings and Construction
Kentucky Building Code
815 KAR 7:012. Departmental plan review fees.
Plumbing
815 KAR 20:072. Installation standards for cast iron soil pipe and fittings.
815 KAR 20:073. Installation standards for water and waste piping materials of types K, L, M and DWV copper; types R-K, R-L, R-DWV brass tubing and seamless stainless steel tubing, G or H.
815 KAR 20:074. Installation standards for steel and wrought iron pipe.
Mobile Homes and Recreational Vehicles
815 KAR 25:010. Mobile homes.
Local Fire Departments
815 KAR 45:015. Aid to fire departments.

CABINET FOR HUMAN RESOURCES
Long Term Care
900 KAR 2:010. Access and hours of visitation.
Department for Health Services
Social Security Act
902 KAR 25:010. Section 1122 review.
Food and Cosmetics
902 KAR 45:110. Inspection fees; food plants, markets, warehouses, and distributors.
902 KAR 45:120. Inspection fees; food service establishments, hotels. (Roll call vote—3 yeas, 1 nay.)
Department for Social Insurance
Medical Assistance
904 KAR 1:095. Payments for nurse-midwife services.
904 KAR 1:100. Nurse-midwife services.
Public Assistance
904 KAR 2:015. Supplemental programs for the aged, blind, and disabled.
Child Welfare
905 KAR 1:140. Foster care, adoption assistance.

The subcommittee recommended that the following regulation be rejected:

TRANSPORTATION CABINET
Department of Vehicle Regulation
Motor Vehicle Tax
601 KAR 9:072. Kentucky highway use license, taxes and records. (Roll call vote—3 yeas, 1 nay.)

The meeting was adjourned at 1:30 p.m. until December 20, 1982.

Administrative Register of Kentucky

Cumulative Supplement

Locator Index—Effective Dates ..... G 2

KRS Index ..... G 7

Subject Index to Volume 9 ..... G 11

Locator Index—Effective Dates

NOTE: Emergency regulations expire upon being repealed or replaced.

Volume 8

Regulation	8 Ky.R. Page No.	Effective Date
401 KAR 2:170	1110	
Withdrawn		8-2-82
401 KAR 6:050		
Repealed	1197	7-28-82
401 KAR 6:060	1197	7-28-82
401 KAR 50:055		
Amended	1041	9-22-82
401 KAR 51:010		
Amended	1044	9-22-82
401 KAR 59:005		
Amended	1422	12-1-82
401 KAR 59:175		
Amended	1050	
Withdrawn		8-2-82
401 KAR 59:210		
Amended	910	9-22-82
401 KAR 61:005		
Amended	1427	12-1-82
401 KAR 61:075		
Amended	1438	12-1-82
401 KAR 61:085		
Amended	1054	
Withdrawn		8-2-82
401 KAR 61:120		
Amended	913	9-22-82
401 KAR 63:010		
Amended	1443	
Withdrawn		9-29-82
405 KAR 1:005	1460	
405 KAR 3:005	1461	
405 KAR 7:030	1468	
405 KAR 7:040	1469	
405 KAR 7:060	1471	
405 KAR 7:080	1472	
405 KAR 7:090	1475	
405 KAR 7:095	1480	
405 KAR 7:100	1482	
405 KAR 7:110	1482	
405 KAR 8:010	1483	
405 KAR 8:020	1492	
405 KAR 8:030	1494	
405 KAR 8:040	1503	
405 KAR 8:050	1511	
405 KAR 10:010	1515	
405 KAR 10:020	1517	
405 KAR 10:030	1518	
405 KAR 10:040	1519	
405 KAR 10:050	1521	
405 KAR 12:020	1523	
405 KAR 12:030	1526	
405 KAR 16:010	1527	
405 KAR 16:020	1528	
405 KAR 16:030	1529	
405 KAR 16:040	1529	
405 KAR 16:050	1530	
405 KAR 16:070	1533	
405 KAR 16:080	1534	
405 KAR 16:100	1537	
405 KAR 16:120	1538	
405 KAR 16:150	1546	
405 KAR 16:160	1547	
405 KAR 16:170	1547	
405 KAR 16:180	1548	
405 KAR 16:190	1549	
405 KAR 16:200	1551	
405 KAR 16:210	1553	
405 KAR 16:250	1557	
405 KAR 18:010	1557	
405 KAR 18:020	1558	
405 KAR 18:030	1558	
405 KAR 18:040	1559	
405 KAR 18:050	1560	
405 KAR 18:070	1563	
405 KAR 18:080	1564	
405 KAR 18:100	1566	
405 KAR 18:120	1568	
405 KAR 18:150	1576	
405 KAR 18:160	1576	
405 KAR 18:170	1577	
405 KAR 18:180	1577	
405 KAR 18:190	1578	
405 KAR 18:200	1579	
405 KAR 18:210	1582	
405 KAR 18:220	1583	
405 KAR 18:260	1586	
405 KAR 20:010	1587	
405 KAR 20:020	1588	
405 KAR 20:030	1589	
405 KAR 20:040	1590	
405 KAR 20:050	1591	
405 KAR 20:060	1591	
405 KAR 20:070	1592	
405 KAR 20:080	1593	
405 KAR 24:020	1594	
405 KAR 24:040	1597	
723 KAR 1:005		
Amended	522	
904 KAR 1:011		
Amended	1184	7-28-82

Volume 9

Emergency Regulation	9 Ky.R. Page No.	Effective Date
31 KAR 2:010E	534	10-14-82
Replaced	771	12-1-82
101 KAR 1:030E	305	7-16-82
Replaced	225	12-1-82
101 KAR 1:055E	306	7-16-82
Amended	766	12-15-82
101 KAR 1:110E	310	7-16-82
Replaced	561	12-1-82
101 KAR 1:130E	311	7-16-82
Resubmitted	395	9-7-82
Replaced	562	12-1-82
101 KAR 1:140E	314	7-16-82
Replaced	564	12-1-82
101 KAR 1:150E	318	7-16-82
Replaced	283	12-1-82
101 KAR 1:200E	318	7-16-82
Replaced	569	12-1-82
103 KAR 18:110E	107	6-23-82
Replaced	10	8-11-82
103 KAR 40:035E	322	7-30-82
Replaced	387	10-6-82
201 KAR 9:020E	323	7-16-82
Replaced	248	9-8-82
301 KAR 2:044E	324	7-30-82
Replaced	387	10-6-82
301 KAR 2:087E	541	9-17-82
Replaced	510	11-3-82
301 KAR 2:113E	544	10-6-82
Replaced	633	12-1-82
302 KAR 20:130E	673	11-4-82
302 KAR 35:060E	398	8-24-82
302 KAR 35:070E	399	8-24-82
302 KAR 45:010E	325	7-16-82
405 KAR 7:050E	545	9-21-82
405 KAR 26:001E	2	5-24-82
601 KAR 9:072E	326	7-26-82
601 KAR 21:010E	546	10-15-82
Replaced	650	12-1-82
601 KAR 21:030E	547	10-15-82
Replaced	650	12-1-82
601 KAR 21:050E	548	10-15-82
Replaced	651	12-1-82
601 KAR 21:070E	548	10-15-82
Replaced	651	12-1-82
601 KAR 21:090E	548	10-15-82
Replaced	652	12-1-82
601 KAR 21:110E	549	10-15-82
Replaced	652	12-1-82
601 KAR 21:130E	549	10-15-82
Replaced	652	12-1-82
601 KAR 21:140E	551	10-15-82
Replaced	654	12-1-82
902 KAR 6:050E	330	7-16-82
Replaced	262	9-8-82
902 KAR 10:060E	332	7-16-82
Replaced	300	9-8-82
904 KAR 1:036E	333	7-16-82
Replaced	263	9-8-82
904 KAR 1:045E	337	7-16-82
Replaced	268	9-8-82
904 KAR 2:050E	552	9-28-82
904 KAR 2:105E	108	6-16-82
Replaced	100	8-11-82
904 KAR 3:045E	110	6-16-82
Replaced	67	8-11-82
905 KAR 3:010E	112	6-16-82
Replaced	101	8-11-82
905 KAR 3:020E	112	6-16-82
Replaced	102	8-11-82
905 KAR 3:030E	113	6-16-82
Replaced	103	8-11-82

Regulation	9 Ky.R. Page No.	Effective Date
1 KAR 1:010		
Amended	9	
Amended	339	8-11-82
1 KAR 2:010		
Amended	793	
1 KAR 3:005		
Amended	377	10-6-82
1 KAR 4:005	280	9-8-82
1 KAR 4:010	75	
Withdrawn		7-7-82
Resubmitted	283	9-8-82
11 KAR 5:010		
Amended	10	8-11-82
15 KAR 1:010	75	
Amended	686	
15 KAR 1:020	76	
Amended	687	
30 KAR 1:030	386	
Withdrawn		10-27-82
31 KAR 1:030	386	
Amended	553	10-6-82
31 KAR 2:010	626	
Amended	771	12-1-82
101 KAR 1:030		
Amended	225	12-1-82
101 KAR 1:055		
Amended	225	
Amended	556	
101 KAR 1:080		
Amended	794	
101 KAR 1:110		
Amended	230	
Amended	561	12-1-82
101 KAR 1:120		
Amended	796	
101 KAR 1:130		
Amended	231	
Amended	562	12-1-82
101 KAR 1:140		
Amended	233	
Amended	564	12-1-82
101 KAR 1:150	283	12-1-82
101 KAR 1:200		
Amended	238	
Amended	569	12-1-82
101 KAR 1:210	847	
102 KAR 1:038		
Amended	241	9-8-82
102 KAR 1:050		
Amended	242	9-8-82
102 KAR 1:110		
Amended	242	9-8-82
102 KAR 1:122		
Amended	243	9-8-82
102 KAR 1:125		
Amended	244	9-8-82
102 KAR 1:200	284	9-8-82
102 KAR 1:210	284	
Amended	400	9-8-82
103 KAR 18:110		
Amended	10	8-11-82
103 KAR 40:030		
Repealed	387	10-6-82
103 KAR 40:035	387	10-6-81
106 KAR 1:030		
Amended	244	
Amended	553	10-6-82
108 KAR 1:010		
Amended	246	
Withdrawn		9-17-82
Amended	730	
115 KAR 2:010	847	
200 KAR 8:020		
Amended	10	8-11-82
201 KAR 1:045		
Amended	593	12-1-82

Regulation	9 Ky.R. Page No.	Effective Date
201 KAR 1:050		
Amended	594	12-1-82
201 KAR 1:095		
Amended	247	10-6-82
201 KAR 2:020		
Amended	11	8-11-82
201 KAR 2:040		
Amended	247	9-8-82
201 KAR 2:050		
Amended	12	8-11-82
201 KAR 2:055		
Repealed	285	9-8-82
201 KAR 2:056	285	9-8-82
201 KAR 2:060		
Repealed	285	9-8-82
201 KAR 2:105	77	8-11-82
201 KAR 2:110	285	
Amended	688	
201 KAR 2:115	285	
Amended	688	
201 KAR 2:120	285	
Amended	689	
201 KAR 2:125	286	
201 KAR 2:130	286	
201 KAR 2:135	286	
Amended	689	
201 KAR 2:140	286	
201 KAR 2:145	287	
Amended	689	
201 KAR 2:150	287	
Amended	690	
201 KAR 2:155	288	
201 KAR 2:160	633	
Amended	778	12-1-82
201 KAR 9:020		
Amended	248	9-8-82
201 KAR 9:040		
Amended	594	12-1-82
201 KAR 9:050		
Amended	731	
201 KAR 11:006	746	
201 KAR 11:010		
Repealed	288	9-8-82
201 KAR 11:030		
Amended	249	9-8-82
201 KAR 11:035		
Repealed	288	9-8-82
201 KAR 11:037		
Repealed	288	9-8-82
201 KAR 11:050		
Repealed	288	9-8-82
201 KAR 11:055		
Repealed	288	9-8-82
201 KAR 11:060		
Repealed	288	9-8-82
201 KAR 11:065		
Repealed	288	9-8-82
201 KAR 11:070		
Amended	249	10-6-82
201 KAR 11:075		
Repealed	288	9-8-82
201 KAR 11:085		
Repealed	288	9-8-82
201 KAR 11:095		
Amended	250	9-8-82
201 KAR 11:110		
Amended	250	9-8-82
201 KAR 11:120		
Repealed	288	9-8-82
201 KAR 11:125		
Repealed	288	9-8-82
201 KAR 11:130		
Repealed	288	9-8-82
201 KAR 11:135		
Amended	250	9-8-82

Regulation	9 Ky.R. Page No.	Effective Date
201 KAR 11:140		
Repealed	288	9-8-82
201 KAR 11:147		
Amended	797	
201 KAR 11:165	288	9-8-82
201 KAR 11:170	850	
201 KAR 12:030		
Amended	12	8-11-82
201 KAR 18:140	288	9-8-82
201 KAR 19:025		
Amended	490	
Amended	674	11-3-82
201 KAR 19:030		
Amended	491	
Amended	674	11-3-82
201 KAR 19:035		
Amended	491	
Amended	675	11-3-82
201 KAR 19:040		
Amended	492	
Amended	676	11-3-82
201 KAR 19:050		
Amended	493	
Amended	677	11-3-82
201 KAR 19:085		
Amended	494	
Amended	677	11-3-82
201 KAR 20:070		
Amended	251	9-8-82
201 KAR 20:080		
Repealed	289	9-8-82
201 KAR 20:085	289	9-8-82
201 KAR 20:095		
Amended	595	12-1-82
201 KAR 20:205		
Amended	596	12-1-82
201 KAR 20:215		
Amended	596	12-1-82
201 KAR 20:220		
Amended	597	12-1-82
201 KAR 20:225		
Amended	598	12-1-82
201 KAR 20:230	289	
Amended	400	9-8-82
201 KAR 20:240	290	9-8-82
201 KAR 22:031		
Amended	731	
201 KAR 22:130	746	
201 KAR 23:080		
Amended	732	
201 KAR 23:110	747	
201 KAR 24:030	850	
201 KAR 25:011		
Amended	12	8-11-82
201 KAR 25:012	77	8-11-82
201 KAR 25:031		
Amended	13	8-11-82
201 KAR 25:051	78	8-11-82
201 KAR 25:061	80	8-11-82
201 KAR 25:071	80	8-11-82
201 KAR 26:120	291	9-8-82
301 KAR 1:015		
Amended	495	11-3-82
301 KAR 1:055		
Amended	14	8-11-82
Amended	495	11-3-82
301 KAR 1:145		
Amended	252	9-8-82
301 KAR 2:044	387	10-6-82
301 KAR 2:055		
Amended	598	12-1-82
301 KAR 2:060		
Repealed	14	8-11-82
301 KAR 2:080		
Amended	14	8-11-82
301 KAR 2:086		
Repealed	510	11-3-82
301 KAR 2:087	510	11-3-82
301 KAR 2:113	633	12-1-82
301 KAR 2:140		
Amended	600	12-1-82
301 KAR 4:040		
Amended	16	8-11-82
302 KAR 20:130	747	
302 KAR 25:045		
Amended	496	
Reprint	668	11-3-82
302 KAR 35:060	388	
Amended	780	
302 KAR 35:070	389	
Amended	781	
302 KAR 45:010	292	
Amended	572	
306 KAR 1:010	748	
306 KAR 1:020	749	
306 KAR 1:030	750	
306 KAR 1:040	750	
306 KAR 1:050	751	
306 KAR 1:060	751	
306 KAR 1:070	751	
306 KAR 1:080	752	
306 KAR 1:090	752	
401 KAR 2:050		
Amended	126	
Amended	401	8-25-82
401 KAR 2:060		
Amended	132	
Amended	407	8-24-82
401 KAR 2:063		
Amended	150	
Amended	425	8-24-82
401 KAR 2:070		
Amended	195	8-24-82
401 KAR 2:073		
Amended	201	
Amended	471	8-24-82
401 KAR 2:075		
Amended	203	8-24-82
401 KAR 2:180	512	
Amended	782	
401 KAR 2:185	514	
Amended	784	
401 KAR 2:190	516	
Amended	786	
401 KAR 5:050	852	
401 KAR 5:055	854	
401 KAR 5:060	858	
401 KAR 5:065	866	
401 KAR 5:070	872	
401 KAR 5:075	874	
401 KAR 5:080	879	
401 KAR 5:085	885	
401 KAR 6:015		
Amended	797	
401 KAR 50:010		
Amended	573	12-1-82
401 KAR 50:015		
Amended	345	9-22-82
401 KAR 50:035		
Amended	347	9-22-82
401 KAR 51:017		
Amended	350	9-22-82
401 KAR 51:052		
Amended	358	9-22-82
401 KAR 51:055		
Amended	363	9-22-82
401 KAR 59:010		
Amended	576	12-1-82
401 KAR 59:018		
Amended	368	9-22-82
401 KAR 59:101		
Amended	208	8-24-82
401 KAR 59:212		
Amended	371	9-22-82
401 KAR 59:260	390	
401 KAR 61:015		
Amended	577	12-1-82
401 KAR 61:020		
Amended	583	12-1-82
401 KAR 61:055		
Amended	210	8-24-82
401 KAR 61:056		
Amended	211	8-24-82
401 KAR 61:080		
Amended	380	
401 KAR 61:122		
Amended	373	9-22-82
401 KAR 61:140		
Amended	584	12-1-82
401 KAR 61:170	390	
401 KAR 63:031		
Amended	212	8-24-82
405 KAR 2:010	81	8-11-82
405 KAR 7:020		
Amended	690	
405 KAR 7:050	634	
405 KAR 12:010		
Amended	697	
405 KAR 16:060		
Amended	698	
405 KAR 16:090		
Amended	700	
405 KAR 16:110		
Amended	702	
405 KAR 16:130		
Amended	703	
405 KAR 16:140		
Amended	706	
405 KAR 16:220		
Amended	707	
405 KAR 18:060		
Amended	709	
405 KAR 18:090		
Amended	711	
405 KAR 18:110		
Amended	713	
405 KAR 18:130		
Amended	714	
405 KAR 18:140		
Amended	718	
405 KAR 18:230		
Amended	718	
405 KAR 24:030		
Amended	721	
405 KAR 26:001	81	
405 KAR 30:010		
Amended	17	
Withdrawn		10-19-82
405 KAR 30:020		
Amended	21	
Withdrawn		10-19-82
405 KAR 30:130		
Amended	23	
Withdrawn		10-19-82
405 KAR 30:160	82	
Withdrawn		10-19-82
405 KAR 30:190		
Amended	28	
Withdrawn		10-19-82
405 KAR 30:200		
Amended	30	
Withdrawn		10-19-82
405 KAR 30:250		
Amended	31	
Withdrawn		10-19-82
405 KAR 30:320		
Amended	34	
Withdrawn		10-19-82
405 KAR 30:360	84	
Withdrawn		10-19-82
405 KAR 30:370	85	
Withdrawn		10-19-82
405 KAR 30:390		
Amended	35	
Withdrawn		10-19-82
501 KAR 3:010	635	
501 KAR 3:020	636	
501 KAR 3:030	637	
501 KAR 3:040	637	
501 KAR 3:050	639	
501 KAR 3:060	642	
501 KAR 3:070	643	

Regulation	9 Ky.R. Page No.	Effective Date
501 KAR 3:080	644	
501 KAR 3:090	644	
501 KAR 3:100	645	
501 KAR 3:110	646	
501 KAR 3:120	646	
501 KAR 3:130	647	
501 KAR 3:140	648	
601 KAR 9:072	293	
Amended	587	
601 KAR 20:010		
Repealed	551	10-15-82
601 KAR 20:030		
Repealed	551	10-15-82
601 KAR 20:040		
Repealed	551	10-15-82
601 KAR 20:050		
Repealed	551	10-15-82
601 KAR 20:070		
Repealed	551	10-15-82
601 KAR 20:080		
Repealed	551	10-15-82
601 KAR 20:090		
Repealed	551	10-15-82
601 KAR 20:110		
Repealed	551	10-15-82
601 KAR 20:130		
Repealed	551	10-15-82
601 KAR 21:010	650	12-1-82
601 KAR 21:030	650	12-1-82
601 KAR 21:050	651	12-1-82
601 KAR 21:070	651	12-1-82
601 KAR 21:090	652	12-1-82
601 KAR 21:110	652	12-1-82
601 KAR 21:130	652	12-1-82
601 KAR 21:140	654	12-1-82
602 KAR 50:010		
Amended	601	
602 KAR 50:020		
Amended	602	
602 KAR 50:030		
Amended	603	
602 KAR 50:040		
Amended	603	
602 KAR 50:050		
Amended	604	
602 KAR 50:060		
Amended	605	
602 KAR 50:070		
Amended	605	
602 KAR 50:080		
Amended	605	
602 KAR 50:090		
Amended	606	
602 KAR 50:100		
Amended	607	
602 KAR 50:110		
Amended	608	
602 KAR 50:115		
Amended	608	
602 KAR 50:120		
Amended	609	
603 KAR 4:035	518	
Amended	678	11-3-82
603 KAR 5:096		
Amended	253	9-8-82
701 KAR 1:020		
Amended	253	9-8-82
702 KAR 1:005		
Amended	36	8-11-82
702 KAR 1:020		
Repealed	487	6-20-83
702 KAR 1:025	87	
Amended	487	
Amended	681	11-9-82
702 KAR 1:110	296	9-8-82
702 KAR 2:020		
Amended	253	9-8-82
702 KAR 3:030		
Amended	254	
Amended	488	
Amended	779	12-1-82
702 KAR 5:120		
Amended	733	
704 KAR 3:010		
Amended	255	9-8-82
704 KAR 3:285		
Amended	40	8-11-82
704 KAR 3:304		
Amended	256	9-8-82
704 KAR 3:312		
Repealed	88	8-11-82
704 KAR 3:314	88	8-11-82
704 KAR 5:010		
Repealed	88	8-11-82
704 KAR 5:011	88	8-11-82
704 KAR 5:050		
Amended	41	8-11-82
Amended	256	9-8-82
704 KAR 10:022		
Amended	257	9-8-82
704 KAR 20:005		
Amended	734	
704 KAR 20:135		
Amended	734	
704 KAR 20:206	753	
704 KAR 20:275	753	
705 KAR 1:010		
Amended	42	8-11-82
705 KAR 2:030		
Amended	257	9-8-82
705 KAR 4:010		
Amended	259	9-8-82
705 KAR 4:020		
Repealed	297	9-8-82
705 KAR 4:060		
Repealed	297	9-8-82
705 KAR 4:070		
Repealed	297	9-8-82
705 KAR 4:090		
Repealed	297	9-8-82
705 KAR 4:100		
Repealed	297	9-8-82
705 KAR 4:105		
Repealed	297	9-8-82
705 KAR 4:110		
Repealed	297	9-8-82
705 KAR 4:120		
Repealed	297	9-8-82
705 KAR 4:131		
Repealed	297	9-8-82
705 KAR 4:140		
Repealed	297	9-8-82
705 KAR 4:151		
Repealed	297	9-8-82
705 KAR 4:160		
Repealed	297	9-8-82
705 KAR 4:170		
Repealed	297	9-8-82
705 KAR 4:180		
Repealed	297	9-8-82
705 KAR 4:190		
Repealed	297	9-8-82
705 KAR 4:200	297	9-8-82
705 KAR 7:050		
Amended	261	9-8-82
706 KAR 1:010		
Amended	610	12-1-82
707 KAR 1:100		
Amended	214	8-24-82
707 KAR 1:110		
Amended	215	8-24-82
740 KAR 1:010	521	11-3-82
740 KAR 1:020	522	11-3-82
740 KAR 1:030	522	11-3-82
740 KAR 1:040	523	11-3-82
740 KAR 1:050	523	11-3-82
740 KAR 1:060	524	11-3-82
740 KAR 1:070	524	11-3-82
740 KAR 1:080	525	11-3-82
740 KAR 1:090	525	11-3-82
740 KAR 1:100	526	11-3-82
740 KAR 1:110	526	11-3-82
803 KAR 1:050		
Repealed	42	8-11-82
803 KAR 1:075		
Amended	42	8-11-82
803 KAR 2:020		
Amended	812	
803 KAR 2:090		
Amended	43	8-11-82
803 KAR 2:190	89	8-11-82
804 KAR 1:100		
Amended	261	9-8-82
804 KAR 4:230	297	9-8-82
804 KAR 11:010		
Amended	381	10-6-82
806 KAR 2:080		
Amended	382	10-6-82
806 KAR 2:090		
Amended	383	10-6-82
806 KAR 2:095		
Amended	383	10-6-82
806 KAR 7:090	89	
Amended	375	10-6-82
806 KAR 9:030		
Amended	610	12-1-82
806 KAR 9:060		
Amended	611	
Amended	779	12-1-82
806 KAR 9:070		
Amended	611	12-1-82
806 KAR 9:160		
Repealed	91	9-8-82
806 KAR 9:161	91	9-8-82
806 KAR 10:015	753	
806 KAR 12:080	655	
Amended	789	
806 KAR 13:005		
Repealed	391	10-6-82
806 KAR 13:006	391	10-6-82
806 KAR 13:010		
Repealed	656	12-1-82
806 KAR 13:011	656	12-1-82
806 KAR 13:015		
Repealed	91	9-8-82
806 KAR 13:016	91	9-8-82
806 KAR 13:030		
Repealed	91	9-8-82
806 KAR 13:031	91	9-8-82
806 KAR 13:040		
Amended	44	9-8-82
806 KAR 13:050		
Repealed	92	9-8-82
806 KAR 13:051	92	9-8-82
806 KAR 13:060		
Repealed	92	9-8-82
806 KAR 13:061	92	9-8-82
806 KAR 13:070		
Amended	45	9-8-82
806 KAR 13:080		
Repealed	92	9-8-82
806 KAR 13:081	92	9-8-82
806 KAR 14:005		
Amended	45	9-8-82
806 KAR 14:080		
Amended	383	10-6-82
806 KAR 30:010		
Amended	612	12-1-82
806 KAR 30:080	656	12-1-82
806 KAR 38:020		
Amended	496	12-1-82
806 KAR 38:070	754	
806 KAR 39:030		
Amended	384	
Amended	790	
806 KAR 43:010	526	12-1-82
807 KAR 5:002	298	9-8-82
807 KAR 5:006		
Amended	217	
Amended	473	8-24-82
Amended	735	
807 KAR 5:026		
Amended	742	

Regulation	9 Ky.R. Page No.	Effective Date
807 KAR 5:027	755	
808 KAR 1:090	391	10-6-82
808 KAR 3:010		
Repealed	92	8-11-82
808 KAR 3:050	92	
Amended	340	8-11-82
808 KAR 10:010		
Amended	613	12-1-82
808 KAR 10:090		
Amended	46	8-11-82
808 KAR 10:150		
Amended	613	12-1-82
815 KAR 7:012		
Amended	497	12-1-82
815 KAR 7:060		
Amended	815	
815 KAR 20:010		
Amended	827	
815 KAR 20:050		
Amended	832	
815 KAR 20:070		
Amended	46	8-11-82
Amended	833	
815 KAR 20:072	657	12-1-82
815 KAR 20:073	658	12-1-82
815 KAR 20:074	659	12-1-82
815 KAR 20:080		
Amended	47	8-11-82
815 KAR 20:090		
Amended	834	
815 KAR 20:100		
Amended	48	8-11-82
815 KAR 20:120		
Amended	49	8-11-82
815 KAR 20:191		
Amended	837	
815 KAR 25:010		
Amended	615	12-1-82
815 KAR 45:010		
Repealed	659	12-1-82
815 KAR 45:015	659	12-1-82
815 KAR 45:035		
Amended	51	8-11-82
900 KAR 2:010	299	12-1-82
900 KAR 2:020	527	
900 KAR 2:030	661	
900 KAR 2:040	756	
902 KAR 4:030		
Amended	386	
Amended	555	10-6-82
902 KAR 6:050		
Amended	262	9-8-82
902 KAR 8:010		
Repealed	391	10-6-82
902 KAR 8:011	391	10-6-82
902 KAR 9:010		
Amended	53	
Withdrawn		8-24-82
902 KAR 10:060	300	9-8-82
902 KAR 11:010		
Amended	498	11-3-82
902 KAR 12:020		
Amended	499	
Amended	682	11-3-82
902 KAR 12:030		
Amended	501	11-3-82
902 KAR 12:040		
Amended	502	
Amended	685	11-3-82
902 KAR 12:050		
Amended	502	
Amended	685	11-3-82
902 KAR 14:010	94	
Amended	341	8-11-82
902 KAR 14:020	94	8-11-82
902 KAR 20:006		
Amended	55	
Amended	479	9-8-82
902 KAR 20:008		
Amended	61	8-11-82
Amended	745	
902 KAR 20:126		
Amended	62	8-11-82
902 KAR 20:127		
Amended	63	
Amended	342	8-11-82
902 KAR 20:130		
Repealed	95	8-11-82
902 KAR 20:131	95	8-11-82
902 KAR 20:150	95	8-11-82
902 KAR 20:155	886	
902 KAR 25:010		
Amended	590	12-1-82
902 KAR 45:110	300	
Amended	593	12-1-82
902 KAR 45:120	300	12-1-82
904 KAR 1:004		
Amended	6	7-28-82
904 KAR 1:012		
Amended	223	8-24-82
904 KAR 1:013		
Amended	489	10-27-82
904 KAR 1:026		
Amended	503	11-3-82
904 KAR 1:033		
Amended	66	8-11-82
904 KAR 1:036		
Amended	263	9-8-82
Amended	842	
904 KAR 1:037	99	8-11-82
904 KAR 1:042	99	8-11-82
904 KAR 1:045		
Amended	268	9-8-82
904 KAR 1:095	666	
904 KAR 1:100	667	
904 KAR 2:006		
Amended	504	11-3-82
904 KAR 2:015		
Amended	269	9-8-82
Amended	624	12-1-82
904 KAR 2:016		
Amended	271	9-8-82
904 KAR 2:050		
Amended	506	11-3-82
904 KAR 2:100		
Repealed	100	8-11-82
904 KAR 2:105	100	8-11-82
904 KAR 2:115	887	
904 KAR 3:010		
Amended	275	9-8-82
904 KAR 3:020		
Amended	277	9-8-82
904 KAR 3:035		
Amended	279	9-8-82
904 KAR 3:045		
Amended	67	8-11-82
904 KAR 3:050		
Amended	507	11-3-82
904 KAR 3:060		
Amended	507	11-3-82
904 KAR 5:120		
Repealed	301	9-8-82
904 KAR 5:121	301	9-8-82
904 KAR 5:240		
Repealed	301	9-8-82
904 KAR 5:250	301	
Amended	555	10-6-82
905 KAR 1:140	667	12-1-82
905 KAR 2:010		
Amended	68	
Amended	723	
905 KAR 3:010	101	8-11-82
905 KAR 3:020	102	8-11-82
905 KAR 3:030	103	8-11-82
905 KAR 3:040	761	
905 KAR 5:010	103	
Amended	485	9-8-82
905 KAR 5:020	761	

Regulation	9 Ky.R. Page No.	Effective Date

KRS Index

KRS Section	Regulation
Chapter 13	1 KAR 1:010
17.210	815 KAR 45:015
18A.005	101 KAR 1:110
	101 KAR 1:120
18A.030	101 KAR 1:055
	101 KAR 1:080
	101 KAR 1:110
	101 KAR 1:140
18A.045	101 KAR 1:030
18A.070	101 KAR 1:030
18A.075	101 KAR 1:055
	101 KAR 1:080
	101 KAR 1:120
	101 KAR 1:130
	101 KAR 1:140
18A.095	101 KAR 1:110
	101 KAR 1:120
	101 KAR 1:130
18A.100	101 KAR 1:130
	101 KAR 1:210
18A.110	101 KAR 1:055
	101 KAR 1:080
	101 KAR 1:110
	101 KAR 1:120
	101 KAR 1:140
	101 KAR 1:150
18A.115	101 KAR 1:110
18A.155	101 KAR 1:200
	101 KAR 1:210
18A.165	101 KAR 1:055
	101 KAR 1:080
	101 KAR 1:120
18A.202	101 KAR 1:150
29A.180	200 KAR 8:020
39.400	106 KAR 1:030
39.427	106 KAR 1:030
39.470	106 KAR 1:030
44.070	108 KAR 1:010
44.080	108 KAR 1:010
44.086	108 KAR 1:010
44.090	108 KAR 1:010
45.350 to 45.359	1 KAR 4:005
45.352	1 KAR 4:010
45.700	1 KAR 2:010
45.705	1 KAR 2:010
45.710	1 KAR 2:010
45.715	1 KAR 2:010
45.720	1 KAR 2:010
45.750 to 45.800	1 KAR 3:005
64.300	31 KAR 2:010
65.170	31 KAR 2:010
67.260	31 KAR 2:010
67A.020	31 KAR 2:010
68.540	31 KAR 2:010
81A.030	31 KAR 2:010
81A.420	31 KAR 2:010
81A.430	31 KAR 2:010
83A.100	31 KAR 2:010
83A.120	31 KAR 2:010
83A.170	31 KAR 2:010
91A.080	806 KAR 2:090
	806 KAR 2:095
Chapter 95A	815 KAR 45:035
96.183	31 KAR 2:010
96.360	31 KAR 2:010
96.540	31 KAR 2:010
96.543	31 KAR 2:010
96.640	31 KAR 2:010
96.860	31 KAR 2:010
96A.350	31 KAR 2:010
97.610	31 KAR 2:010
107.360	31 KAR 2:010
108.100	31 KAR 2:010
108.160	31 KAR 2:010
109.011	401 KAR 2:180
109.011 to 109.280	401 KAR 2:185
	401 KAR 2:190
109.041	401 KAR 2:180
109.071	401 KAR 2:180
109.190	401 KAR 2:180
116.025	31 KAR 2:010
116.065	31 KAR 2:010
117.075	31 KAR 1:030
117.255	31 KAR 2:010
117.375	31 KAR 2:010
117.377	31 KAR 2:010
117.379	31 KAR 2:010
117.381	31 KAR 2:010
117.383	31 KAR 2:010
117.385	31 KAR 2:010
117.387	31 KAR 2:010
117.389	31 KAR 2:010
117.391	31 KAR 2:010
117.393	31 KAR 2:010
118.015	31 KAR 2:010
118A.010	31 KAR 2:010
119.005	31 KAR 2:010
132.120	31 KAR 2:010
132.380	31 KAR 2:010
136.392	815 KAR 45:015
Chapter 138	601 KAR 9:072
141.310	103 KAR 18:110
141.370	103 KAR 18:110
150.010	301 KAR 1:055
	301 KAR 1:145
	301 KAR 2:087
	301 KAR 2:140
150.025	301 KAR 1:015
	301 KAR 1:055
	301 KAR 1:145
	301 KAR 2:055
	301 KAR 2:080
	301 KAR 2:087
	301 KAR 2:113
	301 KAR 2:140
	301 KAR 4:040
150.090	301 KAR 1:015
150.120	301 KAR 1:145
150.170	301 KAR 1:145
	301 KAR 2:087
	301 KAR 2:113
150.175	301 KAR 1:145
	301 KAR 2:087
	301 KAR 2:113
	301 KAR 2:140
	301 KAR 4:040
150.176	301 KAR 2:140
150.180	301 KAR 2:080
	301 KAR 4:040
150.235	301 KAR 2:087
150.240	301 KAR 2:055
150.280	301 KAR 2:080
150.290	301 KAR 2:080
150.300	301 KAR 2:044
150.305	301 KAR 2:044
	301 KAR 2:080
	301 KAR 2:087
	301 KAR 2:113
	301 KAR 2:140
150.320	301 KAR 2:044
	301 KAR 2:080
	301 KAR 2:140
150.330	301 KAR 2:044
	301 KAR 2:080
	301 KAR 2:087
	301 KAR 2:113
	301 KAR 2:140
150.340	301 KAR 2:044
	301 KAR 2:087
	301 KAR 2:113
150.360	301 KAR 2:044
	301 KAR 2:080
	301 KAR 2:087
	301 KAR 2:113
	301 KAR 2:140
150.365	301 KAR 2:140
150.370	301 KAR 2:080
	301 KAR 2:113
150.390	301 KAR 2:113
	301 KAR 2:140
150.411	301 KAR 4:040
150.445	301 KAR 1:145
150.450	301 KAR 1:145
150.470	301 KAR 1:055
	301 KAR 2:080
150.600	301 KAR 2:055
	301 KAR 2:087
150.620	301 KAR 1:015
150.625	301 KAR 1:015
150.630	301 KAR 2:055
150.990	301 KAR 1:055
151.125	405 KAR 7:050
151.297	405 KAR 7:050
152A.125	115 KAR 2:010
154.655	306 KAR 1:010
154.660	306 KAR 1:020
154.665	306 KAR 1:030
154.680	306 KAR 1:040
	306 KAR 1:050
	306 KAR 1:060
154.690	306 KAR 1:070
154.695	306 KAR 1:080
154.700	306 KAR 1:090
156.010	706 KAR 1:010
156.022	702 KAR 2:020
156.031	701 KAR 1:020
	706 KAR 1:010
156.035	701 KAR 1:020
	705 KAR 7:050
156.070	705 KAR 2:030
	705 KAR 7:050
	706 KAR 1:010
156.112	705 KAR 1:010
	705 KAR 4:010
	705 KAR 7:050
156.160	704 KAR 3:304
	704 KAR 10:022
156.400 to 156.476	702 KAR 1:005
157.100 to 157.190	702 KAR 1:005
157.280	702 KAR 5:120
157.312	704 KAR 5:050
157.315	704 KAR 5:050
157.360	702 KAR 1:110
	704 KAR 3:010
	704 KAR 5:050
	705 KAR 2:030
157.390	702 KAR 1:025
158.030	704 KAR 5:050
158.090	704 KAR 5:050
158.600 to 158.620	704 KAR 3:285
160.105	702 KAR 3:030
160.220	31 KAR 2:010
160.230	31 KAR 2:010
160.250	31 KAR 2:010
160.260	31 KAR 2:010
160.470	31 KAR 2:010
160.597	31 KAR 2:010
161.020	704 KAR 20:005
	704 KAR 20:135
	704 KAR 20:275
161.025	704 KAR 20:005
	704 KAR 20:135
	704 KAR 20:275
161.030	704 KAR 20:005
	704 KAR 20:135
	704 KAR 20:275
161.515	102 KAR 1:050
161.545	102 KAR 1:038
	102 KAR 1:110
161.560	102 KAR 1:125
	102 KAR 1:210
161.620	102 KAR 1:200
161.705	102 KAR 1:122

KRS Section	Regulation
163.020	705 KAR 1:010
	705 KAR 2:030
	705 KAR 4:010
163.030	705 KAR 1:010
	705 KAR 2:030
	705 KAR 4:010
163.140	706 KAR 1:010
163.160	706 KAR 1:010
164.410	740 KAR 1:040
164.740 to 164.764	11 KAR 5:010
164.780	11 KAR 5:010
164.785	11 KAR 5:010
164A.060	15 KAR 1:010
	15 KAR 1:020
164A.560	740 KAR 1:010
	740 KAR 1:030
	740 KAR 1:110
164A.570	740 KAR 1:020
164A.580	740 KAR 1:050
164A.585	740 KAR 1:060
164A.590	740 KAR 1:070
164A.595	740 KAR 1:010
	740 KAR 1:080
164A.600	740 KAR 1:090
164A.605	740 KAR 1:100
165.175	31 KAR 2:010
165A.310	201 KAR 24:030
165A.370	201 KAR 24:030
167.150	707 KAR 1:100
	707 KAR 1:110
173.470	31 KAR 2:010
173.610	31 KAR 2:010
173.620	31 KAR 2:010
173.630	31 KAR 2:010
177.830 to 177.890	603 KAR 4:035
183.861	602 KAR 50:030
183.861 to 183.890	602 KAR 50:060
183.861 to 183.990	602 KAR 50:010
	602 KAR 50:020
	602 KAR 50:100
	602 KAR 50:110
	602 KAR 50:115
183.865	602 KAR 50:030
	602 KAR 50:040
183.867	602 KAR 50:030
	602 KAR 50:050
183.869	602 KAR 50:080
	602 KAR 50:090
183.870	602 KAR 50:030
	602 KAR 50:070
	602 KAR 50:080
	602 KAR 50:090
183.871	602 KAR 50:080
	602 KAR 50:090
	602 KAR 50:120
189.222	603 KAR 5:096
190.010	601 KAR 21:050
	601 KAR 21:110
190.030	601 KAR 21:030
	601 KAR 21:050
	601 KAR 21:070
190.035	601 KAR 21:050
190.040	601 KAR 21:090
190.058	601 KAR 21:010
	601 KAR 21:130
190.062	601 KAR 21:130
194.025	902 KAR 25:010
194.050	902 KAR 25:010
	904 KAR 2:105
	904 KAR 2:115
	904 KAR 3:010
	904 KAR 3:020
	904 KAR 3:035
	904 KAR 3:045
	904 KAR 3:050
	904 KAR 3:060
Chapter 198B	815 KAR 7:012
	815 KAR 7:060
199.420	905 KAR 3:010
	905 KAR 3:020
	905 KAR 3:030
199.467	905 KAR 1:140
199.892 to 199.896	905 KAR 2:010
Chapter 202A	902 KAR 12:020
	902 KAR 12:050
202A.181	902 KAR 12:040
202A.196	902 KAR 12:020
202A.201	902 KAR 12:030
Chapter 202B	902 KAR 12:020
	902 KAR 12:050
205.010	904 KAR 2:006
205.200	904 KAR 2:006
	904 KAR 2:016
205.204	905 KAR 3:010
	905 KAR 3:020
	905 KAR 3:030
205.210	904 KAR 2:016
205.220	904 KAR 2:050
205.245	904 KAR 2:015
205.520	904 KAR 1:004
	904 KAR 1:012
	904 KAR 1:013
	904 KAR 1:026
	904 KAR 1:033
	904 KAR 1:036
	904 KAR 1:037
	904 KAR 1:042
	904 KAR 1:045
	904 KAR 1:095
	904 KAR 1:100
205.560	904 KAR 1:095
209.030	905 KAR 3:010
	905 KAR 3:020
	905 KAR 3:030
	905 KAR 5:010
209.160	905 KAR 5:010
	905 KAR 5:020
210.420	902 KAR 6:050
210.440	902 KAR 6:050
211.350	902 KAR 10:060
211.920 to 211.945	902 KAR 9:010
211.950 to 211.958	902 KAR 14:010
	902 KAR 14:020
212.080	31 KAR 2:010
212.720	31 KAR 2:010
214.155	902 KAR 4:030
215.120	31 KAR 2:010
215.140	31 KAR 2:010
216.317	31 KAR 2:010
216.318	31 KAR 2:010
216.540	900 KAR 2:010
216.550	900 KAR 2:030
	900 KAR 2:040
216.555	900 KAR 2:040
216.557	900 KAR 2:040
216.560	900 KAR 2:040
216.563	900 KAR 2:040
216.565	900 KAR 2:040
216.567	900 KAR 2:020
216.577	900 KAR 2:040
216B.010 to 216B.130	902 KAR 20:006
	902 KAR 20:008
	902 KAR 20:126
	902 KAR 20:127
	902 KAR 20:150
	902 KAR 20:155
216B.990	902 KAR 20:006
	902 KAR 20:008
	902 KAR 20:126
	902 KAR 20:127
	902 KAR 20:150
	902 KAR 20:155
Chapter 217	201 KAR 2:110
	201 KAR 2:115
	201 KAR 2:120
	201 KAR 2:125
	201 KAR 2:130
	201 KAR 2:135
	201 KAR 2:140
	201 KAR 2:145
	201 KAR 2:150
	201 KAR 2:155
217.025	902 KAR 45:110
217.035	902 KAR 45:110
217.037	902 KAR 45:110
217.125	902 KAR 45:110
219.031	902 KAR 45:120
219.041	902 KAR 45:120
Chapter 224	401 KAR 5:050
	401 KAR 5:055
	401 KAR 5:060
	401 KAR 5:065
	401 KAR 5:070
	401 KAR 5:080
	401 KAR 6:015
	401 KAR 50:010
	401 KAR 50:015
	401 KAR 50:035
	401 KAR 51:017
	401 KAR 51:052
	401 KAR 51:055
	401 KAR 59:010
	401 KAR 59:018
	401 KAR 59:101
	401 KAR 59:212
	401 KAR 59:260
	401 KAR 61:015
	401 KAR 61:020
	401 KAR 61:055
	401 KAR 61:056
	401 KAR 61:080
	401 KAR 61:122
	401 KAR 61:140
	401 KAR 61:170
	401 KAR 63:031
224.005	401 KAR 2:180
224.020	401 KAR 5:085
224.033	401 KAR 2:050
	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:073
	401 KAR 5:075
	401 KAR 5:085
224.034	401 KAR 5:085
224.036	401 KAR 2:060
224.060	401 KAR 5:085
224.071	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:070
	405 KAR 7:050
224.073	401 KAR 5:085
224.087	401 KAR 2:060
224.255	401 KAR 2:050
	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:070
	401 KAR 2:073
	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
224.835	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
224.842	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
224.855	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:073
224.855 to 224.884	401 KAR 2:050
224.860	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:073
224.862	401 KAR 2:060
224.864	401 KAR 2:060
	401 KAR 2:070
	401 KAR 2:075
224.866	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:073
224.868	401 KAR 2:060
	401 KAR 2:075
224.871	401 KAR 2:060
224.873	401 KAR 2:060
224.874	401 KAR 2:060

KRS Section	Regulation
224.876	401 KAR 2:060
	401 KAR 2:075
224.877	401 KAR 2:060
224.880	401 KAR 2:060
	401 KAR 2:063
	401 KAR 2:073
	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
224.887	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
224.888	401 KAR 2:180
	401 KAR 2:185
	401 KAR 2:190
227.570	815 KAR 25:010
242.050	31 KAR 2:010
242.070	31 KAR 2:010
242.080	31 KAR 2:010
242.120	31 KAR 2:010
242.125	31 KAR 2:010
242.129	31 KAR 2:010
242.1292	31 KAR 2:010
242.1294	31 KAR 2:010
243.050	804 KAR 4:230
243.710	103 KAR 40:035
243.720	103 KAR 40:035
243.884	103 KAR 40:035
244.130	804 KAR 1:100
244.500	804 KAR 11:010
246.650	302 KAR 45:010
246.660	302 KAR 45:010
247.487	31 KAR 2:010
247.560	31 KAR 2:010
247.660	31 KAR 2:010
247.760	31 KAR 2:010
247.860	31 KAR 2:010
251.480	302 KAR 35:060
	302 KAR 35:070
257.020	302 KAR 20:130
260.675 to 260.760	302 KAR 25:045
262.120	31 KAR 2:010
262.130	31 KAR 2:010
262.220	31 KAR 2:010
262.370	31 KAR 2:010
262.540	31 KAR 2:010
262.730	31 KAR 2:010
262.735	31 KAR 2:010
262.748	31 KAR 2:010
262.778	31 KAR 2:010
273.446	905 KAR 3:040
273.453 to 273.466	1 KAR 4:005
273.458	1 KAR 4:010
Chapter 278	807 KAR 5:002
	807 KAR 5:006
	807 KAR 5:026
	807 KAR 5:027
287.690	808 KAR 1:090
290.020	808 KAR 3:050
290.030	808 KAR 3:050
290.040	808 KAR 3:050
290.050	808 KAR 3:050
Chapter 292	808 KAR 10:010
	808 KAR 10:090
292.410	808 KAR 10:150
304.2-330	806 KAR 2:080
304.4-010	806 KAR 14:005
304.7-360	806 KAR 7:090
304.9-070	806 KAR 9:030
304.9-160	806 KAR 9:070
304.9-190	806 KAR 9:070
304.9-320	806 KAR 9:070
304.9-390	806 KAR 9:060
304.9-430	806 KAR 9:030
	806 KAR 9:070
304.12-030	806 KAR 12:080
304.13-121	806 KAR 13:040
304.13-151	806 KAR 13:070
304.14-030	806 KAR 14:080
304.14-120	806 KAR 14:005
304.14-190	806 KAR 14:005
304.30-030	806 KAR 30:010
304.30-040	806 KAR 30:080
304.38-050	806 KAR 38:070
304.38-070	806 KAR 38:070
304.38-110	806 KAR 38:020
304.39-040	806 KAR 39:030
304.39-060	806 KAR 39:030
304.43-080	806 KAR 43:010
311.420	201 KAR 25:011
	201 KAR 25:012
	201 KAR 25:071
311.450	201 KAR 25:031
311.475	201 KAR 25:061
311.490	201 KAR 25:051
311.530 to 311.620	201 KAR 9:020
	201 KAR 9:040
	201 KAR 9:050
311.990	201 KAR 9:020
	201 KAR 9:040
	201 KAR 9:050
314.011	201 KAR 20:205
	201 KAR 20:215
	201 KAR 20:220
314.041	201 KAR 20:070
	201 KAR 20:085
	201 KAR 20:095
	201 KAR 20:230
314.042	201 KAR 20:240
314.051	201 KAR 20:070
	201 KAR 20:085
	201 KAR 20:095
	201 KAR 20:230
	201 KAR 20:240
314.071	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
314.073	201 KAR 20:085
	201 KAR 20:205
	201 KAR 20:215
	201 KAR 20:220
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
314.131	201 KAR 20:240
314.161	201 KAR 20:240
Chapter 315	201 KAR 2:020
	201 KAR 2:040
	201 KAR 2:050
	201 KAR 2:105
	201 KAR 2:160
317A.010	201 KAR 12:030
317A.020	201 KAR 12:030
317A.060	201 KAR 12:030
Chapter 318	815 KAR 20:010
	815 KAR 20:050
	815 KAR 20:070
	815 KAR 20:072
	815 KAR 20:073
	815 KAR 20:074
	815 KAR 20:080
	815 KAR 20:090
	815 KAR 20:100
	815 KAR 20:120
	815 KAR 20:191
319.040	201 KAR 26:120
319.055	201 KAR 26:120
319.065	201 KAR 26:120
322.050	201 KAR 18:140
322.180	201 KAR 18:140
322.190	201 KAR 18:140
322.200	201 KAR 18:140
322.290	201 KAR 18:140
322.350	201 KAR 18:140
322.430	201 KAR 18:140
323.050	201 KAR 19:025
	201 KAR 19:035
	201 KAR 19:040
323.060	201 KAR 19:035
323.080	201 KAR 19:085
323.090	201 KAR 19:050
323.110	201 KAR 19:085
323.210	201 KAR 19:050
323.215	201 KAR 19:025
	201 KAR 19:040
324.010	201 KAR 11:170
324.045	201 KAR 11:070
	201 KAR 11:135
324.115	201 KAR 11:070
324.160	201 KAR 11:095
	201 KAR 11:110
324.310	201 KAR 11:147
324.330	201 KAR 11:030
	201 KAR 11:147
325.261	201 KAR 1:050
325.265	201 KAR 1:045
325.270	201 KAR 1:045
325.280	201 KAR 1:050
325.340	201 KAR 1:095
327.050	201 KAR 22:031
327.060	201 KAR 22:031
327.080	201 KAR 22:031
	201 KAR 22:130
Chapter 333	902 KAR 11:010
335.010 to 335.150	201 KAR 23:080
	201 KAR 23:110
337.275	803 KAR 1:075
337.285	803 KAR 1:075
337.520	803 KAR 1:075
Chapter 338	803 KAR 2:020
338.121	803 KAR 2:090
	803 KAR 2:190
341.415	904 KAR 5:250
Chapter 350	405 KAR 7:020
	405 KAR 26:001
350.020	405 KAR 7:050
	405 KAR 12:010
	405 KAR 16:090
	405 KAR 16:220
	405 KAR 18:090
	405 KAR 18:230
350.028	405 KAR 12:010
	405 KAR 16:220
	405 KAR 18:230
350.050	405 KAR 12:010
350.085	405 KAR 12:010
	405 KAR 16:220
	405 KAR 18:230
305.090	405 KAR 16:130
	405 KAR 18:130
350.100	405 KAR 16:060
	405 KAR 16:090
	405 KAR 16:110
	405 KAR 18:060
	405 KAR 18:090
	405 KAR 18:110
305.113	405 KAR 12:010
350.130	405 KAR 12:010
350.151	405 KAR 12:010
	405 KAR 18:060
	405 KAR 18:090
	405 KAR 18:110
	405 KAR 18:130
	405 KAR 18:140
	405 KAR 18:230
350.405	405 KAR 16:110
	405 KAR 18:110
350.410	405 KAR 16:060
	405 KAR 16:130
	405 KAR 16:140
	405 KAR 18:130
	405 KAR 18:140
350.420	405 KAR 16:060
	405 KAR 16:090
	405 KAR 16:110
	405 KAR 16:140
	405 KAR 18:060
	405 KAR 18:090
	405 KAR 18:110
	405 KAR 18:140
350.421	405 KAR 16:060
	405 KAR 18:060
350.440	405 KAR 16:060
	405 KAR 16:130
	405 KAR 18:060

KRS Section	Regulation
350.440	405 KAR 18:130
350.446	405 KAR 12:010
	405 KAR 16:060
	405 KAR 16:090
	405 KAR 16:110
	405 KAR 16:130
	405 KAR 16:140
	405 KAR 16:220
	405 KAR 18:060
	405 KAR 18:090
	405 KAR 18:110
	405 KAR 18:130
	405 KAR 18:140
	405 KAR 18:220
	405 KAR 24:030
350.575	405 KAR 2:010
350.600	405 KAR 30:010
	405 KAR 30:020
	405 KAR 30:130
	405 KAR 30:160
	405 KAR 30:190
	405 KAR 30:200
	405 KAR 30:250
	405 KAR 30:320
	405 KAR 30:360
	405 KAR 30:370
	405 KAR 30:390
350.610	405 KAR 24:030
350.990	405 KAR 12:010
424.290	31 KAR 2:010
436.165	31 KAR 2:010
441.011	501 KAR 3:010
	501 KAR 3:020
	501 KAR 3:030
	501 KAR 3:040
	501 KAR 3:050
	501 KAR 3:060
	501 KAR 3:070
	501 KAR 3:080
	501 KAR 3:090
	501 KAR 3:100
	501 KAR 3:110
	501 KAR 3:120
	501 KAR 3:130
	501 KAR 3:140
c. 109, 1980 Acts	1 KAR 3:005
c. 398, 1982 Acts	1 KAR 3:005
	106 KAR 1:030
	702 KAR 1:110
	702 KAR 5:120
	704 KAR 5:050
	905 KAR 5:010
c. 444, 1982 Acts	115 KAR 2:010

KRS Section	Regulation

KRS Section	Regulation

Subject Index

ACCOUNTANCY
Certificate application; 201 KAR 1:050
Code of ethics; 201 KAR 1:095
Examinations; subjects, grading; 201 KAR 1:045

ADMINISTRATIVE REGULATIONS
(See Legislative Research)

AERONAUTICS, AIRPORT ZONING
Airport Zoning Commission
Administrator; 602 KAR 50:020
Airport land uses; 602 KAR 50:040
Airport zoning map; 602 KAR 50:050
Alteration, construction; permit period; 602 KAR 50:110
Application procedures; 602 KAR 50:090
Commission jurisdiction; 602 KAR 50:030
Construction; 602 KAR 50:060
Definitions; 602 KAR 50:010
Enforcement procedures; 602 KAR 50:115
Hearing procedures; 602 KAR 50:120
Navigable airspace; 602 KAR 50:070
Obstructions; 602 KAR 50:100
Permit application; 602 KAR 50:080

AGRICULTURE
Grain Storage
Bookkeeping; 302 KAR 35:070; 302 KAR 35:070E
Contracts; 302 KAR 35:060; 302 KAR 35:060E
Livestock Sanitation
Contagious equine metritis; 302 KAR 20:130; 302 KAR 20:130E
Marketing Services
General provisions; 302 KAR 45:010; 302 KAR 45:010E
Milk Marketing
Stamps, coupons, redemption certificates; 302 KAR 25:045

AIR POLLUTION
Administrative Procedures
Definitions, abbreviations; 401 KAR 50:010
Permits, compliance schedules; 401 KAR 50:035
Reference materials; 401 KAR 50:015
Existing Source Standards
Blast furnace casthouses; 401 KAR 61:170
Bulk gasoline plants; 401 KAR 61:056
By-product coke manufacturing plants; 401 KAR 61:140
Existing process operations; 401 KAR 61:020
Graphic arts facilities; 401 KAR 61:122
Indirect heat exchangers; 401 KAR 61:015
Loading facilities at bulk gasoline terminals; 401 KAR 61:055
Oxygen process furnaces; 401 KAR 61:080
New Source Requirements; Non-Attainment Areas
Emissions trading; 401 KAR 51:055
Prevention of significant deterioration; 401 KAR 51:017
Review; 401 KAR 51:052
New Sources, Standards for
Blast furnace casthouses; 401 KAR 59:260
Bulk gasoline plants; 401 KAR 59:101
Gas turbines, stationary; 401 KAR 59:018
Graphic arts facilities; 401 KAR 59:212
New process operations; 401 KAR 59:010
Performance, General Standards
Gasoline tank truck leaks; 401 KAR 63:031

AIRPORT ZONING
(See Aeronautics)

ALCOHOLIC BEVERAGE CONTROL
Advertising Distilled Spirits, Wine
General practices; 804 KAR 1:100
Licensing
Extended hours supplemental licenses; 804 KAR 4:230
Malt Beverages
Equipment, supplies; 804 KAR 11:010

ARCHITECTS
Examination application; 201 KAR 19:025
Examination, general; 201 KAR 19:030
Examination qualifications; 201 KAR 19:035
Examination types; 201 KAR 19:040
Fees; 201 KAR 19:085
Re-examinations; 201 KAR 19:050

BANKING AND SECURITIES
Administration
Stay, notice of intent to remove from office; 808 KAR 1:090
Credit Unions
Conduct; 808 KAR 3:050
Securities
Forms; 808 KAR 10:010
Issuers' reports; 808 KAR 10:090
Registration exemptions; 808 KAR 10:150

BUILDING CODE
New construction, physically disabled facilities; 815 KAR 7:060
Plan review fee; 815 KAR 7:012

CLAIMS, BOARD OF
Practice, Procedure
Board, operation of; 108 KAR 1:010
Claims, procedure for; 108 KAR 1:010

COMMERCE
Economic Development
Enterprise zones; 306 KAR 1:010 to 306 KAR 1:090
Fish and Wildlife
Fish; 301 KAR 1:015 to 301 KAR 1:145
Game; 301 KAR 2:044 to 301 KAR 2:087
Wildlife; 301 KAR 4:040

CORPORATIONS
State Filing
Business address; 30 KAR 1:030

CORRECTIONS
Jails
Administration, management; 501 KAR 3:020
Admission, release; 501 KAR 3:120
Classification; 501 KAR 3:110
Definitions; 501 KAR 3:010
Fiscal management; 501 KAR 3:030
Food services; 501 KAR 3:100
Inmate programs, services; 501 KAR 3:130
Inmate rights; 501 KAR 3:140
Medical services; 501 KAR 3:090
Personnel; 501 KAR 3:040
Physical plant; 501 KAR 3:050
Safety, emergency procedures; 501 KAR 3:070
Sanitation, hygiene; 501 KAR 3:080
Security, control; 501 KAR 3:060

ECONOMIC DEVELOPMENT
Enterprise Zones
Application process; 306 KAR 1:020
Authority, duties; 306 KAR 1:070
Conflict of interest; 306 KAR 1:060
Definitions; 306 KAR 1:010
Eligibility requirements; 306 KAR 1:030
Geographic neighborhood areas; 306 KAR 1:090
Qualification; 306 KAR 1:040
Regulation review; 306 KAR 1:080
Removal of designation; 306 KAR 1:050

EDUCATION
Administration, Finance
Classroom, kindergarten units; allocation of funds; 702 KAR 1:110
Extended employment; 702 KAR 1:025
Textbook program; 702 KAR 1:005
Exceptional
Exceptional, handicapped; programs for; 707 KAR 1:100; 707 KAR 1:110
Instruction
Elementary, secondary; 704 KAR 10:022
Instructional services; 704 KAR 3:285; 704 KAR 3:304; 704 KAR 3:314
Kindergartens, nursery schools; 704 KAR 5:011; 704 KAR 5:050
Teacher certification; 704 KAR 20:135 to 704 KAR 20:275
Planning
ECIA, 1981, plan for; 701 KAR 1:020
Pupil Transportation
Blind, deaf; reimbursement; 702 KAR 5:120
Rehabilitation
Administration; 706 KAR 1:010
School district finance; 702 KAR 3:030
Surplus property; 702 KAR 2:020
Vocational
Administration; 705 KAR 1:010
Adult education; 705 KAR 7:050
Fiscal management; 705 KAR 2:030
Instructional programs; 705 KAR 4:010; 705 KAR 4:200

ELECTIONS
(See also Voting)
Medical emergency special ballot; 31 KAR 1:030
Voting systems, electronic; 31 KAR 2:010; 31 KAR 2:010E

EMPLOYEES, STATE
Personnel Rules
Appeal; 101 KAR 1:130; 101 KAR 1:130E
Board procedure; 101 KAR 1:030; 101 KAR 1:030E
Compensation plan, pay for performance; 101 KAR 1:055; 101 KAR 1:055E
Eligibles; certification, selection; 101 KAR 1:080
Incentive programs; 101 KAR 1:150; 101 KAR 1:150E
Promotion, transfer, demotion, detail to special duty; 101 KAR 1:110; 101 KAR 1:110E
Separations, disciplinary actions; 101 KAR 1:120
Service; 101 KAR 1:140; 101 KAR 1:140E
Unclassified service; 101 KAR 1:200; 101 KAR 1:200E
Unclassified service employees, appeals; 101 KAR 1:210

ENERGY
Energy Production and Utilization
Alternate energy development fund; 115 KAR 2:010

ENGINEERS, LAND SURVEYORS
Code of professional practice, conduct; 201 KAR 18:140

ENVIRONMENTAL PROTECTION
(See Natural Resources)

EXAMINERS OF PSYCHOLOGISTS
Certificate of qualification, examinations, supervisions; 201 KAR 26:120

EXCEPTIONAL, HANDICAPPED EDUCATION
Admission policy, School for Blind; 707 KAR 1:110
Admission policy, School for Deaf; 707 KAR 1:100

FINANCE
Administration
Accounts; county, municipal; 200 KAR 8:020
Occupations and professions, various; Title 201

FIRE DEPARTMENTS
Aid; 815 KAR 45:015
Education incentive; 815 KAR 45:035

FISH AND WILDLIFE
Fish
Angling, limits, seasons; 301 KAR 1:055
Boats, motors; sizes; 301 KAR 1:015
Commercial fishing, gear; 301 KAR 1:145
Game
Deer hunting, Blue Grass Ordnance Depot; 301 KAR 2:113; 301 KAR 2:113E
Migratory birds, limits; 301 KAR 2:087; 301 KAR 2:087E
Migratory wildlife; 301 KAR 2:044; 301 KAR 2:044E
Pets, permits for; 301 KAR 2:080
Pits, blinds; restrictions; 301 KAR 2:055
Wild turkey; 301 KAR 2:140
Wildlife
Taxidermists, sales by; 301 KAR 4:040

GRAIN STORAGE
(See Agriculture)

HEALTH SERVICES
Certificate of Need, Licensure
Air ambulance services; 902 KAR 20:155
Alternative birth centers; 902 KAR 20:150
Certificate of need hearings; 902 KAR 20:127
Certificate of need process; 902 KAR 20:006
License, fee schedule; 902 KAR 20:008
Licensure hearings; 902 KAR 20:126
Repeal; 902 KAR 20:131
Confinement Facilities
Environmental health; 902 KAR 9:010
Emergency Medical Services
Equipment purchase; 902 KAR 14:020
Personnel funding assistance; 902 KAR 14:010
Food, Cosmetics
Fees; food plants, markets, warehouses, distributors; 902 KAR 45:110
Fees; food service establishments, hotels; 902 KAR 45:120
Health Boards, District
Repeal; 902 KAR 8:011
Maternal, Child Health
Metabolism, tests for errors; 902 KAR 4:030
Medical Laboratories
Licensure; application, fee; 902 KAR 11:010
Mental Health, Mental Retardation Boards
Allocation formula; 902 KAR 6:050
Mentally Ill, Mentally Retarded, Hospitalization of
Convalescent status; 902 KAR 12:040
Patients' rights; 902 KAR 12:020
Patient transfers; 902 KAR 12:050
Penal institutions; 902 KAR 12:030
Sanitation
On-site sewage disposal; 902 KAR 10:060; 902 KAR 10:060E
Social Security Act
Section 1122 review; 902 KAR 25:010

HIGHER EDUCATION ASSISTANCE AUTHORITY
KHEAA Grant Program
Authority, purpose; 11 KAR 5:010

HIGHER EDUCATION STUDENT LOAN CORPORATION
Guaranteed Student Loans, Loans to Parents
Applicants' qualifications; 15 KAR 1:010
Lending, purchasing policies; 15 KAR 1:020

HIGHWAYS
Right-of-Way
Advertising devices, limited access roadways; 603 KAR 4:035
Traffic
Highway classifications; 603 KAR 5:096

HOUSING, BUILDINGS, CONSTRUCTION
Building code; 815 KAR 7:012; 815 KAR 7:060
Fire departments; 815 KAR 45:015; 815 KAR 45:035
Mobile homes, RV's; 815 KAR 25:010
Plumbing; 815 KAR 20:010 to 815 KAR 20:191

HUMAN RESOURCES
Health Services
Certificate of need, licensure; 902 KAR 20:006 to 902 KAR 20:155
Confinement facilities; 902 KAR 9:010
Emergency medical services; 902 KAR 14:010; 902 KAR 14:020
Food, cosmetics; 902 KAR 45:110; 902 KAR 45:120
Health boards, district; 902 KAR 8:011
Maternal, child health; 902 KAR 4:030
Medical laboratories; 902 KAR 11:010
Mental health-mental retardation boards; 902 KAR 6:050
Mentally ill, retarded, hospitalization of; 902 KAR 12:020 to 902 KAR 12:050
Sanitation; 902 KAR 10:060; 902 KAR 10:060E
Social Security Act; 902 KAR 25:010
Long-term Care
Access, hours of visitation; 900 KAR 2:010
Appeals; 900 KAR 2:020
Citations, violations; 900 KAR 2:040
Rating systems; 900 KAR 2:030
Social Insurance
Food stamp program; 904 KAR 3:010 to 904 KAR 3:060
Medical assistance; 904 KAR 1:004 to 904 KAR 1:095
Public assistance; 904 KAR 2:006 to 904 KAR 2:115
Unemployment insurance; 904 KAR 5:121; 904 KAR 5:250
Social Services
Block grants; 905 KAR 3:010 to 905 KAR 3:040
Child welfare; 905 KAR 1:140
Day care; 905 KAR 2:010
Spouse abuse; 905 KAR 5:010; 905 KAR 5:020

INSTRUCTION, EDUCATION
Elementary, Secondary
Standards; 704 KAR 10:022
Instructional Services
Gifted, talented; programs for; 704 KAR 3:285
Repeal; 704 KAR 3:314
Required program of studies; 704 KAR 3:304
Kindergarten
Public programs; 704 KAR 5:050
Repeal; 704 KAR 5:010
Teacher Certification
English; 704 KAR 20:275
Kindergarten; 704 KAR 20:135
Repeal; 704 KAR 20:206

INSURANCE
Administration
Public hearings; 806 KAR 2:080
Tax, accounting for; reporting of; 806 KAR 2:095
Tax, fee for collecting; 806 KAR 2:090
Agents, Consultants, Solicitors, Adjusters
Examination retake limits; 806 KAR 9:070
Examinations, licenses, restrictions; 806 KAR 9:030
ID cards; 806 KAR 9:060
Repeal; 806 KAR 9:161

INSURANCE (Cont'd)
Contracts
Rate, form filing; 806 KAR 14:005
Taxes, premium must show; 806 KAR 14:080
Health Maintenance Organizations
Agents' licenses; 806 KAR 38:020; 806 KAR 38:070
Subscriber fee filings; 806 KAR 38:070
Investments
Custodial accounts; 806 KAR 7:090
Motor Vehicle Reparation (No-Fault)
Rejection form; 806 KAR 39:030
Premium Finance Companies
Financial requirements; 806 KAR 30:080
License procedures, application; 806 KAR 30:010
Prepaid Dental Plan Organizations
Agents' licenses; 806 KAR 43:010
Rates, Rating Organizations
Auto fleet, definition; 806 KAR 13:040
Auto insurance, Ky. plan; 806 KAR 13:070
Repeal; 806 KAR 13:006; 806 KAR 13:011; 806 KAR 13:016; 806 KAR 13:031; 806 KAR 13:051; 806 KAR 13:061; 806 KAR 13:081
Surplus Lines
Repeal; 806 KAR 10:015
Trade Practices, Frauds
Life insurance replacement; 806 KAR 12:080

JAILS
(See Corrections)

LABOR
Occupational Safety, Health
Dangerous conditions, refusal to work; 803 KAR 2:190
29 CFR Part 1910; 803 KAR 2:020
Unwarranted inspections, complaint; 803 KAR 2:090
Standards, Wages, Hours
Minimum wage, overtime; exclusions; 803 KAR 1:075

LEGISLATIVE RESEARCH
Block Grants
Public hearing, statewide notice; 1 KAR 4:010
Oversight procedures; 1 KAR 4:005
Capital Construction
Procedure, records; 1 KAR 3:005
Personal Service Contracts
Subcommittee; procedure, records; 1 KAR 2:010
Regulations
Form, codification, "Register;" 1 KAR 1:010

LIVESTOCK SANITATION
Contagious equine metritis; 302 KAR 20:130; 302 KAR 20:130E

MEDICAL LICENSURE
Fee schedule; 201 KAR 9:040
License renewal; 201 KAR 9:050
Licensing qualifications, approved schools; 201 KAR 9:020; 201 KAR 9:020E

MILITARY AFFAIRS
Disaster, Emergency Services
Rescue organizations; 106 KAR 1:030

MILK MARKETING
Stamps, coupons, redemption certificates; 302 KAR 25:045

MOBILE HOMES, RECREATIONAL VEHICLES
Mobile home standards; 815 KAR 25:010

MOTOR VEHICLE COMMISSION
Applications; 601 KAR 21:030; 601 KAR 21:030E
Auction dealer; 601 KAR 21:110; 601 KAR 21:110E
Dealer/salesperson; 601 KAR 21:050; 601 KAR 21:050E
Meetings; 601 KAR 21:010; 601 KAR 21:010E
Ownership, change in; 601 KAR 21:070; 601 KAR 21:070E
Procedures; 601 KAR 21:130; 601 KAR 21:130E
Repeal; 601 KAR 21:140; 601 KAR 21:140E
Trade names; 601 KAR 21:090; 601 KAR 21:090E

NATURAL RESOURCES, ENVIRONMENTAL PROTECTION
Environmental Protection
Air Pollution
Administrative procedures; 401 KAR 50:010 to 401 KAR 50:035
Existing source standards; 401 KAR 61:015 to 401 KAR 61:170
New sources; non-attainment areas; 401 KAR 51:017 to 401 KAR 51:055
New sources, standards for; 401 KAR 59:010 to 401 KAR 59:260
Performance, general standards; 401 KAR 63:031
Water; 401 KAR 5:050 to 401 KAR 5:085; 401 KAR 6:015
Waste management; 401 KAR 2:050 to 401 KAR 2:190
Natural Resources
Reclamation
General coal mining practices; 405 KAR 2:010
Inspection, enforcement; 405 KAR 12:010
Oil shale operations; 405 KAR 30:010 to 30:090
Provisions, general; 405 KAR 7:020; 405 KAR 7:050; 405 KAR 7:050E
Surface coal mining, two acres or less; 405 KAR 26:001; 405 KAR 26:001E
Surface mining standards; 405 KAR 16:060 to 405 KAR 16:220
Underground mining standards; 405 KAR 18:060 to 405 KAR 18:230
Unsuitable areas; 405 KAR 24:030

NURSING
Contact hours; 201 KAR 20:215
Continuing education; 201 KAR 20:205
Fees; applications, services; 201 KAR 20:240
Incentive licensure status; 201 KAR 20:095
License reinstatement; 201 KAR 20:225
License renewal; 201 KAR 20:230
Licensure, examination; 201 KAR 20:070
Licensure periods; 201 KAR 20:085
Provider approval; 201 KAR 20:220

OCCUPATIONAL SAFETY, HEALTH
(See Labor)

OCCUPATIONS, PROFESSIONS
Accountancy; 201 KAR 1:045 to 201 KAR 1:095
Architects; 201 KAR 19:025 to 201 KAR 19:085
Engineers, land surveyors; 201 KAR 18:140
Examiners of psychologists; 201 KAR 26:120
Medical licensure; 201 KAR 9:020 to 201 KAR 9:050
Nursing; 201 KAR 20:070 to 201 KAR 20:240
Pharmacy; 201 KAR 2:020 to 201 KAR 2:160
Physical therapy; 201 KAR 22:031; 201 KAR 22:130
Podiatry; 201 KAR 25:011 to 201 KAR 25:061
Proprietary education; 201 KAR 24:030
Real Estate Commission; 201 KAR 11:006 to 201 KAR 11:170
Social workers; 201 KAR 23:080; 201 KAR 23:110

OIL SHALE OPERATIONS
(See Reclamation)

PERSONAL SERVICE CONTRACTS
(See Legislative Research Commission)

PERSONNEL, DEPT. OF
(See also Employees, State)
Personnel rules; 101 KAR 1:030 to 101 KAR 1:210; 101 KAR 1:030E to 101 KAR 1:200E

PHARMACY
Aerosol-nebulizer delivery systems; 201 KAR 2:125
Bioinequivalence problems; 201 KAR 2:135
Controlled release tablets, capsules, injectables; 201 KAR 2:115
Controlled substances; Schedule I, II; 201 KAR 2:130
Drug manufacturers, wholesalers; permits; 201 KAR 2:105
Drug products, insufficient data; 201 KAR 2:110
Drug standard deficiencies; 201 KAR 2:140
Enteric coated oral dosage forms; 201 KAR 2:120
Examinations; 201 KAR 2:020
Interns, registration of; 201 KAR 2:040
Licenses, inactive status; 201 KAR 2:160
Licenses, permits; fees; 201 KAR 2:050
Repealer; 201 KAR 2:056
Suppositories, enemas; 201 KAR 2:155
Topical products; 201 KAR 2:150

PHYSICAL THERAPY
Board members per diem; 201 KAR 22:130
Licensing procedures; 201 KAR 22:031

PLUMBING
Cast iron soil pipe, fittings; 815 KAR 20:072
Definitions; 815 KAR 20:010
Installation permits; 815 KAR 20:050
Joints, connections; 815 KAR 20:100
Minimum fixture requirements; 815 KAR 20:191
Plumbing fixtures; 815 KAR 20:070
Soil, waste, vent systems; 815 KAR 20:090
Steel, wrought iron pipe; 815 KAR 20:074
Waste pipe size; 815 KAR 20:080
Water supply, distribution; 815 KAR 20:120
Water, waste piping material; 815 KAR 20:073

PODIATRY
Continuing education; 201 KAR 25:031
Examination; application, fees; 201 KAR 25:011
Hearings; denial, suspension, nonrenewal, revocation; 201 KAR 25:051
Licensing examination; 201 KAR 25:012
Reciprocity; 201 KAR 25:061
Residency, examination, results; 201 KAR 25:071

PROPRIETARY EDUCATION
Associate degree award standards; 201 KAR 24:030

PSYCHOLOGISTS
(See Examiners of Psychologists)

PUBLIC PROTECTION
Alcoholic Beverage Control
Advertising distilled spirits, wine; 804 KAR 1:100
Licensing; 804 KAR 4:230
Malt beverages; 804 KAR 11:010
Banking and Securities
Administration; 808 KAR 1:090
Credit unions; 808 KAR 3:050
Securities; 808 KAR 10:010 to 808 KAR 10:150

PUBLIC PROTECTION (Cont'd)
Housing, Buildings, Construction
Plumbing; 815 KAR 20:070 to 815 KAR 20:120
Fire departments; 815 KAR 45:035
Insurance
Administration; 806 KAR 2:080 to 806 KAR 2:095
Agents, consultants, solicitors, adjusters; 806 KAR 9:030 to 806 KAR 9:161
Contracts; 806 KAR 14:005; 806 KAR 14:080
Health maintenance organizations; 806 KAR 38:020
Investments; 806 KAR 7:090
Motor vehicle reparation (no-fault); 806 KAR 39:030
Premium finance companies; 806 KAR 30:010; 806 KAR 30:080
Prepaid dental plan organizations; 806 KAR 43:010
Rates, rating organizations; 806 KAR 13:006 to 806 KAR 13:081
Surplus lines; 806 KAR 10:015
Trade practices, frauds; 806 KAR 12:080
Labor
Occupational safety, health; 803 KAR 2:020 to 803 KAR 2:190
Standards, wages, hours; 803 KAR 1:075
Public Service Commission; 807 KAR 5:002 to 807 KAR 5:027

PUBLIC SERVICE COMMISSION
Gas pipeline safety; 807 KAR 5:027
Gas service; 807 KAR 5:026
General rules; 807 KAR 5:006
Organization; 807 KAR 5:002

REAL ESTATE COMMISSION
Authority, retention of; 201 KAR 11:110
Branch office; 201 KAR 11:070
Broker's license; 201 KAR 11:135
License cancellation; 201 KAR 11:030
License retention; 201 KAR 11:147
Private school approval; 201 KAR 11:170
Repealer; 201 KAR 11:006; 201 KAR 11:165
Statements, agreements; 201 KAR 11:095

RECLAMATION
General Coal Mining Practices
Privately-owned lands, liens; 405 KAR 2:010
Inspections, Enforcement
General provisions; 405 KAR 12:010
Oil Shale Operations
Backfilling, grading; 405 KAR 30:390
Data requirements; 405 KAR 30:160
Definitions; 405 KAR 30:010
Explosives; 405 KAR 30:250
General provisions; 405 KAR 30:020
Land unsuitable; 405 KAR 30:190
Permits; 405 KAR 30:180
Petition requirements; 405 KAR 30:200
Spoil materials, spent shale; 405 KAR 30:370
Waste management; 405 KAR 30:360
Water quality; 405 KAR 30:320
Provisions, General
Definitions, abbreviations; 405 KAR 7:020
Disposal sites; 405 KAR 7:050; 405 KAR 7:050E
Surface Mining Standards
Coal processing waste, disposal; 405 KAR 16:140
Excess spoil, disposal; 405 KAR 16:130
Hydrologic requirements; 405 KAR 16:060
Roads; 405 KAR 16:220
Sedimentation ponds; 405 KAR 16:090
Surface, groundwater monitoring; 405 KAR 16:110
Surface Mining, Two Acres or Less
Operations; 405 KAR 26:001; 405 KAR 26:001E
Underground Mining Standards
Coal processing waste, disposal; 405 KAR 18:140
Hydrologic requirements; 405 KAR 18:060
Roads; 405 KAR 18:230

RECLAMATION (Cont'd)
Sedimentation ponds; 405 KAR 18:090
Surface, groundwater monitoring; 405 KAR 18:110
Underground waste, excess spoil; 405 KAR 18:130
Unsuitable Areas
Process, criteria for designating; 405 KAR 24:030

REHABILITATION SERVICES, EDUCATION
Plan, 3 year interim; 706 KAR 1:010

RETIREMENT
Teachers
Absence, leave of; 102 KAR 1:038
Contributions, omitted; 102 KAR 1:125
Contributions, voluntary, tax-sheltered; 102 KAR 1:122
Employer data; 102 KAR 1:210
Interest, out-of-state service; 102 KAR 1:050
Service year, fractional; 102 KAR 1:038
Value of service performed; 102 KAR 1:200

REVENUE
Excise Tax, Selective
Alcoholic beverages; 103 KAR 40:035; 103 KAR 40:035E
Income Tax
Withholding; 103 KAR 18:110; 103 KAR 18:110E

SANITARY ENGINEERING
Water Supplies
Public, semi-public; 401 KAR 6:015

SCHOOL DISTRICT FINANCE
Insurance requirements; 702 KAR 3:030

SOCIAL INSURANCE
Food Stamp Program
Additional provisions; 904 KAR 3:050
Certification process; 904 KAR 3:035
Coupon issuance procedures; 904 KAR 3:045; 904 KAR 3:045E
Definitions; 904 KAR 3:010
Eligibility requirements; 904 KAR 3:020
Fraud hearings; 904 KAR 3:060
Medical Assistance
Dental services; 904 KAR 1:026
Inpatient hospital services; 904 KAR 1:012
Intermediate care facility services; amounts payable; 904 KAR 1:036; 904 KAR 1:036E
Intermediate care, skilled nursing; facility services; 904 KAR 1:037; 904 KAR 1:042
Medically needy; 904 KAR 1:004
Mental health center services, payments; 904 KAR 1:045; 904 KAR 1:045E
Nurse-midwife services; 904 KAR 1:100
Nurse-midwife services, payment; 904 KAR 1:095
Payments; 904 KAR 1:013
Pediatric services; 904 KAR 1:033
Public Assistance
AFDC, standards; 904 KAR 2:016
Aged, blind, disabled; supplemental programs; 904 KAR 2:015
HEAP, eligibility criteria; 904 KAR 2:115
Payments; 904 KAR 2:050; 904 KAR 2:050E
Summer energy program; 904 KAR 2:105; 904 KAR 2:105E
Technical requirements; 904 KAR 2:006
Unemployment Insurance
Recoupment, recovery; 904 KAR 5:250
Repealer; 904 KAR 5:121

SOCIAL SERVICES
Block Grants
Allocation formula; 905 KAR 3:040
Limitations; 905 KAR 3:010; 905 KAR 3:010E
Matching requirements; 905 KAR 3:030; 905 KAR 3:030E

SOCIAL SERVICES (Cont'd)
Technical eligibility; 905 KAR 3:020; 905 KAR 3:020E
Child Welfare
Foster care, adoption assistance; 905 KAR 1:140
Day Care
Facility standards; 905 KAR 2:010
Spouse Abuse Shelters, Crisis Centers
Standards; 905 KAR 5:010
Trust, agency funds; 905 KAR 5:020

SOCIAL WORKERS
Advertising; 201 KAR 23:110
Code of ethics; 201 KAR 23:080

STATE, DEPT. OF
Corporations; 30 KAR 1:030

SURPLUS PROPERTY, EDUCATION
Organizing, operating authority; 702 KAR 2:020

TAXATION
Excise, Selective; Alcoholic Beverages
Exemptions; 103 KAR 40:035; 103 KAR 40:035E
Income, Withholding
Methods; 103 KAR 18:110; 103 KAR 18:110E

TEACHERS' RETIREMENT
General retirement rules; 102 KAR 1:038 to 102 KAR 1:210

TRANSPORTATION
(See also Motor Vehicle Commission)
Aeronautics, Airport Zoning
Airport Zoning Commission; 602 KAR 50:010 to 602 KAR 50:120
Highways
Advertising devices; 603 KAR 4:035
Traffic; 603 KAR 5:096
Vehicle Regulation
Motor vehicle tax; 601 KAR 9:072; 601 KAR 9:072E

UNIVERSITY OF LOUISVILLE
Board of Trustees
Audit, annual; 740 KAR 1:020
Bond issuance; 740 KAR 1:100
Capital construction, carrying out; 740 KAR 1:080
Capital construction limitations; 740 KAR 1:090
Capital construction management; 740 KAR 1:050
Contracting; agricultural, engineering; 740 KAR 1:070
Contracting, capital construction; 740 KAR 1:060
Financial management; 740 KAR 1:110
Funds; acquisition, disbursement; 740 KAR 1:010
Property proceeds, disposal of; 740 KAR 1:040
Purchasing, inventory; 740 KAR 1:030

VEHICLE REGULATION
Motor Vehicle Tax
Highway use license, taxes, records; 601 KAR 9:072; 601 KAR 9:072E

VOCATIONAL EDUCATION
Administration
Annual program plan; 705 KAR 1:010
Adult Education
Adult plan; 705 KAR 7:050
Fiscal Management
Foundation Program units; 705 KAR 2:030
Instructional Programs
General standards; 705 KAR 4:010
Repealer; 705 KAR 4:200

VOTING
Absentee
Medical emergency special ballot; 31 KAR 1:030
Voting Systems
Electronic; 31 KAR 2:010; 31 KAR 2:010E

WASTE MANAGEMENT
Area plan, submission of; 401 KAR 2:185
Definitions, designation; 401 KAR 2:050
General standards; 401 KAR 2:063
Generator standards; 401 KAR 2:070
Interim status standards; 401 KAR 2:073
Permit process, application; 401 KAR 2:060
Solid waste designation; 401 KAR 2:190
Solid waste, general provisions; 401 KAR 2:180
Waste identification, listing; 401 KAR 2:075

WATER
KPDES Permitting Program
Application requirements; 401 KAR 5:060
Cabinet review procedures; 401 KAR 5:075
Criteria, standards; 401 KAR 5:080
Definitions, general provisions; 401 KAR 5:050
Discharge permit, variance fees; 401 KAR 5:085
Permit conditions; 401 KAR 5:065
Permit provisions; 401 KAR 5:070
Scope, applicability; 401 KAR 5:055