Administrative Register of Kentucky

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MEETING NOTICE: For information concerning the next meeting of the Administrative Regulation Review Subcommittee, call toll-free 1-800-372-7613, or 502-564-8100, ext. 535.

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

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

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

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Public Hearings Scheduled

CABINET FOR HUMAN RESOURCES

A public hearing has been scheduled on June 8, 1983, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Human Resources Building, Frankfort, Kentucky, on the following regulations:

904 KAR 1:020. Payment for drugs. [9 Ky.R. 1244]
904 KAR 1:190. Payments for alternative birth center services. [9 Ky.R. 1273]
904 KAR 1:200. Nurse anesthetists' services. [9 Ky.R. 1273]
904 KAR 1:210. Payments for nurse anesthetists' services. [9 Ky.R. 1274]

Emergency Regulations Now In Effect

(NOTE: Emergency regulations expire upon being repealed or replaced.)

JOHN Y. BROWN, JR. GOVERNOR
Executive Order 83-409
April 29, 1983

EMERGENCY REGULATIONS
Cabinet for Human Resources
Department for Social Insurance

WHEREAS, the Secretary of the Cabinet for Human Resources is responsible under the provisions of KRS 194.050(1) and KRS 205.520, for setting forth, by regulation, the policies of the Cabinet with regard to the provision of Medical Assistance; and

WHEREAS, the Secretary is mandated by Chapter 398, Part I, Sections 52a.2 of the 1982 Acts of the General Assembly to contain costs; and

WHEREAS, the Secretary has promulgated regulations on Health Insuring Organization and Prepaid Health Plan Services, and Payments for Health Insuring Organization and Prepaid Health Plan Services; and

WHEREAS, the Secretary has found that an emergency exists with respect to said regulations and that, therefore, said regulations should, pursuant to the provision of KRS 13.088(1), become effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.088(1), do hereby acknowledge the finding of an emergency by the Secretary of the Cabinet for Human Resources with respect to the filing of said regulations on Health Insuring Organization and Prepaid Health Plan Services, and Payments for Health Insuring Organization and Prepaid Health Plan Services, and hereby direct that said regulations shall become effective upon being filed with the Legislative Research Commission as provided in Chapter 13 of the Kentucky Revised Statutes.

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

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 1:120E. Health insuring organization and prepaid health plan services.

RELATES TO: KRS 205.520, 205.560
PURSUANT TO: KRS 13.082, 194.050, Chapter 398 of the 1982 Kentucky Acts
EFFECTIVE: May 4, 1983
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 and 205.560 empower the cabinet, by regulation, to designate and limit the scope of medical care which will be provided through the Medical Assistance Program to Kentucky's indigent citizenry. The 1982 Kentucky Acts, Chapter 398, Part I, Section 52a2 require the cabinet to implement a Medicaid cost containment plan. This regulation sets forth the coverage provisions which apply with regard to eligible recipients receiving medical assistance services pursuant to contracts between the cabinet and health insuring organizations (HIO's) or prepaid health plans (PHP's).

Section 1. Participation Requirements. Each health insuring organization (HIO) or prepaid health plan (PHP) desiring to participate must meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Social Insurance, Cabinet for Human Resources. A vendor number shall be assigned to the HIO or PHP by the department when participation status is achieved by award of a contract; such contract shall be pursuant to, and designed to be in compliance with, applicable federal regulations contained at 42 CFR 431 Subpart L. The terms "health insuring organization" and "prepaid health plan" shall have the same meanings shown in 42 CFR 431 Subpart L;

(2) The HIO or PHP must submit a comprehensive plan and proposed contract for providing services to all or a described class of recipients of medical assistance of a defined geographic area of the Commonwealth, through contracts with appropriately licensed providers of health services;

(3) The cabinet shall review the plan and proposed contract, and if in the cabinet's opinion services are offered at a lower cost than prevailing medical assistance vendor costs for the designated geographic area without any reduction of services or decrease in availability of services to recipients, the cabinet may submit to the federal Department of Health and Human Services a request for appropriate waivers, if any are needed, to obtain authorization for implementation of the proposed plan;

(4) Upon approval of the necessary waivers, if any, the cabinet may award a vendor contract to the HIO or PHP, or any qualifying intervening organization which has offered the same services at lower cost;

(5) The HIO or PHP shall enroll all eligible recipients identified to it, arrange for the provision of the medical assistance services specified in the contract, and directly reimburse participating providers and/or subcontractors for services provided in accordance with the terms and conditions specified in the contract;

(6) The cabinet and the HIO or PHP are responsible for acting in accordance with the terms of the contract. If the contract is terminated, the cabinet shall provide covered medical assistance services, and make reimbursement for those services, in the usual manner provided for by regulation; and

(7) The HIO or PHP must arrange for the provision of covered services to enrollees which are of the same quality as those services provided to other patients of those health care providers participating in the program. Participating health care providers must meet reasonable standards which at a minimum are equal to Kentucky Medical Assistance Program standards. Health care providers will be subject to removal from the program in accordance with the physician contract.

Section 2. Covered Services. The following named services shall be provided by the HIO or PHP to eligible recipients identified by the cabinet and enrolled by the HIO or PHP in its service delivery system, and shall not be provided to those recipients by the cabinet in its usual program of Medical Assistance in the geographic area covered by the HIO or PHP. If the service is not obtained in the manner prescribed in this regulation, no payment shall be made pursuant to this regulation to the extent the service is obtained in the covered area or contiguous counties in Kentucky and adjoining states, and the service shall be considered uncovered in such circumstances. If services are received in other counties, the Medicaid program shall cover such services in the usual manner (with appropriate adjustments in payments to the HIO or PHP).

(1) Hospital inpatient services shall be provided to the same extent such services are available to the general medical assistance recipient, except that up to an additional seven (7) days per admission may be provided at the HIO's or PHP's expense; hospital inpatient services shall be prior authorized by the HIO or PHP.

(2) Hospital outpatient services shall be provided to the same extent such services are available to the general medical assistance recipient. Hospital outpatient services shall be prior authorized; however, bona fide emergency services, if appropriate, need not be prior authorized.

(3) Primary physician services, defined as the medical services of a general practitioner, family practitioner, general internist, pediatrician, and physician clinic (limited to the four (4) preceding physician classifications), shall be provided to the same extent such services are available to the general medical assistance recipient. Obstetrical services meeting criteria specified by the cabinet may be considered primary physician services.

(4) Other physician services (non-primary physician services) shall be provided to the same extent such services are available to the general medical assistance recipient; other physician services shall be prior authorized by the HIO or PHP.

(5) Home health services shall be provided to the same extent such services are available to the general medical assistance recipient; home health services shall be prior authorized by the HIO or PHP.

(6) Other Title XIX (Medicaid) covered services may be provided by agreement between the cabinet and the HIO or PHP.

(7) Other related services not covered by Title XIX (Medicaid) may be provided by the HIO or PHP at the HIO or PHP's cost; no responsibility for provision of such services shall accrue to the cabinet.

Section 3. Determination of Eligibility and Assignment of Primary Health Provider. (1) Medical assistance eligibility shall be determined in accordance with appropriate Kentucky Administrative Regulations.

(2) Recipients shall be offered their choice of HIO or PHP primary health provider from a list provided by the HIO or PHP to the state. The recipient shall then be enrolled as the responsibility of the provider selected. Those recipients who do not make a choice will be assigned to a provider from the HIO or PHP provided list on a geographic basis to the extent reasonable. No provider may be assigned less than 300 recipients (or, for clinics, 400 recipients) nor more than 1,800 recipients, and the cabinet reserves the right to assign or re-assign recipients so as to ensure the upper limit is not exceeded. Within this context, "provider" means participating physician, physician clinic, primary care center, ambulatory care center, and access unit, with the upper limit applicable on an individual physician basis for each physician who is associated with the provider. The 1,800 enrollees per physician maximum can be exceeded if the physician can demonstrate that quality care will be delivered to all enrollees. The minimum of 300 enrollees per physician can be waived by HIO or PHP if it is determined by the HIO or PHP that it is in the best interest of the HIO or PHP program.

Section 4. Appeals. Each applicant or recipient covered under this regulation shall retain all rights of appeal to the cabinet specified in 904 KAR 2:055, Hearings and appeals.

Section 5. Limitations. This regulation shall not be applicable with regard to any eligible resident of the area who is not within the covered class specified. This regulation shall not be applicable with regard to any covered medical assistance service not specified in Section 2 of this regulation for any eligible recipient, even if within the class.

JOHN CUBINE, Commissioner
ADOPTED: April 27, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 4, 1983 at 3:15 p.m.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 1:130E. Payments for health insuring organizations and prepaid health plan services.

RELATES TO: KRS 205.520, 205.560
PURSUANT TO: KRS 13.082, 194.050, Chapter 398 of the 1982 Kentucky Acts
EFFECTIVE: May 4, 1983
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 and 205.560 empower the cabinet, by regulation, to designate and limit the scope of medical care which will be provided through the Medical Assistance Program to Kentucky's indigent citizenry. The 1982 Kentucky Acts, Chapter 398, Part I, Section 52a2 require the cabinet to implement a Medicaid cost containment plan. This regulation sets forth the method for determining amounts payable by the cabinet for covered medical assistance services provided by health insuring organizations (HIO's) and prepaid health plans (PHP's) pursuant to contract between the HIO or PHP and the cabinet.

Section 1. Coverage. The Cabinet for Human Resources shall reimburse a participating health insuring organization (HIO) or prepaid health plan (PHP) for services rendered to eligible medical assistance recipients who are identified to the HIO or PHP by the cabinet and enrolled by the HIO or PHP in its health coverage program. Reimbursement shall be only for those services the HIO or PHP may by regulation provide, and as set forth by contract between the cabinet and the HIO or PHP. No reimbursement shall be made for services rendered to ineligible individuals, or for eligible individuals not properly and appropriately enrolled in the HIO or PHP program of health care. All HIO or PHP subcontracts except those with physicians will require prior approval by the state. All subcontracts must provide that the Commonwealth of Kentucky shall not be liable to the subcontractor for its performance under the subcontract.

Section 2. Payment Amounts. (1) The HIO or PHP will be reimbursed on a capitated basis; capitation may vary by category of assistance, sex and age. The capitation amount(s) shall be based on statistics showing normal utilization and cost for the affected category(ies).

(2) Payments made on the capitation basis shall not exceed the cost of providing the same services (covered by the contract between the HIO or PHP and the cabinet) to a comparable medical assistance population on a fee-for-service basis.

(3) The additional seven (7) days of hospital inpatient coverage, and other uncovered services which may be provided, are not to be considered reimbursable services under the Medical Assistance Program, and the cost of such services shall not be included when computing the capitation fee.

Section 3. Reports and Data. The HIO or PHP, and all subsidiary providers or subcontractors, shall be required to retain and make available to the cabinet and to the Department of Health and Human Services all records pertaining to service delivery and amounts paid under the contract, and the HIO or PHP shall provide any and all information which the cabinet needs for the administration of the contract. Such information is expected to include utilization data, data relating to payment rates, summaries of complaints, summaries of amounts of third party recoveries, marketing and enrollment material and performance records, and similar or related data which may be necessary to determine the efficiency and effectiveness of this method of health care.

JOHN CUBINE, Commissioner
ADOPTED: April 27, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 4, 1983 at 3:15 p.m.

Amended Regulation Now in Effect

CABINET FOR HUMAN RESOURCES
As Amended

900 KAR 2:040. Citations and violations; criteria and specific acts.

RELATES TO: KRS 216.550, 216.555, 216.557, 216.560, 216.563, 216.565, 216.577
PURSUANT TO: KRS 13.082, 194.050, 216.555, 216.557, 216.563, 216.577
EFFECTIVE: May 4, 1983
NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to publish, after consultation with industry, professional and consumer groups, regulations setting forth the criteria and, where feasible, the specific acts which constitute Type A and B violations. This regulation is designed to set forth the criteria and, where feasible, the specific acts.

Section 1. Definitions. (1) "Active treatment" means daily participation in accordance with an individual plan of care and services, in activities, experiences, or therapy which are part of a professionally developed and supervised program of health, social and/or habilitative services offered by or procured by contract or other written agreement by the institution for its residents.

(2) "Activities of daily living" means activities of self-help (example: being able to feed, bathe and/or dress oneself), communication (example: being able to place phone calls, write letters and understanding instructions) and socialization (example: being able to shop, being considerate of others, working with others and participating in activities).

(3) "Administrator" means the administrator of a long term care facility.

(4) "Cabinet" means Cabinet for Human Resources.

(5) "Citation" means a written notification of violation

of regulations, standards and requirements as set forth by the cabinet pursuant to KRS 216.550 or the provisions of KRS 216.510 to 216.525, or applicable federal law and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act which violation has been classified a "Type A" or "Type B" violation pursuant to this regulation. *A citation is not a statement of deficiency.*

(6) "Developmental nursing services" means treatment of a person's developmental needs by designing interventions to modify the rate and/or direction of the individual's development especially in the areas of self-help skills, personal hygiene and sex education while also meeting his physical and medical needs.

(7) "Licensee" in the case of a licensee who is an individual means the individual and in the case of a licensee who is a corporation, partnership, or association means the corporation, partnership or association.

(8) "Long term care facility" means those health care facilities in the Commonwealth which are defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(9) "Nonambulatory" means unable to walk without assistance.

(10) "Nonmobile" means unable to move from place to place.

(11) "Protective device" means devices that are designed to protect a person from falling, to include side rails, safety *vest* [net] or safety belt.

(12) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body, and when used in the context of an intermediate care facility for the mentally retarded or developmentally disabled, means any pharmaceutical agent or any physical or mechanical device used to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, excluding only those devices used to provide support for the achievement of functional body position or proper balance (such as positioning chairs) and devices used for specific medical and surgical (as distinguished from behavorial) treatment.

(13) "Secretary" means Secretary for Human Resources.

(14) "Type A violation" means a violation by a long term care facility of the regulations, standards and requirements as set forth by the cabinet pursuant to KRS 216.550 *and 216.563* or the provisions of KRS 216.510 to 216.525, or applicable federal laws and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act which has been classified a "Type A" violation pursuant to this regulation. Said violation presents an imminent danger to any resident of a long term care facility and creates substantial risk that death or serious mental or physical harm will occur.

(15) "Type B violation" means a violation by a long term care facility of the regulations, standards and requirements as set forth by the cabinet pursuant to KRS 216.550 *and 216.563* or the provisions of KRS 216.510 to 216.525, or applicable federal law and regulations governing the certification of a long term care facility under Title 18 or 19 of the Social Security Act which has been classified a "Type B" violation pursuant to this regulation. Such violation presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger and which is categorized a "Type B" violation in this regulation.

Section 2. If, upon inspection of a long term care facility for quality of care rating or investigation of such facility, the cabinet finds that there exists a "Type A" or "Type B" violation at the facility, a citation shall be issued to the licensee. Said citation shall specify, in writing, the nature of the violation and specify statutory provisions or regulations alleged to have been violated.

Section 3. Type A Violations. (1) Upon the finding of a Type A violation, the cabinet shall advise the licensee, administrator or his designated representative, in writing, delivered as soon as practicable but no later than three (3) days, of the existence of said violation. Written notification may be delivered either by certified mail, return receipt requested, or by personal service of said notification upon the licensee, administrator or his designated representative. The time for correction of said violation shall begin upon the date written notification is received, or in the event the delivery is refused, upon the date of refusal.

(2) A "Type A" violation shall be abated or eliminated immediately upon written notification, unless a fixed period of time not to exceed ten (10) days, as determined by and within the discretion of the cabinet, is required for correction.

(3) A "Type A" violation is subject to a civil penalty in an amount not less than $1,000 nor more than $5,000 for each and every violation.

(4) Where a licensee has failed to correct a "Type A" violation within the time specified for correction, the cabinet shall assess the licensee a civil penalty in the amount of $500 for each day such deficiency *continues* [occurs] beyond the date specified for correction.

(5) Application for an extension of time may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents. No extension of time so granted shall exceed ten (10) days.

Section 4. (1) The criteria for the conditions which constitute "Type A" and "Type B" violations are:

(a) The uniform criteria established for rating quality of care in accordance with KRS 216.550;

(b) The provisions of KRS 216.515 to 216.525; and

(c) Applicable federal laws and regulations governing the certification of long term care facilities under Titles 18 and 19 of the Social Security Act.

(2) Any violation of the criteria set forth in subsection (1)(a) through (c) of this section which constitutes an imminent danger and substantial risk of death or serious mental or physical harm to a resident is classified a "Type A" violation.

(3) Any violation of the criteria set forth in subsection (1)(a) through (c) of this section which presents a direct or immediate relationship to the health, safety or security of any resident, but which does not create an imminent danger, is classified a "Type B" violation.

(4) The criteria are to be reviewed at least quarterly for the purpose of more clearly defining the specific acts or circumstances which constitute "Type A" and "Type B" violations.

Section *5.* [4.] (1) The following specific acts *or circumstances* in violation of the rating system developed pursuant to KRS 216.550, the provisions of KRS 216.510 to KRS 216.525, or the applicable federal laws and regulations governing certification of long term care facilities under Title 18 or 19 of the Social Security Act and which presents an imminent danger and substantial risk of *death or* serious physical or mental harm to a resident or patient of the long term care facility shall constitute "Type A" violations.

(a) In all long term care facilities.

1. Persons whose care needs exceed the capability of the facility to provide are knowingly admitted as residents or patients of the facility.

2. A physician is not available and not consulted in the case of serious accident or illness and such consultation and the response of the facility is not reflected within the resident's or patient's file.

3. Physical and pharmaceutical restraints are not used in accordance with the written instructions of the attending physician (and in cases of emergency, oral orders of the physician or nursing assessments made pursuant to KRS 314.011(5)(e) and 314.011(9)(e) are not subsequently reduced to writing), dated and placed within the resident's or patient's file.

4. Protective devices are not used in accordance with the written instructions of the attending physician, dated and within the patient's file.

5. Except in family care homes, the licensee has no evidence of a current inspection by the state fire marshal indicating the facility complies with the applicable provisions of the life safety code.

6. The licensee does not maintain a system of heating and cooling capable of attaining a minimum temperature of seventy-two (72) degrees which shall be provided in occupied areas in winter conditions and a maximum temperature of eighty-five (85) degrees which shall be provided in summer conditions, and in cases of emergency, the licensee does not take necessary precautions to protect the health of residents or patients.

7. In the event of an error in medication, the attending physician is not advised and the error is not recorded within the patient's or resident's file, and correction is not made within one (1) day of the date of discovery.

8. Prescription medication is not kept under lock.

9. The resident's or patient's daily diet provided by the facility does not comply with his medically prescribed special diet or dietary restriction (except for special days or celebrations medically approved), said special diet or dietary restriction is to appear in writing within the resident's or patient's file.

10. There is not at least *three (3)* [one (1)] days' supply of food in the facility at all times.

11. The care required by admitted residents retained within the facility [does not] exceeds the skill of the licensee to provide.

(b) Family care homes.

1. The licensee does not provide twenty-four (24) hour supervision and assistance to the residents.

2. The licensee is not that person directly responsible for the daily operation of the home and, when temporarily absent, the name of the individual to whom responsibility is delegated is not in writing and available to the cabinet.

[3. The care required by admitted residents retained within the facility shall not exceed the skill of the licensee to provide unless there appears within the resident's file:]

[a. A written statement from the resident's physician that to move the resident would be detrimental to his health; and]

[b. Written acknowledgment from responsible family members, the resident's legal guardian or committee that they are aware of the level of care needed but that they wish the resident to remain in the facility.]

3. [4.] When prescription medication is required to be administered by licensed personnel, arrangements are not made in writing to assure the use of said personnel.

4. [5.] Basements in which residents are housed are not constructed for sleeping quarters and have no outside door.

5. [6.] Residents are housed in rooms or detached buildings or enclosures which have not been inspected and approved by the cabinet.

6. [7.] The facility has admitted more than three (3) persons as residents.

(c) Personal care homes.

1. Residents of the facility are under the age of sixteen (16) years or are nonambulatory or nonmobile.

[2. The care required by admitted residents retained within the facility shall not exceed the skill of the licensee to provide unless there appears within the resident's file:]

[a. A written statement from his physician that to move the resident would be detrimental to his health; and]

[b. Written acknowledgment by responsible family members, or legal guardian or committee that they are aware of the higher degree of care required by the resident but that it is their wish that the resident remain in the facility.]

2. [3.] The number and classifications of personnel required at the facility are not based upon the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by 902 KAR 20:036 as determined in accordance with 902 KAR 20:036, Section 3(7)(f)2.

3. [4.] One (1) attendant is not awake and on duty on each floor of the facility at all times.

(d) Intermediate care facilities.

1. Physician services for medical emergencies are not available on a twenty-four (24) hour, seven (7) day a week basis.

2. A responsible staff member is not on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire and other emergencies.

3. The facility does not have personnel to meet the needs of the patients on a twenty-four (24) hour basis, the number and classification of personnel are not based upon the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by 902 KAR 20:051, in accordance with 902 KAR 20:051, Section 3(9)(c)2.

4. In the event the patient's condition exceeds the scope of services offered by the facility, the patient, upon written orders of a physician (except in cases of emergency) is not transferred promptly to a hospital or skilled nursing facility or services are not contracted for from other community services.

(e) Skilled nursing facilities.

1. The licensee does not provide the facility with a director of nursing servcies who is a registered nurse and who works full time *during the day and who does [not] devote full time to the nursing service of the facility.*

2. There is not at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible

for the nursing care of residents during her tour of duty; when a licensed practical nurse is on duty, no registered nurse is on call.

3. The licensee does not provide the personnel required to meet the needs of the patients on a twenty-four (24) hour a day basis, the number and classification of personnel so required are not based upon the number of patients, the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by 902 KAR 20:026, in accordance with 902 KAR 20:026, Section 3*(8)* [(7)](d)2.

4. In the event the patient's condition exceeds the scope of services offered by the facility, the patient, upon written orders of a physician (except in cases of emergency) is not transferred promptly to a hospital or services are not contracted for from other community resources.

(f) Nursing homes.

1. In the event the patient's condition exceeds the scope of services offered by the facility, the patient, upon written orders of a physician (except in cases of emergency) is not transferred promptly to a hospital or skilled nursing facility or services are not contracted for from other community resources.

2. A responsible staff member is not on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergency.

3. The health care of each patient is not under the supervision of a physician and the patient's records do not reflect the frequency of the physician's contacts with the patient.

4. The licensee does not provide the personnel required to meet the needs of the patients on a twenty-four (24) hour a day basis, the number and classification of personnel so required are not based upon the number of patients, the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by 902 KAR 20:048, in accordance with 902 KAR 20:048, Section 3(9)(c)2.

(g) Intermediate care facilities for the mentally retarded and developmentally disabled.

1. The facility does not maintain and does not follow a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a resident is determined to be lost, unaccounted for, or other unauthorized absence.

2. The facility admits as patients those persons who do not have a physicial or mental condition which requires developmental nursing services and an active treatment plan.

3. The licensee does not provide the personnel required to meet the needs of the patients on a twenty-four (24) hours a day basis. The number and classification required is not determined in a manner consistent with the requirements of 902 KAR 20:086, Section 3(11)(c) and in accordance with 902 KAR 20:086, Section 3(11)(f).

4. Physician services for medical emergencies are not available on a twenty-four (24) hour, seven (7) day a week basis.

5. A responsible staff member is not on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire and other emergencies.

6. In the event the patient's condition exceeds the scope of services offered by the facility, the patient, upon written orders of a physician (except in cases of emergency) is not transferred promptly to a hospital or skilled nursing facility or services are not contracted for from other community services.

(2) Pursuant to KRS 216.577, upon a finding that conditions within the facility which constitute the "Type A" violation have not been corrected within the time allowed by the cabinet for correction, the secretary shall take at least one (1) of the following actions with respect to the facility in addition to the issuance of a citation or the assessment of a civil penalty therefor.

(a) Institute proceedings to compel the facility's compliance with the requirement alleged to have been violated.

(b) Institute injunctive proceedings in circuit court to terminate the operation of the facility.

(c) Selectively transfer residents whose care needs are not being adequately met by the long term care facility.

Section *6.* [5.] Type B Violations. (1) A "Type B" violation shall be corrected within a time determined and approved by the Cabinet.

(2) A "Type B" violation is subject to a civil penalty in an amount not less than $100 nor more than $500, provided, however, that if such violation is corrected within the time specified by the Cabinet, no civil penalty shall be imposed.

(3) Where a licensee has failed to correct a "Type B" violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of $200 for each day the deficiency continues beyond the date specified for correction.

Section *7.* [6.] (1) Upon the finding of a "Type B" violation, the cabinet shall advise the licensee, administrator, or his designated representative in writing, delivered as soon as practicable, but no later than five (5) days, of the existence of said violation. Delivery shall be by certified mail, return receipt requested or by personal service to the licensee, administrator or his designated representative. The time within which the citation shall be corrected shall run from the date of receipt of written notification, or in the event said written notification is refused, from the date of refusal.

(2) The following specific acts *or circumstances* in violation of the rating system developed pursuant to KRS 216.550, the provisions of KRS 216.510 to 216.525, or the applicable federal laws and regulations governing certification of long term care facilities under Title 18 or 19 of the Social Security Act and which present a direct or immediate relationship to the health, safety or security or any resident but which do not create an imminent danger shall constitute "Type B" violations:

(a) In all long term care facilities.

1. The facility does not have a written fire control and evacuation plan with which those present and responsible for supervision are familiar.

2. The facility does not maintain an active program of pest control for all areas of its physical plant.

3. The facility does not serve at least three (3) meals per day with not more then fifteen (15) hours between the evening meal and breakfast *and such meals do not meet the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.* [unless otherwise medically contraindicated]. Between meal and bedtime snacks are not available, except where medically contraindicated.

4. The licensee knowingly violates the provision of KRS 216.515 and 216.520.

5. A complete medical record is not kept on each patient with all entries current, dated and signed.

6. Patients or residents requiring help in eating are not assisted.

7. Except for those facilities with an integrated heating, ventilation and air conditioning system (HVAC system) the licensee does not maintain the facility with screens on windows.

8. Except for family care homes, all food is not procured, stored, prepared, distributed, and served under sanitary conditions consistent with the Kentucky Food Service Code (902 KAR 45:005).

9. If a patient or resident refuses food served, nutritional substitutions are not offered; the consistency of the food is not prepared with reference to the ability of the individual patient to ingest.

10. The facility does not implement a regular program to prevent decubiti with emphasis on the following:

a. Procedures to maintain clean linen of the patient or resident. Clothes and linens are cleaned each time the bed or clothing is soiled. Rubber, plastic or other type of linen protectors are cleaned and completely covered to prevent direct contact with the patient.

b. Effort is made to assist the patient or resident in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient or resident cannot move himself, he has his position changed as often as necessary but not less than every two (2) hours.

11. The facility does not keep resident records and patient files confidential in a manner consistent with the requirements of the Kentucky Revised Statutes and administrative regulations.

12. Except in family care homes, cold water and hot water with a maximum temperature of 110 degrees Fahrenheit are not available for resident or patient use.

13. Meals do not correspond to the posted menus; *menus are not planned and posted one (1) week in advance; when changes in the menu are necessary, substitutions do not provide equal nutritive value.*

14. The facility does not have an administrator who is responsible for the operation of the facility and does not delegate such responsibility in his absence.

(b) Family care homes.

1. The facility does not have a written procedure for providing or obtaining emergency services.

2. Telephone service, if available in the area, is not accessible to the residents.

3. The facility does not have at least one (1) ABC rated fire extinguisher.

4. The facility does not have one (1) toilet for each six (6) persons in the home, which includes residents receiving care, the licensee and family.

5. Residents are not provided beds at least thirty-three (33) inches wide and six (6) feet long.

6. The facility does not comply with the provisions of 902 KAR 20:041, Section 4(4).

(c) Personal care homes.

1. The facility does not provide each resident with a bed equipped with springs, a clean mattress, a mattress cover, two (2) sheets and a pillow, together with bed covering as required for the patient's comfort.

2. The facility uses special purpose areas for the protection or confinement of a resident which are not approved by the cabinet with specification for the use of the area.

3. The facility does not maintain and implement a schedule of activities for groups and individuals, both within and without the facility.

4. The facility does not maintain a program of orientation and in-service training which shall include at least the following component parts:

a. Policies of the facility with regard to the performance of staff duties;

b. Services provided by the facility;

c. Recordkeeping procedures;

d. Procedures for reporting adult and child abuse, neglect and exploitation to the cabinet pursuant to KRS Chapter 209 and KRS 199.335;

e. Patient rights;

f. Procedures for proper application of physical restraints;

g. The aging process;

h. The emotional problems of illness;

i. The use of medication;

j. Therapeutic diets;

k. Activities of daily living; and

l. Procedures for maintaining a clean healthful and pleasant environment. A record shall be maintained of each training session indicating topics discussed and staff attendance, by name.

5. The facility does not provide encouragement and assistance, as necessary, to residents in achieving and maintaining good personal hygiene, including such assistance with:

a. Washing and bathing the body;

b. Shaving;

c. Washing, grooming and cutting hair;

d. Cleaning the mouth and teeth; and

e. Cleaning of finger and toe nails.

6. If any food service personnel are assigned duties outside the dietary department, the duties interfere with the sanitation, safety or time required for regular dietary assignments.

(d) Intermediate care facilities.

1. Each facility does not maintain a program of rehabilitative nursing care on a twenty-four (24) hour a day, seven (7) day a week basis, which program to include at least the following measures:

a. Positioning and turning;

b. Exercises;

c. Bowel and bladder training, when appropriate; and

d. Ambulation.

2. The facility does not provide each patient with a standard size bed equipped with springs, a clean mattress, mattress cover, two (2) sheets and a pillow and such bed covering as required to keep the patient comfortable.

3. The facility does not maintain a program to provide encouragement and assistance to patients to achieve and maintain good personal hygiene, including, as necessary, the following:

a. Washing and bathing the body;

b. Shaving;

c. Cleaning of finger and toe nails;

d. Cleaning of mouth and teeth; and

e. Washing, grooming and cutting of hair.

4. If any food service personnel are assigned duties outside the dietary department, the duties interfere with the sanitation, safety or time required for regular dietary assignments.

5. All employees do not receive orientation and in-service training to correspond to their respective jobs; nursing personnel do not participate in in-service training or continuing education at least quarterly.

[6. If any food service personnel are assigned duties outside the dietary department, the duties interfere with the

sanitation, safety or time required for regular dietary assignments.]

6. [7.] The facility does not maintain and implement a schedule of activities for groups and individuals, both within and without the facility.

(d) Nursing homes.

1. The facility does not include a program of rehabilitative nursing care on a twenty-four (24) hour a day, seven (7) day a week basis, which program to include at least the following measures:

a. Positioning and turning;
b. Exercises;
c. Bowel and bladder training, when appropriate; and
d. Ambulation.

2. Each patient shall be provided a standard size bed equipped with springs, a clean mattress, mattress cover, two (2) sheets and a pillow and such bed covering as required to keep the patient comfortable.

3. Each facility does not maintain a program to provide assistance to patients to achieve and maintain good personal hygiene, including, as necessary, the following:

a. Washing and bathing the body;
b. Shaving;
c. Cleaning of finger and toe nails;
d. Cleaning of mouth and teeth; and
e. Washing, grooming and cutting of hair.

4. If any food service personnel are assigned duties outside the dietary department, the duties interfere with the sanitation, safety or time required for regular dietary assignments.

5. The facility does not maintain and implement a schedule of activities for groups and individuals, both within and without the facility.

6. All employees do not receive orientation and in-service training to correspond to their respective jobs; nursing personnel do not participate in in-service training or continuing education at least quarterly.

(e) Skilled nursing facilities.

1. The facility does not maintain a program of rehabilitative nursing care on a twenty-four (24) hour a day, seven (7) day a week basis, which program to include at least the following measures:

a. Positioning and turning;
b. Exercises;
c. Bowel and bladder training, when appropriate; and
d. Ambulation.

2. The facility does not provide each patient with a standard size bed equipped with springs, a clean mattress, mattress cover, two (2) sheets and a pillow and such bed covering as required to keep the patient comfortable.

3. The facility does not maintain a program to provide assistance to patients to achieve and maintain good personal hygiene, including, as necessary, the following:

a. Washing and bathing the body;
b. Shaving;
c. Cleaning of finger and toe nails;
d. Cleaning of mouth and teeth; and
e. Washing, grooming and cutting of hair.

4. If any food service personnel are assigned duties outside the dietary department, the duties interfere with the sanitation, safety or time required for regular dietary assignments.

5. The facility does not maintain and implement a schedule of activities for groups and individuals, consistent with the requirements of 902 KAR 20:026, Section 4(9).

6. The licensee does not provide in-service training to its personnel in accordance with the requirements of 902 KAR 20:026, Section 3(8)(e).

(f) Intermediate care facilities for the mentally retarded and developmentally disabled.

1. Within one (1) month after the admission of each resident, the facility does not enter the following in the resident's record:

a. A report of the review and updating of the preadmission updating.
b. A prognosis that can be used in programming and placement;
c. A comprehensive evaluation and individual program plan designed by an interdisciplinary team.

2. The facility does not assure that:

a. Each resident who does not eliminate appropriately and independently must be in a regular systematic toilet training program and a record must be kept of his progress in the program; and
b. Any resident who is incontinent is bathed or cleaned immediately upon voiding or soiling unless specifically contraindicated by the training program, and all soiled items are changed.

3. The facility does not maintain and implement a schedule of activities for groups and individuals, consistent with requirements of 902 KAR 20:086, Section 4(9), (10).

4. The facility does not maintain an orientation and in-service training program which is consistent with the requirements of 902 KAR 20:086, Section 3(11)(n).

5. The facility does not provide each patient with a standard size bed equipped with springs, a clean mattress, mattress cover, two (2) sheets and a pillow and such bed covering as required to keep the patient comfortable. Rubber or other impervious sheets shall be placed over the mattress cover when necessary.

Section 8. Civil penalties assessed for "Type A" and "Type B" violations pursuant to KRS 216.557 shall be trebled when a licensee has received a citation for violating a requirement for which it has received a citation and paid a fine during the previous twelve (12) months.

Section 9. [7.] (1) In determining the amount of any penalty imposed for "Type A" and "Type B" violations, the cabinet shall consider at least the following factors:

(a) The gravity of the violation, including the probability that death or serious physical or mental harm to a resident will result or has resulted; the severity of the actual or potential harm, and the extent to which the provisions of the applicable statutes or regulations were violated;

(b) The reasonable diligence exercised by the licensee and efforts to correct violations;

(c) The number and type of previous violations committed by the licensee; and

(d) The amount of assessment necessary to insure immediate and continued compliance

(2) All fines collected by the cabinet shall be paid and administered in accordance with the requirements of KRS 216.560.

BUDDY H. ADAMS, Secretary
ADOPTED: February 15, 1983
RECEIVED BY LRC: February 15, 1983 at 4:30 p.m.

Amended After Hearing

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

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

401 KAR 6:015. Public and semipublic 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 *but excluding wells which have consistently demonstrated a variation in turbidity content exceeding the acceptable levels for potable water contained in these regulations.*

(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 in the property* [the homeowner], the use of which *supply* is limited to *family* 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 dissolve calcium carbonate as a film or scale.

(25) Definitions relating to trihalomethane surveillance are included in Section 8(13) of this regulation.

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]. *It shall be the responsibility of the management of every public water supply (PWS) to determine with the most cost-effective approach whether or where cross-connections exist and to take the necessary steps to immediately eliminate them. [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 *the proper number of* [five (5)] representative bacteriological samples *taken at the points specified in paragraph (a) of this subsection* 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 to the division by the most expedient methods. [Other methods of disinfection shall have the] Written approval of the cabinet is required for other disinfection methods.

(b) When emergency repairs due to breaks or ruptures in distribution system lines are required, public water systems may suspend [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 *the cabinet's* [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 (1) 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, or the most recent revision thereof.

(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 determination [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 *shall* [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 or 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 [by the department] is 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 *owner* [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 seasonally operated facilities shall notify the cabinet in writing in advance as to [of] the opening and closing dates covered by such sampling requirements. This frequency may be changed by the cabinet on the basis of subsequent surveys and conditions.*

(5) Forwarding samples. The *cabinet will, upon request,* [department shall] notify *any* [each public and semipublic] water supplier *of those certified commercial or* [as to which] state *laboratories to which* [laboratory] samples *may [shall]* [should] be sent for coliform density analysis. *The samples shall be forwarded to a certified laboratory 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 *agency responsible for the distribution* [supplier] of water in bottles [especially] prepared and sterilized in accordance with "Standard Methods." The water sample *shall* [must] be free of any disinfecting agent [immediately] at the time of its collection. *The bacteriological samples collected by a distributor of water for analysis in its own certified laboratory may use containers other than bottles if approved, in writing, by the cabinet.*

(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 subsection (2)(a) of this section, *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 is 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 subsection (2)(a) of this section, 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 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 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) of this regulation; 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 subsections (9) and (10) of this section 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 subsection (12) of this section 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 subsection (12) of this section, 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 subsection (9) or (10) of this section 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] of this regulation.

[(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 subsection (2)(a), (9), or (10) of this section.

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 in this regulation. *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 [*cabinet's*] [Department's] division [of Sanitary Engineering] and notify the public as directed in Section *11* [9] of this regulation.

(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 community 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 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 subsection (4) or (5) of this section (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 *11* [10] of this regulation. Monitoring *by the suppliers* 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] of this regulation.

(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) Where [If] the state allows levels of nitrate up to twenty (20) mg/l, public notification will [not] be required when [until] the MCL exceeds twenty (20) mg/l.

(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) ethane).	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 and 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 *Cabinet's* [Department's] Division of *Water* [Sanitary Engineering] and give notice to the public as specified *in* [with] Section *11* [10] of this regulation. Monitoring after public notification shall be at a frequency *determined* [designated] by the *cabinet* [department] and shall continue until the maximum con-

taminant 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 TTHMs produced in a given water containing excess free chlorine residuals [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 there is 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 or alter the water in 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 is [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 shall comply with [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 requiring a [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 shall [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 modification in its existing treatment process to achieve compliance with this regulation, the system shall obtain cabinet approval of a detailed plan for such modification. 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 shall [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 for total trihalomethanes.

(a) Applications for a variance from the maximum acceptable contaminant level (MCL) of .10 mg/l will be considered by the cabinet when the public water system making application presents evidence that:

1. The best treatment technology, treatment techniques or other means generally available for achieving compliance with the MCL are not available.

2. The best treatment method is not technically appropriate or technically feasible for that system.

3. Only marginal reduction in TTHM levels would be realized.

(b) The following technology, treatment techniques or other generally available means for achieving compliance with the MCL for total trihalomethanes are considered as the best available:

1. The use of chloramines as an alternate or supplemental disinfectant or oxidant;

2. Use of chlorine dioxide as an alternate or supplemental disinfectant or oxidant;

3. Improved clarification for THM precursor reduction;

4. Moving the point of chlorination to reduce TTHM formation and, where necessary, substituting for the use of chlorine as a preoxidant chloramines, chlorine dioxide or potassium permanganate; and

5. Use of powdered activated carbon for THM precursor or TTHM reduction seasonallly or intermittently at dosages not to exceed ten (10) mg/l on an annual average basis.

(c) The cabinet, upon making a finding that information submitted by the applicant system supports a decision that best treatment technology or techniques is not available, shall consider a variance under the following conditions:

1. Granting the variance will not result in an unreasonable risk to health.

2. Prescribes within one (1) year of the date the variance is granted a schedule for:

a. Implementation by the public water system of such quality control measures as the cabinet may require during the period ending on the date compliance with such requirement is established;

b. Increments of progress as related to examination of the technological, economic and reduction feasibility of one (1) or more of the following treatment methods:

(i) Introduction of off-line water storage for THM precursor reduction;

(ii) Aeration for TTHM reduction, where geographically and environmentally appropriate;

(iii) Introduction of clarification where not currently practiced;

(iv) Consideration of alternate sources of raw water; or

(v) Use of ozone as an alternate or supplement disinfectant or oxidant.

(d) In no event shall the cabinet require a system to install or use a treatment method not described in subsection (13)(b) or (c)2b of this section to obtain or maintain a variance from the TTHM rule or in connection with any variance compliance schedule.

[(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 different 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 *11* [10] of this regulation. 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 techniques 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 necessary 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 primary 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* [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] of this regulation.

(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 *requires a* [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 subsection (1) of this section 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 subsection (1)*(a)* of this section.

(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 subsection (1)*(b)4* [(d)] of this section, an affidavit from the county judge *executive of the county* in which the system is located that the notice was posted as prescribed in this regulation [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 semipublic 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 concering 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 *contaminants* standards set forth in this regulation, 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 semipublic *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 to assure that the "other contaminant" level does not exceed the concentration limit set forth in this regulation.

(5) Sampling point. Sample may be taken from a free flowing tap in the distribution system, except hydrogen sulfide (H_2S) shall be measured at the entry point to the distribution system.

(6) "Other Contaminant" maximum levels. The following lists the maximum *allowable* [permissive] levels of "other contaminants:"

Chemical Symbol	Name	Unit[2]	Maximum Level
[CCE	Carbon Chloroform Extract	mg/l	0.2]
Cl	Chloride	mg/l	250.*0*
—	Color[1]	Platinum Cobalt	15.*0*
Cu	Copper	mg/l	1.0
—	Corrosivity	—	Non-Corrosive
H_2S	Hydrogen Sulfide	mg/l	0.05
Fe	Iron	mg/l	0.3
Mn	Manganese	mg/l	0.05
[MBAS	Methylene Blue Active Substance	mg/l	0.5]
—	Odor[1]	Threshold Number	3.*0*
—	Phenols	mg/l	0.001
SO_4	Sulfate	mg/l	250.*0*
Zn	Zinc	mg/l	5.0
TDS	*Total Dissolved Solids*	*mg/l*	*500.0*

(1) Surface supplies only
(2) Milligrams per liter (mg/l) 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 surface water 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. For interpretive purposes the following table of indices shall be used.

Corrosivity Characteristics as Addressed by Indices

Corrosive Characteristics	*Langelier Index*	*Aggressive Index*
Highly aggressive	*< -2.0*	*< 10.0*
Moderately aggressive	*-2.0 to 0.0*	*10.0 to 12.0*
Non-aggressive	*> 0.0*	*> 12.0*

(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 are [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 including, [excluding] but not limited to:

1. Vinyl lined 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 14, 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: May 13, 1983 at 11:15 a.m.

CABINET FOR HUMAN RESOURCES
Amended After Hearing

900 KAR 2:010. Access and hours of visitation.

RELATES TO: KRS *216.537,* 216.540
PURSUANT TO: KRS 194.050, *216.540,* 216.545
NECESSITY AND FUNCTION: The Cabinet for Human Resources must set forth criteria pertaining to the ability of the administrator of a long term care facility to terminate visitation to that facility. This regulation is designed to give guidance to administrators under the provisions of KRS 216.540(4) and to comply with the requirements of KRS *216.537* [216.545(1)] concerning hours of visitation.

Section 1. Definitions. (1) "Administrator" means the administrator of a long term care facility subject to the provisions of the nursing home reform act, KRS *216.535* [216.540] et seq.
(2) "Cabinet" means Cabinet for Human Resources.
(3) "Designated representative" means *with respect to an administrator, a member of the long term care facility's existing staff who has been authorized in writing by the administrator to act in the absence of the administrator. In the case of the long term care ombudsman, "designated representative" means an individual, association or corporation authorized in writing to act as agent for certain specified purposes in behalf of the Cabinet for Human Resources* [an individual association or corporation authorized in writing to act as agent for certain specified purposes in behalf of a designating entity].
(4) "Long term care facility" means those health care facilities in the Commonwealth which are defined by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes and intermediate care facilities for the mentally retarded and developmentally disabled.
(5) "Resident" means any person admitted to a long term care facility.

Section 2. The administrator of a long term care facility or his designated representative may request those groups or individuals assured access during visiting hours under the provisions of KRS 216.540(1)(a) through (c) and those groups or individuals assured access under KRS 216.540(5) to terminate visitation upon the occurence of any one (1) of the following:
(1) A resident of the facility is physically or verbally abused by the individual or group;
(2) Any individual carries a firearm or other deadly weapon into the facility who is not a peace officer. For the purpose of this regulation, "deadly weapon" is defined as including, but not limited to, any weapon from which a shot, readily capable of producing death or serious physical injury, may be discharged, or a switchblade knife, gravity knife, billy, blackjack, or metal knuckles;
(3) Any individual or group commits a felony or misdemeanor while on the facility's premises; or
(4) Any individual or group is visibly under the influence of alcohol or controlled substances.

[Section 3. With respect to those groups or individuals assured access during visiting hours under the provisions of KRS 216.540(1)(a) through (c), the administrator of a long term care facility or his designated representative may request the termination of visitation upon the unwarranted interference with an employee of a facility during the performance of his duties within the scope of his employment.]

Section *3.* [4.] Those individuals assured access during visiting hours under the provisions of KRS 216.540(1)(b) and (c) have assured access to only the residents' dining area, living area, recreation area, lounge and areas open to the general public. Access to other areas within the facility may be gained after having received the permission of the administrator or his designated representative to enter the area in question.

Section *4.* [5.] Those groups or individuals assured access during visiting hours under the provisions of KRS 216.540(1)(a) through (c), except for family and legal guardians, including employees of agencies within the Cabinet duly appointed legal guardian by a court of law, and KRS 216.540(5) are:
(1) Upon entering the facility, to promptly advise the administrator or his designated representative of their presence; and
(2) Not to enter the living area of any resident without identifying themselves to the resident.
Failure to comply with the requirements of this *section* [regulation] may be grounds for requesting termination of visitation.

Section *5.* [6.] In order to satisfy the requirements for licensure by the state, a long term care facility shall establish daily visiting hours which, at a minimum, shall consist of six (6) hours between the hours of 8:00 a.m. and 5:00 p.m. local time, and two (2) hours between the hours of 5:00 p.m. and 8:00 p.m. local time. All visiting hours

are to be posted in a conspicuous place in the lobby, in the entrance way, or at the front door of the long term care facility.

Section 6. [7.] Administrators of long term care facilities may establish visiting hours in addition to those required pursuant to KRS 216.537.

Section 7. [8.] Representatives or employees of the Cabinet for Human Resources, including the long term care ombudsman or his designated representative [in the process of complaint resolution], any representative or employee of any local government entity having responsibility regarding residents of long term care facilities, and the family or legal guardian(s) of any individual resident shall have unrestricted access to and in all long term care facilities.

Section 8. [9.] Nothing in this regulation shall be deemed to prohibit or restrain the right of a resident of a long term care facility to deny visitation or to terminate a visit by any individual or group.

Section 9. [10.] Each administrator of a long term care facility shall appoint a member of the facility's existing staff to act as his designated representative present at the facility and authorized to act in the absence of the administrator.

Section 10. [11.] This regulation shall become part of the statement required by KRS 216.545(1) to be posted in the long term care facility.

BUDDY H. ADAMS, Secretary
ADOPTED: May 12, 1983
RECEIVED BY LRC: May 13, 1983 at 4 p.m.

Proposed Amendments

FINANCE AND ADMINISTRATION CABINET
Board of Accountancy
(Proposed Amendment)

201 KAR 1:095. Code of ethics.

RELATES TO: KRS 325.340
PURSUANT TO: KRS 325.240
NECESSITY AND FUNCTION: To promulgate administrative regulations of the State Board of Accountancy of Kentucky. This regulation pertains to the code of ethics.

Section 1. Rules of professional conduct governing the activities of all persons holding a permit to practice issued by this board shall be promulgated, incorporated herein by reference, as *adopted and* amended, and copies shall be furnished to any interested person upon request.

JAMES T. AHLER, Executive Director
ADOPTED: April 27, 1983
RECEIVED BY LRC: May 12, 1983 at 8:45 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: James T. Ahler, Executive Director, Kentucky State Board of Accountancy, 310 W. Liberty Street, Suite 315, Louisville, Kentucky 40202.

COMMERCE CABINET
Department of Agriculture
Division of Livestock Sanitation
(Proposed Amendment)

302 KAR 20:040. Entry into *Kentucky* [state].

RELATES TO: KRS Chapter 257
PURSUANT TO: KRS 13.082, Chapter 257
NECESSITY AND FUNCTION: To specify health requirements for admission of all livestock and animals into Kentucky.

Section 1. General Provisions. (1) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void thirty (30) days after issuance. A health certificate means a legible record covering the requirements of the state of destination accomplished on an official form of a standard size from the state of origin or an equivalent form of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, that is prepared and issued by a licensed, accredited veterinarian. An approved health certificate means an official health certificate approved by the chief livestock sanitary official of the state of origin.

(2) If animals are from tuberculosis accredited or brucellosis certified herds, health certificates shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.

Section 2. Cattle. (1) Brucellosis.

(a) *Negative results from an approved state-federal laboratory.* [No titer resulting from the standard tube test shall be accepted unless the animal or animals to be imported are negative to an official card test. Titer of 1-50 is accepted provided it is negative to the card test.]

(b) Official vaccinate. A female bovine animal vaccinated with an approved *reduced dosage* Brucella vaccine while *four (4)* [three (3)] through *ten (10)* [eight (8)] months of age permanently identified as a vaccinate. Date of birth and date of vaccination shall be recorded on the health certificate.

(c) Modified certified state. Thirty (30) day tube or card test of individual. Cattle six (6) months of age or older for dairy and breeding purposes, except official vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age may be imported into the Commonwealth of Kentucky provided they have passed a negative brucellosis tube or card test within thirty (30) days of date of entry, or originate directly and immediately from a certified herd provided the animals to be imported have qualified as negative members of the certified herd on the last annual certification test. [All cattle

entering on a tube or card test within thirty (30) days before entry shall be retested within forty-five (45) to 120 days after entry into the Commonwealth and shall be placed under quarantine pending negative retest results.]

(d) Bison six (6) months of age or older except official vaccinates twenty-four (24) months and under shall be negative to tube or card test within thirty (30) days of date of entry.

(e) State not modified certified: Permit shall be obtained prior to movement for all cattle for breeding and dairy purposes. These cattle must comply with federal regulations.

(2) Tuberculosis.

(a) Cattle six (6) months of age or older for dairy and breeding purposes shall be negative to an official tuberculin test within *sixty (60)* [thirty (30)] days of date of entry, or originate directly and immediately from:

1. Accredited herd, or
2. Eradicated free state.

(b) Cattle classified as suspects or cattle originating from a quarantined herd shall not be imported.

(c) Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

(d) Bison six (6) months of age or older negative within *sixty (60)* [thirty (30)] days of entry.

(3) Other disease requirements.

(a) Scabies. No cattle affected with or exposed to scabies or from an area quarantined because of scabies shall be imported, shipped, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(b) Ticks. No cattle infested with ticks (Margarophus Annulatus) or exposed to tick infestation shall be shipped, trailed, driven or otherwise moved into Kentucky for any purpose.

(c) No cattle from a state-federal tick quarantined area shall be shipped, trailed, driven or otherwise moved into Kentucky except in accordance with regulations of the Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture, and only then after first securing written permit from the chief livestock sanitary official or his authorized representative.

(d) Cattle infected with warts, ringworm or any infectious or communicable disease are not eligible for entry.

(4) Other movements.

(a) Feeder cattle. Feeder cattle as defined (non-pregnant heifers, steers and bulls under two (2) years of age) may be imported without brucellosis and tuberculosis tests from herds or areas not under quarantine if accompanied by approved health certificate or written permit or both for movement to a feed lot with valid feeding permit or to a state-federal approved stockyard or public stockyard for reconsignment to a valid *feed lot* [feeding permit] where they shall be maintained separately and apart from all dairy and breeding cattle. Feeder cattle from non-modified certified areas are not eligible for entry except from qualified herds.

(b) Slaughter cattle. Cattle consigned for immediate slaughter may be imported without official test for brucellosis or tuberculosis provided such cattle are consigned for immediate slaughter to a recognized slaughtering center under state, federal or municipal inspection or to an approved state-federal stockyard or federal stockyard for reconsignment directly to a recognized slaughtering center. Any animal or animals diverted enroute will be in violation of this regulation.

(c) Calves six (6) months of age and under. No restriction if accompanied by an approved health certificate provided such imports are in compliance to general provisions as specified. Exception: Calves from non-modified certified area must originate from a herd known not to be infected with brucellosis.

(5) Exhibition.

(a) Brucellosis.

1. Breeding cattle six (6) months of age or older, except official female brucellosis vaccinates of the beef breeds under twenty-four (24) months of age and dairy breeds under twenty (20) months of age, shall be negative to an official tube or card test for brucellosis within thirty (30) days of entry or originate directly and immediately from a certified herd, provided cattle for exhibition have qualified as negative members of certified herd on last annual certification test.

2. Steers and heifers for carcass classes shall be positively identified but shall not be required to be brucellosis tested if accompanied by an approved health certificate.

(b) Tuberculosis.

1. Cattle six (6) months of age or older shall be negative to an official tuberculin test within *sixty (60)* [thirty (30)] days of entry or originate directly and immediately from an accredited herd or a tuberculosis eradicated free state.

2. Reciprocal agreements with adjoining states may be effective in lieu of specific requirements.

3. Steers and heifers for carcass classes shall be positively identified but shall not be required to be tuberculosis tested if accompanied by approved health certificate.

Section 3. Horses. (1) All horses entering Kentucky, except unweaned foals, and other equidae, for any purpose other than for immediate slaughter shall be accompanied by an official health certificate of state of origin issued by a state, federal or licensed accredited veterinarian and such certificate shall include:

(a) Veterinarian's statement that examination was made within the past thirty (30) days and revealed the animal to be free from symptoms of any infectious disease or exposure thereto, and

(b) Have attached thereto a copy of certificate of report from a laboratory approved by the USDA showing the animal(s) to be negative to AGID test for equine infectious anemia within the past six (6) months.

(2) All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within past six (6) months. Only horses offered for sale for slaughter only shall be exempt from this requirement.

(3) All horses and other equidae offered for entry into fairgrounds, livestock showgrounds, public boarding stables and for trail rides or racing shall be negative to test for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(4) All reactors to AGID test for equine infectious anemia shall be officially, permanently identified using numbers and letter 61A with a brand on left neck region.

(5) All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are prevalent. These animals will also be kept at least two hundred (200) yards from all other horses.

(6) The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(7) All horses in a herd in which a reactor is found shall be quarantined pending a negative test of all horses.

Section 4. Swine. (1) Specific diseases.

(a) Garbage fed swine. Swine fed raw garbage shall not be imported for any purpose. Swine fed properly cooked garbage are eligible for import directly to a state or federal inspected slaughtering establishment only.

(b) Brucellosis. All swine for breeding purposes six (6) months of age or older shall be negative to an official test for brucellosis within thirty (30) days of date of entry or originate directly and immediately from a validated herd provided animals to be imported were tested on last validation herd test. No agglutination in dilution of 1-50 shall be accepted unless the individual or individuals to be imported are negative to an official card test.

(c) Hog cholera.

1. No treatment required or allowed.

2. Permit. A permit is required from the state veterinarian's office before entry on breeding and feeding swine in the event of an emergency disease outbreak.

3. All feeding and breeding swine to be held in isolation and under quarantine for a minimum of thirty (30) days.

4. All swine for feeding and breeding purposes must be identified by ear tag or ear notch to the farm of origin.

(d) Pseudorabies. All swine imported for feeding and breeding purposes six (6) months of age or older shall be negative to the serum neutralization test within thirty (30) days of date of entry and originate from a farm free of pseudorabies for the past six (6) months as evidenced on the health certificate.

(2) Other movements.

(a) Registered feedlots. Not applicable.

(b) Salesyards and markets. No vaccination or treatment if consigned to recognized slaughtering center or to public stockyard or approved stockyard for reconsignment to recognized slaughtering center within ten (10) days of date of entry.

(c) Farm premises. Identity to the farm of origin must be maintained on all breeding and feeding swine imported from farm premises to an approved stockyard or farm of destination.

(d) Exhibition. Approved health certificate in last thirty (30) days of entry. See Section 4(1)(b), (c), (d).

Section 5. Sheep. (1) Specific diseases.

(a) Scrapie. No sheep or lambs shall be imported that originated from or are known to be exposed to flocks under surveillance for scrapie.

(b) Scabies. All sheep or lambs for breeding or feeding purposes imported from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies eradicated free area.

(c) Sore mouth. Any sheep or lambs showing lesions of contagious exythma shall not be imported.

(2) Other movements.

(a) Apparently healthy sheep and lambs may be imported into Kentucky for immediate slaughter when consigned directly to a recognized slaughtering center approved by the chief livestock sanitary official of Kentucky or to a public stockyard[s], a state-federal approved stockyard, concentration point or public stockyard when reconsigned from that point direct to immediate slaughter.

(b) Exhibitions and shows. All sheep and lambs for exhibition shall be in compliance to requirements noted above as specified for sheep and in addition shall be identified individually by ear tatoo or ear tag. Such identification shall be entered on an approved health certificate.

Section 6. Goats. (1) Specific diseases.

(a) Scabies. All goats must originate from a scab free area.

(b) Scrapie. No goats from a herd under surveillance for scrapie or those that are known to have been exposed to or that are progeny shall be imported.

(2) Exhibition and sale.

(a) Brucellosis. Animals six (6) months of age or older shall have negative tube or card test in last thirty (30) days or originate directly and immediately from a certified herd.

(b) Tuberculosis. Animals six (6) months of age or older shall have negative tuberculin test in last *sixty (60)* [thirty (30)] days or originate directly and immediately from accredited herd.

Section 7. Poultry. (1) Specific diseases.

[(a) Poultry five (5) months of age or older for breeding purposes must have standard intradermic tuberculin test within thirty (30) days of entry.]

(a) [(b)] Pullorum. Negative agglutination test within thirty (30) days of date of entry.

(b) [(c)] Chicks and hatching eggs shall originate from a flock under the National Poultry and/or National Turkey Improvement Plan.

(2) *Entry and/or* exhibition. Approved health certificate stating compliance with above requirements and in addition thereto all poultry shall be inspected prior to exhibition for evidence of any infectious, contagious or communicable disease of poultry. Any evidence of any communicable, infectious or contagious disease shall be justification for the elimination of said poultry from exhibition and/or sale at no expense to the Commonwealth of Kentucky.

Section 8. Psittacine Birds. As regulated by Title 9, Part 82, Code of Federal Regulations, filed herein by reference.

Section 9. Dogs and Cats. (1) *All dogs over four (4) months of age for sale or exhibition shall be accompanied by a health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment if killed virus vaccine is used. Any vaccine approved for three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.); qualifies dog if it is one (1) year of age when vaccinated: provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish an approved health certificate.* [Dogs: All dogs to be imported into the Commonwealth of Kentucky for any purpose shall be admitted only when accompanied by health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not more than twelve (12) months prior to date of entry if killed virus vaccine is used, not more than

two (2) years prior to date of entry if modified live virus vaccine is used or any vaccine approved for three (3) years immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.); provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish a health certificate.]

(2) *All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Bureau for Health Services, Kentucky Cabinet for Human Resources.* [Cats: All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not more than twelve (12) months prior to date of entry with a vaccine approved by the state veterinarian and the Bureau for Health Services, Kentucky Department for Human Resources.]

Section 10. Furbearing Animals, Domesticated Wild Animals and Zoo Animals. Wild and semi-wild animals under domestication or in custody may be imported into the state if accompanied by a permit and health certificate and provided that a report of the number of animals is made to the chief livestock sanitary official of Kentucky within ten (10) days and that immediate opportunity for examination is afforded a representative of the Division of Livestock Sanitation, Kentucky Department of Agriculture, to determine the health status of such animal or animals and the imports are presented for the administration of all laboratory procedures and tests deemed necessary by the chief livestock sanitary official of Kentucky. Transportation permit required on wild, game animals, birds and fish. Permit to be obtained from Department of Fish and Wildlife Resources, *Arnold L. Mitchell Building, No. 1 Game Farm Road,* [Capital Plaza Tower,] Frankfort, Kentucky 40601 (telephone 502-564-*3400* [4406]).

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: May 9, 1983
RECEIVED BY LRC: May 9, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alben W. Barkley, II, Commissioner, Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Agriculture
Division of Livestock Sanitation
(Proposed Amendment)

302 KAR 20:090. Biological.

RELATES TO: KRS Chapter 257
PURSUANT TO: KRS 13.082, Chapter 257
NECESSITY AND FUNCTION: To prevent material capable of producing disease from being put in the hands of untrained and unlicensed people, thereby, protecting our livestock population.

Section 1. No corporation, company, partnership, organization or individual shall ship, transport or cause to be imported into the Commonwealth of Kentucky any live pathogenetic bacteria, virus or disease producing agents of animal origin unless a permit is secured in advance from the department and/or Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. All biologics for immunization or treatment shall be approved by the director of Animal and Plant Health Inspection Service, Veterinary Services, United States Department of Agriculture. No live or modified live viruses, vaccines, antigens or disease producing organisms shall be sold to any person, firm or corporation in the Commonwealth of Kentucky unless such person, firm or corporation shall be a licensed veterinarian, druggist, firm or corporation authorized under Kentucky Revised Statutes to receive, hold and sell biologics. [In no event shall any live viruses, modified viruses, vaccines, antigens or any other disease producing organism be administered to any livestock except by a licensed veterinarian.]

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: May 9, 1983
RECEIVED BY LRC: May 9, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alben W. Barkley, II, Commissioner, Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

702 KAR 5:020. Program cost calculation.

RELATES TO: KRS 157.370 [, 157A.090]
PURSUANT TO: KRS 13.082, 156.070, *157.370* [165.130, 156.160]
NECESSITY AND FUNCTION: *KRS 157.370 sets forth the basic statutory framework by which local school districts are to be reimbursed from the Foundation Program for transportation costs. This regulation implements and interprets, where necessary, those statutory revisions, in order* to set out the method and steps for completion of the calculation of the districts' pupil transportation program costs [in order to determine the amount of pupil transportation reimbursement that each district is to receive under the Minimum Foundation Program].

Section 1. A county district's net transported pupil density shall be determined by dividing the district's net ADA for pupils transported one (1) mile or more to school by the number of square miles in this district's primarily served area.

Section 2. The net ADA for *a county* [this] district's pupils transported one (1) mile or more to school shall be determined from the *local* superintendent's annual statistical report for the district.

Section 3. The number of square miles in the primarily served area of *a county* [the] district shall be determined by deducting from the total square mile area of the county, the square mile area of any independent district located within the county, and by deducting the square mile area of any portion of the district located more than one (1) mile from one (1) of the district's pupil transportation vehicle routes.

Section 4. A county district's gross transported pupil density shall be used in constructing a graph required by KRS 157.370. This density shall be determined by dividing the district's gross ADA for all pupils transported as shown on the superintendent's annual statistical report for the district by the number of square miles in the district's primarily served area.

Section 5. An independent district's net transported pupil density shall be determined by dividing the district's net ADA for pupils transported one (1) mile or more to school by the number of square miles in this district's primarily served area.

Section 6. The net ADA for *an independent* [this] district's pupils transported one (1) mile or more shall be determined from the *local* superintendent's annual statistical report for the district.

Section 7. The number of square miles in the primarily served area of *an independent* [the] district shall be determined by deducting from the total square mile area of the district, the square mile area of any portions of the district that are located more than one (1) mile from one (1) of the district's pupil transportation vehicle routes.

Section 8. An independent district's gross transported pupil density shall be used in constructing the graph required by KRS 157.370. This density shall be determined by dividing the district's gross ADA for all pupils transported as shown on the *local* superintendent's annual statistical report for the district by the number of square miles in the district's primarily served area.

Section 9. In calculating the amount to be added each year to the district's pupil transportation program cost for pupil transportation vehicle depreciation, only those wholly district-owned vehicles shown on the district's pupil transportation *school bus* [vehicle] inventory for each year as having a rated pupil seating capacity of *sixteen (16)* [twelve (12)] or more and as being less than nine (9) model years old shall be included. *School buses* [Pupil transportation vehicles] used exclusively for activity purposes or that are not properly equipped and maintained in safe and satisfactory condition for the transportation of pupils shall not be included in the district's pupil transportation vehicle depreciation schedule.

[Section 10. The rated seating capacity for all vehicles used for pupil transportation shall be determined by using the same amount of seating space per pupil that is used to determine the rated pupil seating capacity of conventional school buses.]

Section *10.* [11.] In calculating the depreciation cost for a [completely] new *school bus* [pupil transportation vehicle] purchased by a district during any school year, the model year of the vehicle chassis shall be considered to be the model year of the vehicle with the exception that, for inventory and calculation purposes by the Division of Pupil Transportation, all *school buses* [pupil transportation vehicles] purchased new and shown by the district as having been added to its *school bus* [pupil transportation vehicle] inventory during the school year shall be considered to be of the same model year regardless of when said vehicles were delivered during that school year or manufacturer's model year designation. The model year of all said vehicles to be the same as the year shown on the cover of the booklet containing the Kentucky Minimum Specifications for School Buses; Revised, *as referenced by 702 KAR 5:060,* that were in effect during the first half of the school year in which said vehicle was added to the district's inventory.

Section *11.* [12.] The annual depreciation cost for any *school bus* [pupil transportation vehicle] shown on the district's annual school *bus* [transportation vehicle] inventory that is within the eight (8) year depreciation schedule shall not be calculated unless said vehicle is maintained by the district in a safe and satisfactory condition, *as evidenced by safety inspections performed pursuant to 702 KAR 5:030,* for transporting pupils to and from school.

Section *12.* [13.] The amount to be added each school year to the district's pupil transportation program cost for pupil transportation vehicle depreciation shall be determined by:

(1) (a) Multiplying the number of qualifying vehicles of the same rated pupil seating capacity purchased new in any school year by one-eighth (1/8) of the bid price of a *school bus* [pupil transportation vehicle] of the same rated pupil seating capacity purchased through the state bid price contract plan in the same school year [when an average vehicle delivery cost of forty dollars ($40) has been added to said bid price]. The annual depreciation amount for each *school bus* [pupil transportation vehicle] shall be calculated to the nearest whole dollar.

(b) Starting with the 1971-72 school year transportation cost calculation, a district that purchases a new *school bus* [pupil transportation vehicle] during any school year of a rated pupil seating capacity [or type that was not purchased by any district through the state bid price contract plan during that same school year] shall furnish the Division of Pupil Transportation with certain qualifying information including the price paid for said vehicle from which said division shall establish a reasonable price to be used for the purpose of calculating the annual depreciation on said vehicles over an eight (8) year period based on the number of seats and other major cost factors.

(c) The amount calculated for the depreciation for all qualifying *school buses* [vehicles] on the district's inventory shall be determined in the manner prescribed in subsection (1) of this section. The model year of the vehicle chassis shall determine the number of years that these vehicles remain within the eight (8) year depreciation schedule except where exceptions are shown in other sections of this regulation.

(2) Whenever a district purchases a used *school bus* [pupil transportation vehicle] of a model year that would place it within the eight (8) year depreciation schedule and which meets the safety requirements of the Kentucky Minimum Specifications for School Buses; Revised, for the model year in which the vehicle was manufactured, certain qualifying information and the price paid for said vehicle shall be reported to the Division of Pupil Transportation.

Depreciation of said vehicle shall be calculated for each school year for which said vehicle remains within the eight (8) year depreciation schedule by adding one-eighth (1/8) of the price paid for said vehicle to the district's pupil transportation vehicle depreciation schedule. In no case shall this amount exceed the annual amount of depreciation calculated for a vehicle of the same model year and rated pupil seating capacity category that was purchased new through the state bid price contract plan. For inventory and calculation purposes by the Division of Pupil Transportation, the model year of the older component, either chassis or body, shall be considered to be the model year of the vehicle and shall determine the number of years that said used vehicle remains within the eight (8) year depreciation schedule.

(3) Whenever a district purchases a new school bus chassis and has its district-owned used school bus body installed thereon or purchases a new school bus body and has it installed on its district-owned used school bus chassis, certain qualifying information and the price paid for said new component shall be reported to the Division of Pupil Transportation. For inventory and calculation purposes by the Division of Pupil Transportation, the model year of such vehicle shall be considered to be the model year of the older component, chassis or body, and the depreciation shall be calculated for the number of years the vehicle remains within the eight (8) year depreciation schedule on the same basis as a new vehicle of the same rated pupil seating capacity purchased through the state bid price contract plan during that particular model year.

(4) The amounts calculated for *school bus* [pupil transportation vehicle] depreciation under subsections (1), (2), and (3) of this section shall be added together to make up the district's annual cost for pupil transportation vehicle depreciation.

Section *13.* [14.] The final step in the district's tentative cost calculation shall be made by multiplying the district's graph adjusted cost per pupil per day by the aggregate number of days attendance of the district's pupils transported one (1) mile or more to school.

Section *14.* [15.] The graph adjusted pupil transportation cost per pupil per day shall be determined by applying the district's transported pupil density of the graph as provided in KRS 157.370.

Section *15.* [16.] The aggregate number of days the district's pupils were transported one (1) mile or more to school shall be determined by multiplying the average daily attendance of these pupils by the number of days the district's schools were in session up to the number required under the foundation program.

Section *16.* [17.] When the net average daily attendance of foundation transported pupils in any district for the first two (2) months of the current school year is greater than it was for the first two (2) months of the previous school year, the district is eligible to apply for an adjustment for the current year increase.

Section *17.* [18.] Application for an adjustment increase or a report on the absence of an increase shall be made by each district board prior to December 1.

Section *18.* [19.] The net average daily attendance of the district's foundation transported pupils computed for the first two (2) months of the previous school year shall be compared with the same two (2) month period of the current school year and the percent of growth determined.

Section *19.* [20.] The district's tentative formula adjusted cost for pupil transportation shall then be multiplied by the percent of growth to determine the additional cost to be added as a current year increase.

Section *20.* [21.] The calculated amount for current year increase shall then be added to the district's tentative pupil transportation cost calculation to make up the district's final formula adjusted cost for pupil transportation for the current school year.

Section *21.* [22.] During the school year in which any independent school district starts to provide pupil transportation when said district's schools open, said district's adjustment for current year growth shall be calculated by multiplying said district's net average daily attendance of foundation transported pupils for the first two (2) months that said district's schools are in session by the average calculated cost per pupil per year for all independent school districts as shown in the pupil transportation tentative cost calculations bulletin dated for that school year. The amount calculated for growth shall be the only pupil transportation program cost considered for Minimum Foundation Program allotment purposes for said district for that school year.

Section *22.* [23.] During the school year in which any independent school district starts to provide pupil transportation after said district's schools have been in session for two (2) months or more, there shall be no adjustment calculated for current year growth for said district for Minimum Foundation Program allotment purposes for that school year.

Section *23.* [24.] During any school year following the school year in which any independent school district started to provide pupil transportation that the average daily attendance for the first two (2) months that said district's schools were in session shows a growth in foundation program transported pupils of 100 percent or less, the adjustment for current year growth shall be calculated as provided in Sections *16,* 17, 18, 19, *and* 20 [and 21] of this regulation. If said district's growth in foundation transported pupils for the first two (2) months shows a growth of more than 100 percent, the adjustment for current year growth shall be calculated first as provided in Sections *16,* 17, 18, 19, *and* 20 [and 21] of this regulation; and secondly, by multiplying the net increase in the average daily attendance of foundation transported pupils by the average calculated cost per pupil per year for all independent districts as shown in the pupil transportation tentative cost calculation bulletin dated for that school year. The lesser of the two (2) amounts shall then be added to said district's pupil transportation tentative cost calculation for Minimum Foundation Program allotment purposes.

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: May 10, 1983
RECEIVED BY LRC: May 13, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

702 KAR 5:060. Buses; specifications and purchases.

RELATES TO: KRS 156.152, 156.153, 156.154
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: *KRS 156.152 to 156.154 set forth methods and procedures for cooperative, centralized purchasing of school buses by local boards of education through contracts established through the Department of Education and the Finance Cabinet. This regulation implements that system and establishes* [To establish guidelines and] procedures for the cooperative purchase of school buses by Kentucky's school districts.

Section 1. The Division of Pupil Transportation, Department of Education, shall prepare Kentucky minimum specifications for school buses for approval by the State Board of Education and shall keep said specifications up-to-date by revision whenever experience, model changes, manufacturing techniques, and product improvement indicate that revision and up-dating is necessary.

Section 2. The State Board of Education shall approve *appropriate* [the] Kentucky Minimum Specifications for School Buses, Revised, as a separate document *and as warranted.* Copies of this document containing the detailed specifications for the separate parts of new school buses and the specifications that pertain to used school buses shall be kept on file in the Division of Pupil Transportation, Department of Education. This document shall be made available in reasonable numbers to those persons or firms that have need for same.

Section 3. All manufacturers, their agents or representatives that propose to sell new school bus chassis, school bus bodies, and complete school buses to be used in the Commonwealth of Kentucky for the transportation of pupils to and from school and for related uses shall file detailed specifications, test results, certifications, and advertising brochures on these chassis, bodies, and complete buses with the Division of Pupil Transportation, Department of Education, Frankfort, Kentucky. These shall be filed at least annually at a time and in the manner prescribed. Said manufacturers, their agents or representatives shall keep these files up-to-date following model changes or modifications made between filing dates.

[Section 4. The Division of Pupil Transportation shall prepare at least annually a list of those school bus chassis, school bus bodies, complete school buses, and optional equipment that has been approved as meeting the Kentucky minimum specifications for school buses currently in effect. Said lists shall be made available in reasonable numbers to those persons or firms that have need for same.]

Section *4.* [5.] Any new school bus chassis, new school bus body, or complete new school bus purchased by any district board of education, individual, company or corporation for use in transporting pupils to and from school and for related purposes shall meet the Kentucky Minimum Specifications for School Buses; Revised, that were in effect on the date of *manufacture* [purchase]. Same shall not be used for the above stated purposes until it shall have been approved by the Division of Pupil Transportation as meeting these requirements.

Section *5.* [6.] Any used school bus chassis, used school bus body, or complete used school bus purchased by any district board of education, individual, company or corporation for use in transporting pupils to and from school and for related uses shall not be used for said purposes until it shall have been approved by the Division of Pupil Transportation as meeting the Kentucky Minimum Specifications for School Buses in effect on the date of its original purchase, and as meeting the used school bus mandatory safety equipment requirements in effect on the date same was purchased in used condition.

Section 6. No vehicle which was designed by the manufacturer to carry more than ten (10) passengers in addition to the driver shall be used to transport children to or from school or events related to such schools that does not meet Kentucky Minimum Specifications for School Buses; Revised, that were in effect on the date of manufacture, or does not meet Federal Motor Vehicle Safety Standards applicable to manufacturers of school buses.

[Section 7. The Director of the Division of Pupil Transportation shall have the authority to approve nonspecified school bus accessories to be installed on Kentucky's school buses at the time the bus is being manufactured or while in use.]

RAYMOND BARBER
Superintendent of Public Instruction
ADOPTED: May 10, 1983
RECEIVED BY LRC: May 13, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

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

RELATES TO: KRS 156.160, 189.540
PURSUANT TO: KRS 13.082, 156.070, 156.160, *189.540*
NECESSITY AND FUNCTION: *KRS 156.160 requires the State Board of Education to adopt regulations relating to the transportation of children to and from school and to medical inspections and other matters deemed relevant to the protection of the physical welfare and safety of public school children; and KRS 189.540 requires the State Board to adopt regulations to govern the design and operation of school buses. This regulation implements those duties relative to* [set out] the qualifications and responsibilities of the school bus driver [in order to assist in carrying out the responsibiliites of this important function in pupil transportation].

Section 1. All local boards of education shall require annual medical examination of each school bus driver and drivers of special vehicles used to transport school children to and from school and such events related to such schools. The medical examination shall include tests for hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. The examination shall include tests for tuberculosis upon initial employment and positive reactors shall be required to have further evaluations. All medical examinations of the school bus drivers shall be reported on a form prescribed by the State Department of Education and submitted to the local superintendent.

Section *2.* [1.] No person shall drive a school bus unless he or she is physically or mentally able to operate a school bus safely and satisfactorily. If there is limitation of motion in joints, neck, back, arms, legs, etc., due to injury or disease that would limit the driver's ability to safely perform the task of safely driving a school bus, the driver shall be rejected. Any driver taking medication either by prescription or without prescription, shall not be permitted to drive if that medication would affect, in any way, the driver's ability to safely drive a school bus.

Section *3.* [2.] (1) No person shall drive a school bus unless he or she has:

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

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

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

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

Section *4.* [3.] No person shall drive a school bus whose hearing is less than 7/15 in the better ear, or hearing loss is greater than forty (40) decibels if audiogram is used, for conversational tones, with or without a hearing aid. Drivers requiring a hearing aid shall wear such properly operating aids at all times while driving.

Section *5.* [4. The driver of any school bus, whether board owned or contractor owned, shall satisfactorily pass at least an annual physical examination by a physician or physicians designated by the district board of education.] The board, at its discretion, may require a school bus driver to pass a routine physical examination or a special type physical examination more often than annually. The school bus driver shall have a current physical fitness certificate on file in the district superintendent's office.

Section *6.* [5.] Drivers of school buses shall be between eighteen (18) and *sixty-nine (69)* [seventy (70)] years of age. *A driver shall not start driving a school bus until his eighteenth birthday, but any driver turning seventy (70) years of age during the school term may be allowed to drive until the end of the semester in which said birthday occurs.*

Section *7.* [6.] The school bus driver shall have a current driver's license that is valid in Kentucky.

Section *8.* [7.] Substitute school bus drivers shall meet the same requirements as regular school bus drivers.

Section *9.* [8.] In case of an emergency that would make it necessary for the driver to leave the bus while pupils are on board, the driver shall stop the motor, shift the bus to low gear, set the parking brake, remove the ignition key, and place one (1) of the older responsibile pupils in charge during the driver's absence.

Section *10.* [9.] The driver shall operate the school bus at all times in a manner that provides the maximum amount of safety and comfort for the pupils under the circumstances.

Section *11.* [10.] The driver shall supervise the seating of the pupils on the bus. The driver shall make certain the seating capability of the bus has been fully utilized before any pupil is permitted to stand in the bus aisle.

Section *12.* [11.] The driver shall not, at any time, permit pupils to stand in the stepwell or landing area or where the pupil would likely fall out of the bus if the rear emergency door was opened, or where the driver's view directly in front of the bus or to either side of the front of the bus would be obscured.

Section *13.* [12.] The driver shall report to the superintendent any overcrowded conditions on the bus.

Section *14.* [13.] The driver shall transport only those pupils officially assigned to a particular bus trip unless an unassigned pupil presents the driver with a written permit to ride the bus trip that has been signed by the school principal or his designate. The driver shall not permit an assigned pupil to leave the bus at a stop other than where the pupil regularly leaves the bus unless a written permit signed by the school principal or his designate is presented to the driver.

Section *15.* [14.] The driver shall not transport adult employees of the board or any person not employed by the board unless he receives written permission of the district superintendent to do so.

Section *16.* [15.] The driver shall not *knowingly* permit any firearms or weapons, either operative or ceremonial, to be transported on the bus. The driver shall not *knowingly* permit any fireworks of any type to be transported.

Section *17.* [16.] The driver shall not *knowingly* permit any live animals, fowls, or reptiles to be transported on the bus. The driver shall not *knowingly* permit any preserved specimen to be transported that would likely frighten any pupil or cause a commotion on the bus.

Section *18.* [17.] The driver shall not permit the transportation of any object that would likely block the bus aisle or exits in case of a collision.

Section *19.* [18.] The driver shall not permit a pupil to operate the entrance door handle or any other bus control except in case of an emergency.

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

[Section 20. The driver shall signal pupils that must

cross the roadway to board the bus or when leaving the bus when it appears to be safe for the pupils to cross the road.]

Section *20.* [21.] The driver shall activate the flashing stop warning lights and/or the stop signal arm a sufficient distance from a bus stop that would permit any prudent motorist to stop short of striking or passing the stopped bus.

Section *21.* [22.] For safety reasons, the driver shall not permit gasoline to be put into the bus gasoline tank while pupils are on board the bus.

Section *22.* [23.] If a pupil's conduct on the bus is such that it endangers the lives and morals of the other people on the bus and makes it unsafe for the bus to continue on its route, and when requested by the driver to desist from such conduct and the pupil does not comply, it shall be the duty of the driver to order the pupil to leave the bus, and if this order is refused, to eject the pupil from the bus or send for assistance, whichever the circumstances dictate. Ejecting a pupil from the bus shall be done only in the most extreme circumstances. When ejection from the bus is required, the driver shall notify the principal of the school where the pupil attends, the district superintendent or some other school authority of the action taken as soon as it is possible to do so.

Section *23.* [24.] In the interest of safety, the driver shall stop the bus at all places where the roadway crosses a railroad track or tracks at the grade level. The driver shall open the bus entrance door, listen, and look for the approach of a train from both directions. When the driver has ascertained that it is safe for the bus to cross the railroad tracks, he shall close the bus entrance door, shift the bus gears into the range that will provide adequate power and proceed immediately to cross the railroad tracks. In cases of severe weather or restricted visibility, the driver shall request assistance from the oldest pupils on the bus in determining whether or not it is safe for the bus to cross the railroad tracks. Under these circumstances, the stop signal arm and flashing warning lights shall be used only if these pupils get off the bus before it is driven across the tracks and board the bus after it has crossed the tracks.

Section *24.* [25.] The driver shall have the authority to assign a pupil to a specific seat on the school bus.

Section *25.* [26.] The driver shall make a pre-trip inspection of the bus safety and operating equipment each time that the bus is taken out for the transportation of pupils.

Section *26.* [27.] The school bus driver shall not operate the school bus at a speed in excess of the [current] posted [truck] speed *limit* on the sections of highways over which the bus travels, nor at any time in excess of fifty-five (55) miles per hour. The driver shall not drive the school bus on any roadway at any time at a speed where the conditions of the roadway, weather conditions, or other extenuating circumstances would likely make it unsafe for the bus to travel at that speed.

Section *27.* [28.] The driver shall wear the driver's seat belt at all times that the bus is being used to transport pupils.

Section *28.* [29.] The stop signal arm and flashing warning lights shall be used only at stops where pupils are boarding or leaving the bus.

RAYMOND BARBER
Superintendent of Public Instruction
ADOPTED: May 10, 1983
RECEIVED BY LRC: May 13, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

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

702 KAR 5:110. Vocational pupils, reimbursement for.

RELATES TO: KRS [157A.090,] 157.370 [, 163.020, 163.030, 180.320, 280.320]
PURSUANT TO: KRS 13.082, 156.070, *157.370* [156.160]
NECESSITY AND FUNCTION: *KRS 157.370 requires a local board of education to be reimbursed separately from the Foundation Program for the cost of transporting pupils from a parent school to a vocational-technical school or to a vocational education center, according to State Board of Education regulations. This regulation establishes* [To establish] the terms under which reimbursement will be paid to those districts that *so* transport their secondary school pupils [to a vocational school] and establish*es* the reimbursement limits.

Section 1. Any local district may provide bus transportation for the district's secondary school pupils from their parent school to a state vocational-technical school, an area vocational education center, or to a vocational training site where an integral part of the basic vocational instructional program is being provided. For the purpose of these regulations, the place or site where the pupil receives basic vocational training shall be referred to as a vocational school.

Section 2. All applications to transport pupils to a vocational school for which reimbursement is to be claimed shall be submitted to the Division of Pupil Transportation for approval.

Section 3. Requests for reimbursement for transportation to a vocational school shall be the responsibility of the district providing said transportation.

Section 4. Requests for reimbursement for transportation to a vocational school shall be made on a monthly basis to the Division of Pupil Transportation in the Bureau of Administration and Finance in the Department of Education.

Section 5. Local districts that transport pupils to a vocational school on buses owned and operated by the district shall be reimbursed for these expenditures to this extent:

(1) Bus mileage at a rate not to exceed the average cost per bus mile for county school districts, exclusive of driver's cost, as calculated by the Division of Pupil Transportation for the previous school year.
(2) The vocational school bus driver's cost at an hourly rate not to exceed the hourly rate paid by the district to a driver in the district's regular transportation program with similar qualifications.

Section 6. If a district's pupils are transported to a vocational school over a toll road as the nearest or best route, either on a board-owned bus or a bus contracted to the board, the district shall be reimbursed for the toll road fee in addition to mileage and driver's cost.

Section 7. A district that contracts for the transportation of its pupils to a vocational school shall be reimbursed an amount not to exceed the total amount that would result when the vocational school bus mileage is multiplied by the average cost per bus mile for county districts exclusive of driver's cost and the driver's total hours are multiplied by the average hourly rate paid by county school districts plus necessary toll road fees. The average mileage cost and average hourly rate shall be those calculated by the Division of Pupil Transportation for the previous school year.

Section 8. Bus mileage shall be calculated from the parent school to the vocational school over the nearest and best route. When the same bus is used to transport pupils to a vocational school from more than one (1) school within the same district, bus mileage shall be calculated from the school located farthest from the vocational school over the nearest and best route as the bus serves the other schools en route to the vocational school.

Section 9. The total hours of driver's pay per day that will be reimbursed for transporting pupils to a vocational school shall be calculated on the basis of what the driver does while the pupils are in class at the vocational school and shall be done by one (1) of these methods:
(1) If the driver waits at the vocational school for the full time that the pupils are in class, the driver's time shall start when the bus leaves the parent school farthest from which pupils are transported to the vocational school and shall stop when the pupils are returned to the farthest parent school.
(2) If the driver unloads the pupils at the vocational school, then takes the bus to another location and returns to pick up the pupils when the classes are finished, the first half of the drivers time shall start when the bus leaves the parent school farthest from the vocational school and ends when the driver reaches the point where the bus is parked until time to make the bus trip to the vocational school to return the pupils to their parent school. The second half of the driver's time shall start when the bus leaves the point where the bus was parked and ends when the bus reaches the parent school farthest from the vocational school.
(3) Insofar as it is possible or practical, the district shall pay the bus driver by the method that results in the least cost when the driver's time and the required bus mileage are considered in combination.

Section 10. The driver of the bus that transports pupils to a vocational school shall meet the same requirements as the district's bus drivers that transport pupils to the district's public schools.

Section 11. The school districts shall be reimbursed for the cost of vocational school transportation for the actual number of days that pupils were transported to the vocational school up to a maximum of 175 days per school year.

Section 12. One district may make a contract with another district to transport the other district's pupils to a vocational school on the same bus with the transporting district's pupils or on a separate bus. Said contract shall be made subject to approval by the Division of Pupil Transportation.

Section 13. When one district contracts to provide a bus or buses to transport another district's pupils to a vocational school, the district providing the bus or buses shall claim additional reimbursement only for the extra bus miles required and the extra hours of bus driver time required to provide this service for the other district.

Section 14. A district shall make maximum use of the bus that transports pupils to a vocational school through planning and routing. The use of more than one (1) bus for transporting pupils from any school or group of schools to a vocational school will be approved only when the length of time required for one (1) bus to pick up and transport the pupils would be impractical or when the number of pupils on one (1) bus would necessitate that some pupils be standees.

Section 15. When the number of pupils being transported to a vocational school averages less than twelve (12) pupils per day during any school month, the total amount of reimbursement paid to the district for that bus shall be reduced by one-twelfth (1/12) for each pupil less than twelve (12) that the bus transported during the school month.

Section 16. Districts shall not be reimbursed for the transportation of vocational school pupils on field trips, excursions, or recreational trips.

Section 17. Districts shall not be reimbursed for the vocational transportation from the parent school to the vocational school when the vocational school is on the same grounds or on adjacent grounds to the parent school or within one-half (½) mile of the parent school.

RAYMOND BARBER
Superintendent of Public Instruction
ADOPTED: May 10, 1983
RECEIVED BY LRC: May 13, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. L. W. True, Secretary, Kentucky State Board of Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

EDUCATION AND HUMANITIES CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:025. Classroom units.

RELATES TO: KRS 157.360
PURSUANT TO: KRS 13.082, 156.070, 157.360
NECESSITY AND FUNCTION: KRS 157.360 specifies that the Superintendent of Public Instruction shall allot classroom units for administrative and special instructional services in determing the cost of the foundation program for each district. Each unit shall meet the criteria established by the State Board of Education. This regulation implements the duty of prescribing the criteria for specific ASIS units.

Section 1. Classroom units for administrative and special instructional services shall be based on the following program of services:

(1) An art education teacher shall provide an accepted program in art education as described in the "Program of Studies for Kentucky Schools, *Grades* K-12," as adopted in 704 KAR 3:304.

(2) An assistant principal shall have such duties as may be assigned including administrative duties and supervision of instruction. The assistant principal shall serve all grades within the school or schools to which assigned. The assistant principal shall devote at least fifty percent (50%) of his/her time to the duties of the assistant principalship. Classroom teaching shall not be considered a part of this unit. An assistant principal shall not be assigned to a school which does not have the services of principal.

(3) An assistant superintendent shall have such duties as assigned by the superintendent. The duties shall be designed to *exclusively* assist and aid the superintendent in performance of the duties of superintendent as provided in KRS 160.370. *The salary for this position may be generated from more than one (1) source.* [The assistant superintendent shall devote himself exclusively to the duties as assigned and shall be employed for the full school year.]

(4) A director, coordinator, or manager of district-wide services may qualify for these positions on the basis of certification either as school superintendent, supervisor of instruction, school business administrator, elementary principal, secondary principal, twelve (12) grade principal or certification for administration, supervision, and coordination of vocational education. This regulation does not apply to any position for which a specific certificate is available, such as director of pupil personnel.

(5) [(4)] Consultants shall work in cooperation with the existing supervisory program in the school district; help plan, coordinate, and develop programs in their subject or area specialty in individual schools or system wide; serve as a consultant to classroom teachers, do demonstration teaching and help individual teachers improve the quality of the program at the classroom level; work to improve the facilities, equipment and utilization of materials; and seek to improve the relationship of program to the total school program.

(6) [(5)] A driver education teacher shall provide a comprehensive program of learning experiences for the purpose of teaching students knowledge, skills, and attitudes to promote traffic efficiency and safety. The program shall follow the description of the driver and traffic safety education section in the "Program of Studies for Kentucky Schools, *Grades* K-12".

(7) [(6)] Teachers assigned to the curriculum areas of industrial arts and industrial education level I and level II shall provide an accepted program in the area(s) assigned as described in "The Program of Studies for Kentucky Schools, *Grades* K-12."

(8) [(7)] An instructional coordinator shall have such duties as supervision of instruction and staff development which shall include the following types of activities:

(a) Provide staff development services to participating teachers in the area of instructional methodology, instructional strategies, classroom management, and communication skills.

(b) Assist professional school employes in the implementation of the Kentucky Plan for Improving the Professional Performance of School Personnel.

(c) Conduct classroom visitations and follow-up conferences with teachers and other professional school personnel.

(d) Serve as liaison in instructional matters between teachers and administrators within the school and with central office personnel.

(e) Serve as instructional and staff development consultant within the school to teachers, department chairmen, committees, and administrators.

(f) Work under the immediate direction of the school principal.

(9) [(8)] An instructional television coordinator shall provide service to teachers in the area of instructional methodology and instructional strategies; assist in planning, coordinating, and developing an effective instructional television program for the school district; serve as a resource person to classroom teachers, do demonstration teaching and help to improve the quality of instruction; work to improve facilities, equipment, and utilization of material; and maintain records on all instructional television equipment. An instructional television coordinator shall hold a certificate valid for teaching in Kentucky schools.

(10) [(9)] A local director of vocational education shall coordinate and direct the development of the annual and long-range plan for vocational education for the local school districts in cooperation with educational agencies, advisory committees, and other planning agencies. The duties shall include:

(a) Improving vocational facilities, equipment and utilization of vocational materials;

(b) Planning for teacher and community participation in development of curriculum;

(c) Planning for professional improvement of vocational staff; and

(d) Evaluation vocational programs.

(11) [(10)] A media librarian shall provide a functional program which has a systematic plan for the selection and acquistion of books and other materials plus a loan system for student use. Provisions shall be made for every child to have access to the library. The media librarian shall devote at least fifty percent (50%) of his/her time to the duties of media librarian.

(12) [(11)] A music education teacher shall provide an accepted program in music education as described in the music education section of the "Program of Studies for Kentucky Schools, *Grades* K-12."

(13) [(12)] A physical education teacher shall provide an accepted program in physical education as described in the "Program of Studies for Kentucky Schools, *Grades* K-12."

(14) [(13)] A principal shall be assigned administrative and supervision duties. A significant portion of his/her time shall be devoted to supervision and he/she shall be a

cooperating participant in the various activities which are designed to improve instruction. The principal shall devote at least fifty percent (50%) of his/her time to the duties of principalship. Classroom teaching shall not be considered a part of this unit. A principal shall supervise at least eight (8) teachers in one (1) or more schools.

(15) [(14)] A school business administrator and/or finance officer shall supervise, under the direction of the superintendent, the financial affairs of the school district including establishment and maintenance of accounting procedures, and shall be responsible for financial reports required by the superintendent, the board of education, and the State Department of Education. *The salary for this position may be generated from more than one (1) source.* [The school business administrator or finance officer shall devote himself/herself exclusively to his/her duties and shall be employed for the full school year.]

(16) [(15)] A school health coordinator shall work with other school personnel in providing a school health service program which meets the health needs of individual pupils. The program shall consist of the following services:

(a) Coordinate all comprehensive health assessment procedures.

(b) Supervise appropriate follow-up of health assessment programs and direct appropriate services for each child requiring services.

(c) Secure and obtain appropriate consultation for communicable diseases.

(d) Supervise and assess the completeness of periodic health examinations of children.

(e) Establish and supervise first aid facilities for each school.

(f) Assist with parent health education program.

(g) Periodically check with teacher for classroom observation, teacher evaluation, and follow-up in such areas as psychological, speech, and neurological.

(h) Follow-up of prolonged illness with the pupil's physician and interpret physician's recommendations to teacher.

(i) Assist with medical aspects of sports.

(j) Maintain a dental health program.

(k) Assist local school officials in meeting the requirements of school health regulations pertaining to school employee medical examinations.

(17) [(16)] A school lunch director shall work with others to plan, develop, administer and supervise the school food service program for all schools in the district.

(18) [(17)] A school psychometrist shall recommend and direct the application of those measuring instruments which will provide most accurately the information about pupils desired by other staff members. The school psychometrist discharges these responsibilities by:

(a) Selecting and recommending the measuring devices that are the most valid and reliable indicators of the pupil characteristics to be considered.

(b) Planning, organizing and directing the administration of the tests or other devices chosen by the school staff member or members.

(c) Planning, organizing and directing the scoring of the measures administered.

(d) Converting the raw scores into such terms as are desired by the staff.

(e) Making such statistical calculations as are needed by the staff.

(f) Preparing charts, graphs and other interpretative materials for the use of the staff.

(g) Keeping and filing for later reference the important data obtained.

(h) Selecting, training and supervising clerical workers employed to score tests, collect data, and carry out statistical tasks in his/her office.

(i) Conducting minor research studies of groups of school pupils for administrative, supervisory or guidance counselors.

(j) Assisting guidance counselors in obtaining and organizing pertinent data needed regarding individual students.

(k) Making diagnostic studies of the individual child. The purpose of the services rendered by the school psychometrist to other individuals and groups is to conserve the time of the school's teachers, guidance counselors(s) and administrative and supervisory personnel in supplying recorded data regarding sudents to agencies or individuals not directly involved in the school's educational programs.

(19) [(18)] A school social worker and/or visiting teacher shall work with individual pupils who need help with problems of social adjustment promoting positive adjustment to school experience, and helping pupils find opportunities to continue their educational progress toward realization of their potential. The finding shall be coordinated with the respective teachers.

(20) [(19)] A special education work-study program coordinator's duties shall include on the job placement and supervision in working situations of exceptional children between the ages of fourteen (14) and twenty-one (21). The on-the-job training shall be a cooperative arrangement between the school system and employers coordinated by the special education work-study program coordinator.

(21) [(20)] A supervisor of instruction shall devote the allotted time for supervision to providing leadership services in the improvement of instruction in the school program by working with administrators, teachers, other supervisors, and the lay public. In districts entitled to a fractional unit or one (1) unit for a supervisor, this unit or fraction shall be for a general supervisor. Districts entitled to more than one (1) unit for a supervisor shall employ a general supervisor for the first unit. The program of supervision shall make provisions for:

(a) Cooperative curriculum revision and development involving the total staff.

(b) Assistance in the selection and use of good instructional materials.

(c) Preparation of study guides, courses of study, handbooks, and other materials adapted to local needs.

(d) Cooperative efforts with principals and classroom teachers to improve the learning environment in schools and to meet pupil needs.

(e) Adequate evaluation of the supervisory program in terms of improved instructional services.

RAYMOND BARBER
Superintendent of Public Instruction

ADOPTED: May 10, 1983

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EDUCATION AND HUMANITIES CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 3:304. Required program of studies.

RELATES TO: KRS 156.160
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to establish minimum courses of study and the scope of instruction that may be offered in the different classes of common schools, and to establish the minimum requirements of graduation from the courses offered. This regulation implements that duty.

Section 1. Pursuant to the authority vested in the State Board of Education by KRS 156.070 and 156.160, the "Program of Studies for Kentucky Schools, Grades K-12," as *amended* [adopted] on *May 10, 1983* [June 22, 1982], is hereby promulgated and filed with the Legislative Research Commission and incorporated herein by reference. Copies may be obtained from the Department of Education.

RAYMOND BARBER
Superintendent of Public Instruction
ADOPTED: May 10, 1983
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EDUCATION AND HUMANITIES CABINET
Department of Education
Bureau of Instruction
(Proposed Amendment)

704 KAR 4:020. Comprehensive school health.

RELATES TO: KRS 156.160
PURSUANT TO: KRS 13.082, 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt regulations governing medical inspection, physical education and recreation, and other rules and regulations deemed necessary or advisable for the protection of the physical welfare and safety of the public school children. This regulation implements the duty of the State Board relative to medical inspections and the physical welfare and safety of public school children.

Section 1. School employee medical examinations shall be required for the protection of the physical welfare and safety of the public school children.

(1) All local boards of education shall require a medical examination of each teacher upon initial employment which shall include a tuberculin skin test. All positive reactors shall be required to comply with the recommendations of the local board of health and the *Cabinet* [Department] for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required medical examinations for initial employment and any subsequent examinations as may be required for positive tuberculin reactors, each teacher shall submit to the local school superintendent a statement indicating his/her medical status.

(2) All local boards of education shall require *upon initial employment and each year thereafter* a medical examination of each school bus driver *and drivers of special vehicles used to transport school children to and from school and such events related to such schools* [in accordance with the requirements of the State Board of Education's regulations pertaining to pupil transportation upon initial employment and each year thereafter]. The medical examination shall include test for [tuberculosis,] hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. *The initial examination shall include tests for tuberculosis. All positive reactors shall be required to comply with the recommendations of the local board of health and the Cabinet for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required medical examination for initial employment and any subsequent examinations, as may be required for positive tuberculin reactors, each bus driver shall submit to the local school superintendent a statement indicating his/her medical status.* All medical examinations of the school bus drivers shall be reported on a form *prescribed* [furnished] by the State Department of Education and submitted to the local school superintendent. [All positive tuberculin reactors shall be required to comply with the recommendations of the local board of health for further evaluation and treatment of the tuberculosis infection.]

(3) All local boards of education shall require a medical examination of each custodian, cafeteria worker, and other classified school employees not specifically covered by subsection (2) of this section upon initial employment. The medical examination shall include tests for tuberculosis, hearing and vision disorders, emotional instability, and for serious medical conditions including diabetes, epilepsy, heart disease, and other chronic or communicable diseases if indicated in the opinion of the examining physician. All positive tuberculin reactors shall be required to comply with the recommendations of the local board of health and the *Cabinet* [Department] for Human Resources for further evaluation and treatment of the tuberculosis infection. Following the required evaluation, each employee shall submit to the local school superintendent a statement indicating his/her medical status. Medical examinations shall be reported on forms *prescribed* [furnished] by the State Department of Education.

(4) The local board of education shall require all school personnel exhibiting symptoms of chronic respiratory disease to be examined for tuberculosis. The evaluation and any required treatment for tuberculosis infection shall be based upon the recommendations of the local board of health and the standards developed by the *Cabinet* [Department] for Human Resources.

(a) Any personnel exposed to infectious tuberculosis shall be tested and, if necessary, treated for tuberculosis infection according to the recommendation of the local board of health.

(b) In counties with high incidence rates for tuberculosis infection defined as equal to or greater than one (1) percent, the local board of health may, with the approval of the *Cabinet* [Department] for Human Resources, exercise

its legal sanction to require more extensive testing for tuberculosis than outlined above.

Section 2. All local boards of education shall require a medical examination of each child within six (6) months prior to, or one (1) month following his/her initial admission to school. The medical examination shall be reported on forms *prescribed* [furnished] by the Department of Education and shall include a medical history; record of immunizations; assessment of growth and development and general appearance; physical assessment including hearing and vision screening; and recommendations to the school regarding health problems that may require special attention in classroom or physical education activities. All boards of education shall adopt a program of continuous health supervision for all school enrollees; such supervision shall include scheduled screening tests for vision, hearing and scoliosis. The need for a tuberculin skin test will depend on the risk of exposure of the child and prevalence of tuberculosis in the community, such need to be determined pursuant to KRS 158.036 and KRS 214.034.

(1) An effective mechanism for referral and appropriate follow-up of any apparent abnormality noted by screening assessment or teacher observation shall be recorded on school health records within nine (9) weeks of screening program or detection of abnormality.

(2) Each school shall have emergency care procedures. The emergency care procedures shall include first aid facilities, personnel with first aid training, parents' telephone number, name of family physician, and means of transportation.

(3) Local boards of education shall require all vaccinations and immunizations as required by law or regulations:

(a) Except as otherwise provided by law, all children shall be required to present a valid immunization certificate upon enrollment in school, and a valid up-to-date immunization certificate shall be on file for all children at all times. The governing body of private and public schools shall enforce the provisions of this subsection in accordance with the established laws.

(b) Children transferring into any school district shall comply with the above requirements.

Section 3. (1) Each elementary and secondary school shall initiate a cumulative health record for each pupil entering school. Such record shall be maintained throughout the pupil's attendance. Such record shall be uniform and shall be on forms *prescribed* [furnished] by the Department of Education. Such record shall include screening tests related to growth and development, vision and hearing; teacher observations of general appearance and behavior; and findings and recommendations of physician and dentist including immunization record. A follow-up by the proper health or school authorities shall be made on each defect noted and the result recorded.

(2) Local school authorities shall report all known or suspected cases of communicable disease immediately to the local health department.

Section 4. All boards of education shall, in relation to each school under its jurisdiction, provide and maintain a physical environment that is conducive to the health and safety of school children. It shall be the responsibility of all local boards of education to comply with current laws and regulations applicable to all public buildings pertinent to health, sanitation, and safety. In accordance with current regulations and standards by authorities having jurisdiction, it shall be the responsibility of all local boards of education to establish:

(1) An adequate supply of water of safe, potable, sanitary quality.

(2) A sanitary disposal of sewage, other water carried waste, and solid waste.

(3) Adequate toilet and lavatory facilities and other sanitary fixtures.

(4) Adequate heating, lighting, and ventilation in all school buildings.

(5) Adequate facilities and equipment for cafeterias and lunchrooms.

(6) Supervision of general sanitation and safety of the school buildings, grounds, and playground equipment.

(7) Adequate first aid facilities.

(8) Adequate control of air pollutants.

Section 5. Each board of education shall designate a person to serve as school health coordinator. Such person shall meet the minimum qualifications required of this position. The school health coordinator shall work in cooperation with all school personnel, the local board of education, the State Department of Education, and the local health department in planning, promoting, and implementing a school health services program that meets the regulations adopted by the State Board of Education.

Section 6. Each local board of education shall require an annual medical examination of each child as a prerequisite for eligibility in inter-scholastic athletics. A local board of education may require such examination to be paid by the parent of the child.

RAYMOND BARBER
Superintendent of Public Instruction

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

705 KAR 1:010. Annual program plan.

RELATES TO: KRS *156.010, 156.035* [156.112,] 163.020, 163.030

PURSUANT TO: KRS 13.082, *156.035* [156.112]

NECESSITY AND FUNCTION: KRS *156.010* [156.112] designates the *Department of Education* [State Board of Education] as the sole state agency for *developing and* approving state plans required by federal law as prerequisites to receiving federal funds for vocational education; *KRS 156.035 authorizes the State Board of Education to implement any act of Congress appropriating and apportioning funds to the state and to provide for the proper disbursement of such funds;* KRS 163.020 accepts and agrees to comply with federal vocational education acts; and KRS 163.030 gives the State Board [and the Department of Education] authority to comply with state and federal vocational education laws. The *1984* [1983-87] Kentucky *Annual Program* [Five-Year] Plan and *1982* [1981] Accountability Report for Vocational Education is

necessary in order to be eligible to receive federal funds under P.L. 94-482, and this regulation formally adopts such *plan developed and approved by the Department of Education.*

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, the *1984* [1983-87] Kentucky *Annual Program* [Five-Year] Plan and *1982* [1981] Accountability Report for Vocational Education shall be prepared and approved by the State Board of Education, in accordance with the appropriate federal guidelines, and submitted to the U.S. *Secretary* [Commissioner] of Education by June 30, *1983* [1982], for [his] approval. This document is incorporated by reference and hereinafter shall be referred to as the *1984* [1983-87] Kentucky *Annual Program* [Five-Year] Plan and *1982* [1981] Accountability Report for Vocational Education. Copies of the document may be obtained from the Bureau of Vocational Education, State Department for Occupational Education.

RAYMOND BARBER
Superintendent of Public Instruction
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EDUCATION AND HUMANITIES CABINET
Department of Education
Bureau of Vocational Education
(Proposed Amendment)

705 KAR 5:080. Suspension and expulsion of students.

RELATES TO: KRS 158.150, 163.030
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: *KRS 163.030 gives the State Board of Education all necessary power and authority in administering the state's vocational education program, and KRS 158.150 sets forth the grounds and procedures for suspension and expulsion from the state's common schools. This regulation establishes* [To establish] the procedure for the suspension and expulsion, *for disciplinary reasons,* of students from state vocational-technical schools and area vocational education centers *and largely adopts the grounds and procedures for such set forth in KRS 158.150.*

Section 1. Teachers and administrators employed by a state vocational-technical school or an area vocational education center shall be responsible for the supervision and discipline of students during the time they are in attendance at a state-operated vocational facility.

Section 2. All students shall comply with policies of the state-operated vocational school in which they are enrolled. Willful disobedience or defiance of the authority of the teachers or administrators; assault or battery or abuse of other students or school personnel; the threat of force or violence; the use or possession of illicit drugs or alcohol; stealing, destroying, or defacing school or personal property; possessing or using dangerous weapons or instruments; excessive unexcused absenteeism; or other incorrigible bad conduct on school property or at school-sponsored activities constitutes cause for disciplinary suspension or expulsion from a state-operated vocational school.

Section *3.* [2.] Secondary school students who are subject to disciplinary action shall be referred by the principal of a state vocational-technical school or the coordinator of an area vocational education center to the principal of the parent school in which the student is enrolled. *However, the vocational school principal or his/her designee shall have the authority to immediately suspend for a maximum of three (3) days, without action by the parent school, secondary students to protect persons or property, or to avoid disruption of the ongoing academic programs when situations warrant.* The *vocational* principal [or coordinator] shall submit in writing to the principal of the parent high school the reason(s) for disciplinary action *and recommend any further action.* The principal of the parent high school shall respond to the vocational principal [or coordinator] as to the action to be taken. The vocational principal or coordinator will accept the decision of the local school authority and act accordingly.

Section *4.* [3.] Any secondary student who is suspended or expelled from a participating local high school shall be considered suspended or expelled from the state vocational-technical school or area vocational education center in which the student is enrolled.

Section *5.* [4.] The principal [or coordinator] of a state-operated vocational facility shall be authorized to suspend postsecondary or adult students for cause *as set forth in Section 2 of this regulation.* No student shall be suspended for more than *ten (10)* [five (5)] consecutive school days for any one (1) instance of misconduct. No student shall be suspended without first being *given oral or written notice of the charge or charges against him; an explanation of the evidence of the charge(s) if the student denies such; and an opportunity to present his own version of the facts related to the charge or charges. Such due process procedures shall precede any suspension unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, such procedures shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension* [afforded a hearing, and an opportunity to answer the reasons for suspension].

Section *6.* [5.] (1) The regional director of vocational education shall be authorized to *convene a hearing for expulsion of a* [expel] postsecondary or adult student[s] for cause *as set forth in Section 2 of this regulation.*

(2) No student shall be expelled from *a state-operated vocational school* [the institution] without a hearing, *pursuant to written, specific notice of the charges,* before a committee composed of the regional director, a regional program coordinator, and three (3) vocational instructors [who are members of the school faculty]. The regional director shall submit in writing to the Assistant Superintendent for Vocational Education within three (3) *school* days a *copy of the hearing committee's findings, conclusions, and action taken on the expulsion of a student. A copy of such report shall be provided the student involved* [full report on the permanent suspension of any postsecondary or adult student]. The decision to expel a student may be appealed to the State Board of Education.

Section 7. Readmittance to the school shall be on the

basis of waiting list priorities at the time of expulsion or on the basis of at least a ninety (90) day expulsion (excluding the month of July), whichever is longer. The regional hearing committee may, however, set appropriate, shorter expulsion terms whenever extenuating circumstances and the facts of individual cases so warrant.

RAYMOND BARBER
Superintendent of Public Instruction
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PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 9:030. Adjusters; examinations, licenses, restrictions.

RELATES TO: KRS 304.9-070, 304.9-430
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. This regulation restricts the persons whom an adjuster may represent thus preventing any conflicts of interest.

Section 1. An adjuster's license issued to an applicant pursuant to the provisions of the Insurance Code shall not at anytime authorize, and the licensee is expressly prohibited from, representing the interest of both insurer and the insured or claimant. The applicant, upon application for the license, shall elect whether he intends to act solely on behalf of insurers or solely on behalf of persons claiming benefits under insurance or annuity contracts. In either event, a licensee shall be deemed to act in a fiduciary capacity to his principal, and shall, prior to the issuance of such license, post with the commissioner a bond guaranteeing the performance of this trust, executed by an authorized surety company, in the sum of $1,000.

Section 2. In order to distinguish the capacity to act under an adjuster's license as elected under Section 1 of this regulation, a licensee who acts solely on behalf of insurers shall be known as an "independent adjuster." A licensee who acts solely on behalf of persons claiming benefits under insurance or annuity contracts shall be known as a "public adjuster." The license, if issued, shall be clearly labeled to indicate this distinction.

Section 3. In order to obtain information sufficient for a proper determination of the applicant's qualification as specificed in KRS 304.9-430, the commissioner shall require each applicant to complete and file an application, to be signed and sworn to by the applicant before any person authorized by law to administer oaths, upon a form supplied by the commissioner. The form of application shall be prescribed by the commissioner.

Section 4. [(1)] After completing and filing application, an applicant shall further satisfy the commissioner of his fitness to fulfill the responsibilities of an adjuster by taking and successfully completing a written examination prescribed by the commissioner.

[(2) In the event that an applicant for an adjuster's license meets the qualification requirements of KRS 304.9-430 except having "had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him reasonably competent to fulfill the responsibilities as an adjuster," he shall not be required to take and successfully complete the prescribed examination, and in the commissioner's reasonable discretion may be issued a temporary license as an apprentice adjuster for not exceeding one (1) year. Such temporary apprentice license shall provide the licensee with the same privileges and obligations as in the case of any other adjusters licensed under the Insurance Code, except that it is subject to summary revocation by the commissioner for any cause that would have been grounds for refusal, revocation, or suspension of an adjuster's license; provided, however, that the applicant is and continues to be a full-time salaried employee of and subject to training, direction, and control by a licensed adjuster acting in the same capacity as that for which applicant's license was applied.]

DANIEL D. BRISCOE, Commissioner
ADOPTED: May 10, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: May 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: David D. Briscoe, Commissioner of Insurance, P.O. Box 517, Frankfort, Kentucky 40602.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings and Construction
(Proposed Amendment)

815 KAR 25:020. Recreational vehicles.

RELATES TO: KRS 227.570
PURSUANT TO: KRS 13.082, 227.590
NECESSITY AND FUNCTION: KRS 227.590 requires the Recreational Vehicle Certification and Licensure Board to establish rules and regulations governing the standards for manufacture, sale, and alteration of recreational vehicles. These regulations are intended to assure safety for owners and occupiers of recreational vehicles.

Section 1. Authorization. (1) These rules are authorized by KRS 227.590 and established pursuant to the rule making procedures set forth in KRS Chapter 13, in order to implement, interpret, and carry out the provisions of Laws of 1974 as amended in 1976, KRS Chapter 227, relating to mobile homes and recreational vehicles. In the event that these regulations conflict with the codes promulgated by the National Fire Protection Association NFPA 501(C), the codes shall govern in all cases.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and

regulations, the office shall mail to all manufactuers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice acquired by this section, the board shall afford interested persons an apportunity to participate in the rule making through submission of written data, views or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation, or modification, amendment or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

Section 2. Enforcement. Subject to the provisions of applicable law, the Office of the State Fire Marshall shall administer and enforce all the provisions of the Mobile Home and Recreational Vehicle Act. Any officer, agent, or employee of the State Fire Marshal's Office is authorized to enter any premises in order to inspect any recreational vehicle for which the office has issued a seal of approval, or to inspect such recreational vehicle's equipment and/or its installations to insure compliance with the Act, the code, and these regulations. Upon complaint and request, a privately owned recreational vehicle bearing a seal may be entered to determine compliance with these regulations. When it becomes necessary to determine compliance, he may require that a portion or portions of such recreational vehicles be removed or exposed in order that a compliance inspection can be made.

Section 3. Definitions. In addition to the definitions contained herein, the definitions of NFPA 501(C) by the National Fire Protection Association shall apply:

(1) Act. The Mobile Home and Recreational Vehicle Act, KRS 227.550 to 227.660.

(2) Agency, testing. An outside organization which is:

(a) Primarily interested in testing and evaluating equipment and installations;

(b) Qualified and equipped for, or to observe experimental testing to approved standards;

(c) Not under the jurisdiction or control of any manufacturer or supplier of any industry;

(d) Makes available a published report in which the specific information is included stating that the equipment and installations listed or labeled have been tested and found safe for use in a specific manner; and

(e) Approved by the board.

(3) Alteration or conversion. The replacement, addition, modification, or removal of any equipment or installations which may effect the plumbing, heat-producing, electrical, and fire and life safety systems or the functioning thereof of recreational vehicles subject to these rules is an alteration or conversion unless excluded by these rules. The above equipment must be installed in accordance with manufacturer's specifications.

(4) Board. Recreational Vehicle Certification and Licensure Board.

(5) Certificate of acceptability. The certificate provided to the manufacturer signifying the manufacturer's ability to manufacture, import, or sell recreational vehicles within the state.

(6) Class "A" seal. A device or insignia issued by the office to indicate compliance with the standards, established by the office or rules and regulations established by the board for recreational vehicles manufactured after the effective date of the Act.

(7) Class "B" seal. A device or insignia issued by the office to indicate compliance with the standards established by the office, rules and regulations established by the board for used recreational vehicles without a class "A" seal, or for new recreational vehicles manufactured prior to the effective date of the Act.

(8) Dealer. Any person, other than a manufacturer, as defined herein, who sells or offers for sale three (3) or more recreational vehicles in any consecutive twelve (12) month period.

(9) Established place of business. A fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a recreational vehicle dealer, which shall include the books, records, files, and equipment necessary to properly conduct such business or building having sufficient space therein to properly show and display the recreational vehicles being sold and in which the functional duties of a recreational vehicle dealer may be performed. The place of business shall not consist of residence, tent, temporary stand, or open lot. It shall display a suitable sign identifying the dealer and his business.

(10) Hard surfaced lot. An area open to the public during business hours with a surface of concrete, asphalt/macadam, compacted gravel and/or stone, or other material of similar characteristics.

(11) Manufacturer. Any person who manufactures recreational vehicles and sells to dealers.

(12) NFPA 501(C). That section of the National Fire Code adopted by the National Fire Protection Association that pertains to standards for recreational vehicles.

(13) Office. The Office of the State Fire Marshal.

(14) Person. This means a person, partnership, corporation or other legal entity.

(15) Recreational vehicle. For purposes of the scope of the Act and regulations, this is a vehicular type unit designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(16) Suitable sign. A sign with the dealership name and type of dealership in letters of a minimum height of six (6) inches and a minimum width of one and one-half (1½) inches.

Section 4. Scope and Purpose of the Act and Regulations. (1) Except to the extent otherwise stated in the Act and these regulations and in other laws of the Commonwealth which are not inconsistent with or superseded by the Act and these regulations, these regulations govern the design, manufacture, storage, and sale of recreational vehicles which are manufactured, sold, leased, or transported for use within or outside of the Commonwealth. These regulations apply to recreational vehicles manufactured in manufacturing facilities located within or outside the Commonwealth. Recreational vehicles brought into this state for exhibition use only and which will not be sold in this state may be excluded from the coverage of this Act and regulations if inspections reveal no condition hazardous to health or safety.

(2) The legislature has enacted the Mobile Home and Recreational Vehicle Act to protect the health and safety of the owner, occupiers, and all other persons from malmanufactured recreational vehicles. The office has been given the authority to carry out the purpose of the Act. The Act sets out the minimum standards for design

and manufacture. Dealers are encouraged to maintain ethical business standards beyond non-fradulent minimums.

Section 5. Standards for Vehicles in Manufacturers' or Dealers' Possession. (1) The office shall enforce such standards and requirements for the installation of plumbing, heating, electrical, and fire and life safety systems in recreational vehicles as it determines are reasonally necessary to protect the health and safety of the occupants and the public.

(2) On all recreational vehicles manufactured for sale within the Commonwealth of Kentucky, said standards shall be NFPA 501(C), 1977 edition, herein adopted by reference.

(3) On all used recreational vehicles without a seal or any recreational vehicle manufactured prior to July 15, 1975, said standards shall be that the dealer shall certify that the electric, heating, plumbing, and fire and life safety systems have been checked, and repaired if necessary, and found to be in safe working condition and thus be in conformity with the intent of the Act to protect the health and safety of the occupants and general public.

(4) All recreational vehicles taken in trade must be reinspected and certified. The existing class "A" or class "B" seal may be removed or a new seal may be applied over the existing seal. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public.

(5) All new recreational vehicles purchased outside the Commonwealth of Kentucky not bearing a class "A" seal of approval and all used recreational vehicles purchased outside the Commonwealth of Kentucky, regardless of the type seal affixed, shall be delivered to a certified Kentucky dealer for inspection according to the following criteria:

(a) Inspection of the plumbing and waste systems;

(b) Inspection of the heating unit to determine adequacy of the system;

(c) Inspection of the electrical systems including the main circuit box and all outlets/switches to detect any damaged coverings, lost screws, or improper installations;

(d) Inspection of fire/life safety (fire extinguishers and second means of egress).

(6) Any licensed Kentucky recreational vehicle dealer that maintains the capability to perform minor maintenance of plumbing, heating, and electrical systems of recreational vehicles shall be permitted to inspect and certify those recreational vehicles purchased in another state for use within the Commonwealth of Kentucky. Any dealer desiring to perform this service shall make application to the Department of Housing, Buildings and Construction, State Fire Marshal's Office for appropriate certification.

(7) Any unit found to be in non-compliance with the requirements of Section 5(5) of this regulation shall be corrected prior to the dealer certifying the unit. All units requiring repairs or corrections prior to unit certification shall be reported to the office specifying the repairs required to correct the deficiencies. Appropriate reporting forms shall be made available to qualified dealers performing inspection.

(8) The fee for the inspection of recreational vehicles shall be fifteen dollars ($15) per hour plus mileage as required and a twenty dollar ($20) seal fee.

Section 6. Applicability and Interpretation of Code and Regulation Provisions. (1) Any questions regarding the applicability or interpretation of any provisions of code or regulation adopted shall be submitted in writing by any interested person to the office for resolution. It is the policy of the office that with respect to questions regarding NFPA 501(C), any such questions shall whenever feasible be submitted to the NFPA in accordance with the established procedures of the organization. The decision of the office shall be in writing.

Section 7. Certificate of Acceptability. (1) No manufacturer may manufacture, import, or sell any recreational vehicle in this state after the effective date of this Act, unless he has procured a certificate of acceptability from the board. Compliance shall be enforced through KRS 227.992. Recreational vehicles manufactured in this state and designed for delivery to and for sale in a state that has a code that is inconsistent with NFPA 501(C) need not comply with this provision.

(2) Requirements for issuance.

(a) The manufacturer must submit and the office must approve in-plant quality control systems;

(b) An affidavit certifying compliance with the applicable standards must be attached to the application;

(c) A $400 fee must accompany the application. The fee shall be paid by check or money order and shall be made payable to: Kentucky State Treasurer;

(d) The manufacturer must furnish and maintain with the office proof of general liability insurance to include lot and completed operations insurance in the minimum amount of $100,000 bodily injury or death for each person, $300,000 bodily injury or death for each accident, and $50,000 property damage.

(3) To obtain in-plant quality control approval, a manufacturer shall submit a system for in-plant control pursuant to paragraph (b) of this subsection and submit to inspection by the office for field certification of satisfactory quality control. Applications for approval of in-plant quality control systems shall contain the following:

(a) A certified copy of the plans and specifications of a model or model-group for electrical, heating, and plumbing systems. All plans shall be submitted on sheets, the minimum possible size of which is eight and one-half inches by eleven inches (8½" x 11") and the maximum possible size of which is twenty-four inches by thirty inches (24" x 30"). The manufacturer shall certify that the aforementioned systems comply with NFPA 501(C).

(b) Also a copy of the procedure which will direct the manufacturer to construct recreational vehicles in accordance with the plans, specifying:

1. Scope and purpose.
2. Receiving and inspection procedure for basic materials.
3. Material storage and stock rotation procedure.
4. Types and frequency of product inspection.
5. Sample of inspection control form used.
6. Responsibility for quality control programs, indicating personnel, their assignments, experience and qualifications.
7. Test equipment.
8. Control of drawings and material specifications.
9. Test procedures.

(4) A unit certification format certifying compliance with the Act and regulations shall be submitted to the office no later than the end of the first week of each month. The unit certification format shall contain the information in the format of Appendix A.

(5) No manufacturer to which a certificate of acceptability has been issued shall modify in any way its

manufacturing specifications without prior written approval of the office.

(6) If the manufacturer is also a dealer, he must also comply with dealer licensing provisions.

(7) Should the applicant not conform with these regulations, the applicant shall be so notified in writing by the office within ten (10) working days of the date received. Should the applicant fail to submit a corrected application in accordance with the information supplied on the application correction notice, the application will be deemed abandoned and twenty percent (20%) of fees due will be forfeited to the office. Any additional submission shall be processed as new application.

(8) Manufacturers shall notify the office in writing within thirty (30) days of any of the following occurrences:

(a) The corporate name is changed;

(b) The main address of the company is changed;

(c) There is a change in twenty-five percent (25%) or more of the ownership interest of the company within a twelve (12) month period;

(d) The location of any manufacturing facility is changed;

(e) A new manufacturing facility is established; or

(f) There are changes in the principal officers of the firm.

(9) Any information relating to building systems or in-plant quality control systems which the manufacturer considers proprietary shall be so designated by him at the time of its submission, and shall be so held by the office, and by the inspection, evaluation, and local enforcement agencies unless the board determines in each case that disclosure is necessary to carry out the purposes of the Act.

(10) The office may determine that the standards for recreational vehicles established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to NFPA 501(C)). If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such recreational vehicles.

(11) A certificate of acceptability may be denied, suspended, or revoked on the following grounds:

(a) Evidence of insolvency;

(b) Material misstatement in application for certificate of acceptability;

(c) Willful failure to comply with any provisions of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willfully defrauding any buyer;

(e) Willful failure to perform any written agreement with any buyer or dealer;

(f) Failure to furnish or maintain the required liability insurance;

(g) A fraudulent sale, transaction, or repossession;

(h) Violation of any law relating to the sale or financing of recreational vehicles.

(12) If a certificate holder is a firm or corporation, it shall be sufficient cause for denial, suspension, or revocation of a certificate that any officer, director or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a certificate to such party as an individual. Each certificate holder shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within the scope of his authority.

(13) Procedure for denial, revocation or suspension.

(a) The office may deny the application for a certificate of acceptability by written notice to the applicant, stating the grounds for such denial.

(b) No certificate of acceptability shall be suspended or revoked by the office except after a hearing thereon. The office shall give the certificate holder at least thirty (30) days notice of the time and place of the hearing and of the charges to be heard.

(c) Any manufacturer who violates or fails to comply with this Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation within twenty (20) days. Should the manufacturer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any certificate of acceptability if it finds that:

1. The manufacturer has failed to pay the fees authorized by the Act;

2. The manufacturer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of this Act or any regulation or order lawfully made pursuant to and within the authority of that Act; or that

3. The manufacturer has shipped or imported into this state a recreational vehicle to any person other than to a duly licensed dealer.

(14) Any person aggrieved by any ruling of the office denying a certificate of acceptability within fifteen (15) days after any such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all the members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine and order that any applicant is not qualified to receive a certificate of acceptability, no certificate shall be granted. If the board shall determine that the certificate holder was willfully or through gross negligence has been guilty of a violation of any of the provisions of the Act, his certificate may be suspended or revoked.

(15) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS 281.780 and 281.785.

(16) Under proceedings for the suspension of a certificate of acceptability for any of the violations enumerated in the Act, the holder of a certificate of acceptability may have the alternative subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day.

Section 8. Serial Numbers, Model Numbers, Date Manufactured. A clearly designated serial number, model number, and date manufactured shall be stamped into the tongue, or front cross member of the frame at the lower left hand side (while facing the unit), and if there is no such tongue or cross member, then a data plate with this information shall be affixed on the outside in a conspicuous place.

Section 9. Dealer License. (1) No dealer of recreational vehicles shall engage in business as such in this state without a license issued by the office upon application.

(2) Application must contain the following information:

(a) Name and address of the chief managing officer;

(b) Location of each and every established place of business;

(c) Social security number and date of birth of chief managing officer;

(d) Affidavit certifying compliance with the Act and regulations;

(e) Names of officers if dealership in corporate form;

(f) Names of partners if dealership in partnership form; and

(g) Any other information the office deems commensurate with safeguarding of the public interest in the locality of the proposed business.

(3) All licenses shall be granted or refused within thirty (30) days after application therefor, and shall expire, unless sooner revoked or suspended, on December 31 of the calendar year for which they are granted.

(4) The license fee shall be *$100* [fifty dollars ($50)]. The fee shall be paid by check or money order and shall be made payable to Kentucky State Treasurer.

(5) The license must be conspicuously displayed at the established place of business. In case such location be changed, the office shall endorse the change of location on the license without charge if it be within the same municipality. A change of location to another municipality shall require a new license.

(6) The dealer must furnish and maintain with the office *certification* [proof] of liability insurance in the minimum amount of $50,000 bodily injury or death for each person, $100,000 bodily injury or death for each accident, and $25,000 property damage.

(7) Periodic reports.

(a) A unit compliance format certifying compliance with the Act and regulations shall be submitted to the field inspector on a monthly basis for "all" units sold. The unit certification format shall contain the information in Appendix B.

(b) Notification of a change in the application information must be made within thirty (30) days of any of the following occurrences:

1. Dealership name is changed;
2. Established place of business is changed;
3. There is a change in twenty-five percent (25%) or more of the ownership interest of the dealership within a twelve (12) month period; or
4. There are changes in the principal officers of the firm.

(8) A license may be denied, suspended or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application;

(c) Willful failure to comply with any provision of the Act or any rule or regulation promulgated by the board under the Act;

(d) Willful failure to perform any written agreement with the buyer;

(e) Willfully defrauding any buyer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required liability insurance;

(h) Making a fraudulent sale, transaction or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure of a dealer to put the title to a recreational vehicle in his name after said dealer has acquired ownership of the recreational vehicle by trade or otherwise; or

(k) Violation of any law relating to the sale or financing of recreational vehicles.

(9) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act of omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within this scope of his authority.

(10) Upon proceedings for the suspension of a license for any of the violations enumerated in the Act, the licensee may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day.

(11) Procedure for denial, revocation, or suspension.

(a) The office may deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(b) No license shall be suspended or revoked by the office except after a hearing thereon. The office shall give the licensee at least thirty (30) days notice of the time and place of hearing and of the charges to be heard.

(c) Any dealer who violates or fails to comply with the Act or any rules or regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation, and instructed to correct the violation within twenty (20) days. Should the dealer fail to make the necessary corrections within the specified time, the office may, after notice and hearing, suspend or revoke any license if it finds that:

1. The dealer has failed to pay the fees authorized by the Act; or that
2. The dealer either knowingly or without the exercise of due care to prevent the same, has violated any provision of the Act or any regulation or order lawfully made pursuant to and within the authority of the Act.

(12) Any person aggrieved by any ruling of the office denying, suspending or revoking a license, within fifteen (15) days after such ruling of the office may appeal such ruling to the board herein provided for. Such appeal shall be in writing. The board shall state in writing, officially signed by all members concurring therein, its findings and determination after such hearing and its order in the matter. If the board shall determine that the licensee has willfully or through gross negligence been guilty of a violation of any of the provisions of the Act, his license may be suspended or revoked.

(13) Any person aggrieved by any ruling of the board may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided for by KRS 281.780 and 281.785.

Section 10. Temporary Licenses. (1) Any dealer other than one duly licensed in Kentucky, wishing to show and offer recreational vehicles within the Commonwealth of Kentucky for the express purpose of retailing said units to the general public, shall be required to purchase from the Office of the State Fire Marshal a temporary license. Said license shall not exceed fifteen (15) days duration and the license fee shall be ten dollars ($10) for each authorized event.

(2) Applicant shall meet the following requirements before a temporary license is granted:

(a) Be a duly licensed dealer in a state other than Kentucky;

(b) Must furnish to the office proof of liability insurance in the minimum amount of $50,000 bodily injury or death for each person, $100,000 bodily injury or death for each accident, and $25,000 property damage;

(c) Provide satisfactory assurance to the office by way of a physical inspection by an authorized representative of the office, that each new unit the dealer displays, shows or offers for sale, bears a Kentucky class "A" seal of approval. Used units are not permitted to be displayed, shown or offered for sale within the Commonwealth of Kentucky by non-resident dealers;

(d) Provide all other information as may be required by the office.

(3) Temporary licenses shall be prominently displayed at the location where the applicant is transacting business.

(4) Temporary licenses shall not be required for those dealers attending a recreational vehicle show within the Commonwealth of Kentucky provided they do not sell or offer for sale to the general public recreational vehicles.

Section 11. (1) No manufacturer who has received a certificate of acceptability from the office shall sell or offer for sale to Kentucky dealers in this state recreational vehicles unless they bear a class "A" seal of approval issued by and purchased from the office. The provision shall not apply to vehicles sold or offered for sale for shipment out of state.

(2) No dealer who has received a license from the office shall sell a recreational vehicle unless it has a seal. Any dealer who has acquired a used recreational vehicle without a seal shall apply to the office for a class "B" seal by submitting an affidavit certifying either that all electrical, heating, plumbing, and fire and life safety equipment has been checked, and if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(a) Acquisition of seals.

1. Any manufacturer, except one altering a new recreational vehicle bearing a seal, may qualify for acquisition of a class "A" seal by obtaining a certificate of acceptability pursuant to KRS 227.580 and Section 7 of this regulation.

2. Any dealer, except one altering a recreational vehicle bearing a seal, may qualify for acquisition for a class "B" seal by giving an affidavit certifying either that all electrical, heating, plumbing, and fire and life safety equipment has been checked, if necessary, repaired, and is now in safe working condition, or that the unit meets the applicable code.

(b) Application for seals.

1. Any person who has met the applicable requirements of Section 7 or Section 9 of this regulation shall apply for seals in the form prescribed by the office. The application shall be accompanied by the seal fee of twenty dollars ($20) for each class "A" seal or twenty dollars ($20) for each class "B" seal.

2. If the applicant has qualifed to apply for seals pursuant to the in-plant quality control approval method, the seal application shall include the certificate of acceptability number.

(c) Alteration or conversion of a unit bearing a seal.

1. Any alteration of the plumbing, heat-producing equipment, electrical equipment or installations, or fire and life safety in a recreational vehicle which bears a seal, shall void such approval and the seal shall be returned to the office.

2. The following shall not constitute an alteration or conversion:

a. Repairs with approved component parts;

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;

c. Adjustment and maintenance of equipment;

d. Replacement of equipment in kind;

e. Any change that does not affect those areas covered by NFPA 501 (C).

3. Any dealer proposing an alteration to a recreational vehicle bearing a seal shall make application to the office. Such application shall include:

a. Make and model of recreational vehicle;

b. Serial number;

c. State seal number;

d. A complete description of the work to be performed together with plans and specifications when required; and

e. Location of the recreational vehicle where work is to be performed.

4. Upon completion of the alteration, the applicant shall request the office to make an inspection.

5. The applicant may purchase a replacement seal, based on inspection of the alteration for a fee of two dollars ($2).

(d) Denial and repossession of seals. Should inspection reveal that a manufacturer is not constructing recreational vehicles according to NFPA 501(C) and such manufacturer, after having been served with a notice setting forth in what respect the provisions of these rules and the code have been violated, continues to manufacture recreational vehicles in violation of these rules and the code, applications for new seals shall be denied and the seals previously issued and unused shall be confiscated and credit given. Upon satisfactory proof of compliance such manufacturer may resubmit an application for seal.

(e) Seal removal. In the event that any recreational vehicle bearing the seal is found to be in violation of these rules, the office shall attach to the vehicle a notice of non-compliance and furnish the manufacturer or dealer a copy of same. The office, dealer or manufacturer shall not remove the non-compliance tag until corrections have been made, and the owner or his agent has requested an inspection in writing to the office or given an affidavit certifying compliance.

(f) Placement of seals.

1. Each seal shall be assigned and affixed to a specific recreational vehicle. Assigned seals are not transferable and are void when not affixed as assigned, and all such seals shall be returned to or may be confiscated by the office. The seal shall remain the property of the office and may be seized by the office in the event of violation of the Act or regulation.

2. The seal shall be securely affixed by the door on the handle side at approximately handle height.

3. No other seal, stamp, cover, or other marking may be placed within two (2) inches of the seal.

(g) Lost or damaged seals.

1. When a seal becomes lost or damaged, the office shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the recreational vehicle serial number, and when possible, the seal number.

2. All damaged seals shall be promptly returned. Damaged and lost seals shall be replaced by the office with

a replacement seal on payment of the replacement seal fee of two dollars ($2).

CHARLES A. COTTON, Commissioner
ADOPTED: May 6, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: May 13, 1983 at 9 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.

APPENDIX A to 815 KAR 25:020

UNIT CERTIFICATION FORMAT

_____
Name of Manufacturer

_____ _____
Mailing Address County

_____, _____ _____
City State Zip Code

I hereby certify that the recreational vehicles as described hereon have been constructed in compliance with NFPA 501 C, 1977 Edition.

NO.	Serial #	KY Seal #	Date Mfg.	Model	Size	Dealer
1						
2						
3						
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This form must be used in reporting units to the Office of the State Fire Marshal. The form should be completed in duplicate with the original to be sent to the Office of the State Fire Marshal, and the copy retained by the manufacturer. This form should be mailed to the Office of the State Fire Marshal when the last entry has been filled or not later than the first week of each month.

_____ BY _____
Date Person Authorized to Certify These Units

APPENDIX B to 815 KAR 25:020

Name of Dealer

Mailing Address County

City State Zip Code

I hereby certify that the used units described hereon have been inspected and are in compliance with the standards as required by KRS 227.550 thru KRS 227.660 and regulations thereto and that the new recreational vehicles described hereon have the Kentucky Class A seal affixed.

NO.	Serial #	KY Seal #	Date Mfg.	Make	Purchaser & Address

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

Date Signature

CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:008. Health facilities and health service; licensure procedures and fee schedule.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)
PURSUANT TO: KRS 13.082, 216B.040, 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 requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.

Section 1. Definitions. "Volunteer service" means an ambulance service in which none of the drivers or attendants receive any compensation for their work.

Section 2. Licenses. (1) No person shall operate any health facility in this Commonwealth without first obtaining the appropriate license therefor.

(2) The license shall be conspicuously posted in a public area of the facility.

(3) All applications for licensure shall be filed with the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

(4) All applicants for licenses shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable regulations relating to the particular health facility. Compliance with the board's regulations shall be ascertained through on-site inspections of the health facility by members of the board or their authorized representatives. Any regulatory violation identified during such inspections will be transmitted in writing to the health facility by the inspecting agency. The health facility shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days. Such plan shall specify the date(s) by which each of the violations will be corrected. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan. In instances where a portion or all of the plan is unacceptable,

the inspecting agency shall specify the reasons for the unacceptability. In such cases, the health facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.

(5) Unannounced inspections shall be conducted on complaint allegations. Such inspections shall be conducted utilizing the procedures outlined under subsection (4) of this section.

(6) All licenses shall expire on December 31 following the date of issuance unless otherwise expressly provided in the license certificate.

(7) Licenses may be renewed upon:

(a) Payment of the prescribed fee;

(b) Compliance with the applicable provisions of the Certificate of Need and Licensure Board's regulations; and

(c) Submission of reports including health services provided, health manpower employed and utilization of health services and any special reports required by the Board. Commencing with the required reports for calendar year 1982, the data elements to be included in said reports will be circulated for notification at least sixty (60) days in advance of the requests.

(8) Each license to operate shall be issued only for the person or persons and premises, including the number of beds (if applicable), named in the application and shall not be transferable. A new application shall be filed in the event of change of ownership. A change of ownership for licenses shall be deemed to occur when more than fifty percent (50%) of an existing facility or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one (1) person from another.

(9) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. No additional fee will be charged for the remainder of the licensure period.

(10) There shall be full disclosure to the licensure board of the name and address (and any changes) of:

(a) Each person having (directly or indirectly) ownership interest of ten (10) percent or more in the facility;

(b) Each officer and director of the corporation, where a facility is organized as a corporation; and

(c) Each partner, where a facility is organized as a partnership.

Section 3. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

License Type	Rate
(a) Hospitals	
plans and specifications review	$.025 per sq. ft.
(initial through final)	$1,500 maximum
(b) All other health facilities	
plans and specifications review	.025 per sq. ft.
(initial through final)	$800 maximum

(2) Annual fees. The annual licensure fee (including renewals) for health services shall be as follows:

License Type	Rate
(a) Air ambulance services	$50
(b) Alternative birth centers	$100
(c) Ambulatory surgical center	$100
(d) Chemical dependency treatment service	$5 per bed $100/minimum $1,000/maximum
(e) Community mental health and mental retardation center	$500
(f) Day health care	$50
(g) Ambulance service	
(per non-volunteer service)	$50
(per volunteer service)	$10
(h) Family care homes	$25
(i) Group homes mentally retarded/developmentally disabled	$50
(j) Health maintenance organizations	$3 per 100 patients
(k) Home health agencies	$50
(l) Homemaker	$50
(m) Hospice	$10
(n) Hospitals	
1. Accredited hospital	$3 per bed $100/minimum $1,000/maximum
2. Non-accredited hospital	$5 per bed $100/minimum $1,000/maximum
(o) Intermediate care facilities	$5 per bed $100/minimum $1,000/maximum
(p) Medical detoxification services	No fee
(q) Non-emergency health transportation service (per service)	$50
(r) Nursing home	$5 per bed $100/minimum $1,000/maximum
(s) Outpatient clinics and ambulatory care facilities	$100
(t) Personal care home	$2 per bed $50/minimum $500/maximum
(u) Primary care center	$100 $15 per satellite
(v) Psychiatric hospitals	
1. Accredited	*$3 per bed* *$100/minimum* *$1,000/maximum*
2. Non-accredited hospital	*$5 per bed* *$100/minimum* *$1,000/maximum*
(w) [(v)] Rehabilitation (outpatient)	$50
(x) [(w)] Renal dialysis	$10 per station
(y) [(x)] Rural health clinics	$50
(z) [(y)] Skilled nursing facilities	$5 per bed $100/minimum $1,000/maximum

FRANK W. BURKE, SR., Chairman
ADOPTED: March 16, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 3, 1983 at 2:30 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 Health Services
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:016. Hospitals; operations and services.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1)(2)
PURSUANT TO: KRS 13.082, 216B.040, 216B.105(3)
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate 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 minimum licensure requirements for the operation of hospitals and the basic services to be provided by hospitals.

Section 1. Scope of Operations and Services. Hospitals are establishments with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

Section 2. Definitions. (1) "Governing authority" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the hospital staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of hospital training.

(3) "Registered records administrator" means a person who [has graduated from a program for medical records administrators accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who] is certified as a Registered Records Administrator by the American Medical Record Association.

(4) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an Accredited Record Technician by the American Medical Record Association.

(5) "Qualified dietitian" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietitian by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has bachelor of science degree in home economics and three (3) years of work experience with a registered dietitian.

(6) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

(9) "Psychiatric unit" means a department of a general acute care hospital consisting of eight (8) or more psychiatric beds organized for the purpose of providing psychiatric services.

Section 3. Administration and Operation. (1) Governing authority licensee.

(a) The hospital shall have a recognized governing authority that has overall responsibility for the management and operation of the hospital and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority, and accountability shall be defined in writing and approved by the governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall act as the chief executive officer and shall be responsible for the management of the hospital, and shall provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed of the conduct of the hospital through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall develop an organizational structure including lines of authority, responsiblity, and communication, and shall organize the day-to-day functions of the hospital through appropriate departmentalization and delegation of duties.

(d) The administrator shall establish formal means of accountability on the part of subordinates to whom he has assigned duties.

(e) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at such meetings on a regular basis, and shall report to such departments as well as to the governing authority the pertinent activities of the hospital.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity, and reflect the programs of the facility. Such reports shall include: minutes of the governing authority and staff meetings, financial records and reports, personnel records, inspection reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The hospital shall maintain a patient admission and discharge register. Where applicable, a birth register and a surgical register shall also be maintained.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The hospital shall have written policies and procedures governing all aspects of the operation of the facility and the services provided, including:

(a) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(b) Admission policies which assure that patients are admitted to the hospital in accordance with policies of the medical staff;

(c) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(d) Financial requirements for patients on admission;

(e) Emergency admissions;

(f) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(g) There shall be an effective procedure for recording accidents involving a patient, visitor, or staff, and incidents of transfusion reactions, drug reactions, medication errors, etc.; and a statistical analysis shall be reported in writing through the appropriate committee;

(h) Reporting of communicable diseases to the health department in whose jurisdiction the disease occurs pursuant to KRS Chapter 214 and 902 KAR 2:020;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Internal transfer of patients from one (1) level or type of care to another (if applicable); and

(k) Discharge and termination of services.

(5) Patient identification. The hospital shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, hospital identification number, date of admission, and name of attending medical staff member).

(6) Discharge planning.

(a) The hospital shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(b) The professional staff of the facility involved in the patient's care during hospitalization shall participate in discharge planning of the patient whose illness requires a level of care outside the scope of the general hospital.

(c) The hospital shall coordinate the discharge of the patient with the patient and the person(s) or agency responsible for the post-discharge care of the patient. All pertinent information concerning post-discharge needs shall be provided to the responsible person(s) or agency.

(7) Transfer procedures and agreements.

(a) The hospital shall have written patient transfer procedures and agreements with at least one (1) of each type of other health care facilities which can provide a level of inpatient care not provided by the hospital. Any facility which does not have a transfer agreement in effect but has documented a good faith effort to enter into such an agreement shall be considered to be in compliance with this requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arranging for appropriate and safe transportation.

(b) If the patient is transferred to another health care facility or to the care of a home health agency, a transfer form shall accompany the patient or be sent immediately to the home health agency. The transfer form shall include at least: attending medical staff member's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care, and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed discharge summary shall be forwarded to another health care facility or home health agency within fifteen (15) days of the patient's discharge.

(c) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(8) Medical staff.

(a) The hospital shall have a medical staff organized under bylaws approved by the governing authority, *which is* [and shall be] responsible to the governing authority of the hospital for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership. For purposes of this document, medical staff shall mean physicians, and dentists when applicable.

2. Define and describe the responsbilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members, and establish a procedure for granting and withdrawing staff privileges to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department/service meeting of the medical staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the hospital. These committees may include: executive committee, credentials committee, medical audit committee, medical records committee, infections control committee, tissue committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(9) Personnel.

(a) The hospital shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services and shall have written personnel policies and procedures which shall be available to all hospital personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for pre-employment and periodic health examination. All employees shall have a chest x-ray or tuberculin skin test prior to employment and annually thereafter.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address, social security number;
2. Health records;
3. Evidence of current registration, certification, or licensure of personnel;
4. Records of training and experience;
5. Records of performance evaluation.

(10) Physical and sanitary environment.

(a) The condition of the physicial plant and the overall hospital environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services

and for the establishment of practices and procedures in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) There shall be an infection control committee charged with the responsibility of investigating, controlling and preventing infections in the hospital. Infection incident reports shall be filed.

(d) There shall be current written infection control measures, including:

1. Policies concerning the admission and isolation of patients with specific or suspected infectious diseases, protective isolation of appropriate patients and protective routine for personnel and visitors;

2. Written procedures for the bacteriological testing of all areas of possible infection. Results of all testing shall be recorded and reported to the infection control committee;

3. The method of control used in relation to the sterilization of supplies and water; and

4. Policies for the protection of patients from employees who have a communicable disease.

(e) The hospital shall provide inservice education programs on the cause, effect, transmission, prevention and elimination of infections.

(f) The hospital buildings, equipment, and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

1. An adequate number of housekeeping and maintenance personnel shall be provided.

2. Written housekeeping procedures shall be established for the cleaning of all areas and copies shall be made available to personnel.

3. Equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition.

4. Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed metal containers and kept separate from other cleaning materials.

5. The facility shall be kept free from insects and rodents with harborages and entrances for these eliminated.

6. Garbage and trash shall be stored in areas separate from those used for preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(g) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid containers immediately after use. After use, all needles shall also be rendered unusable. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR *47:020* [2:010].

(h) The hospital shall establish a written policy for the handling and disposal of all infectious and pathological waste. Any incinerator used for the disposal of waste shall be incompliance with 401 KAR 59:020 and 401 KAR 61:010.

1. All unpreserved tissue specimens from surgical or necropsy procedures shall be incinerated, on site or off site.

2. The following waste shall be sterilized before disposal or be disposed of by incineration if they are combustible:

a. Dressings and materials from open or contaminated wounds;

b. Waste materials and disposable linens from isolation rooms;

c. Culture plates;

d. Test tubes;

e. Sputum cups; and

f. Contaminated sponges and swabs.

(i) The hospital shall have available at all times a quantity of linen essential to the proper care and comfort of patients.

1. Linens shall be handled, stored, and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free areas designated exclusively for this purpose.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas ventilated to the exterior of the buildings; this air shall not be allowed to recirculate into the facility.

(11) Medical records.

(a) The hospital shall have a medical records service with administrative responsibility for medical records. A medical record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the hospital *or receiving outpatient services.*

1. The medical records service shall be directed by a registered records administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time *or part-time* basis, and shall have available a sufficient number of regularly assigned employees so that medical record services may be provided as needed.

2. All medical records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is the longer.

3. Provision shall be made for written designation of specific location(s) for storage of medical records in the event the hospital ceases to operate because of disaster, or for any other resaon. It shall be the responsibility of the hospital to safeguard both the record and its informational content against loss, defacement, and tampering. Particular attention shall be given to protection from damage by fire or water.

(b) A system of identification and filing to insure the prompt location of a patient's medical record shall be maintained:

1. Index cards shall bear at least the full name of the patient, [the address,] the birth date, *and* the medical record number [, and the date of each inpatient service rendered].

2. There shall be a system for coordinating the inpatient *and* [/] outpatient medical records of any patient *whose admission is a result of or related to outpatient services* [who has received both inpatient and outpatient services].

3. All clinical information pertaining to *inpatient or outpatient services* [a patient's stay] shall be centralized in the patient's *medical* record.

4. In hospitals using automated data processing, indexes may be kept on punch cards or reproduced on sheets kept in books.

(c) Records of patients are the property of the hospital and shall not be taken from the facility except by court order. This does not preclude the routing of the patient's records, or portion thereof, including x-ray film, to physicians or dentists for consultation.

1. Only authorized personnel shall be permitted access to the patient's records.

2. Patient information shall be released only on authorization of the patient, the patient's guardian or the executor of his estate.

(d) Medical record contents shall be pertinent and cur-

rent and shall include the following:

1. Identification data and signed consent forms, including name and address of next of kin, and of person or agency responsible for patient;
2. Date of admission and name of attending medical staff member;
3. Chief complaint;
4. Medical history including present illness, past history, family history and physical examination;
5. Report of special examinations or procedures, such as consultations, clinical laboratory tests, x-ray interpretations, EKG interpretations, etc.;
6. Provisional diagnosis or reason for admission;
7. Orders for diet, diagnostic tests, therapeutic procedures, and medications, including patient limitations, signed and dated by the medical staff member; and, if given verbally, undersigned by the medical staff member upon his next visit to hospital;
8. Medical, surgical and dental treatment notes and reports, signed and dated by a physician, or dentist when applicable, including records of all medication administered to the patient;
9. Complete surgical record signed by attending surgeon, or oral surgeon, to include anesthesia record signed by anesthesiologist or anesthetist, preoperative physical examination and diagnosis, description of operative procedures and findings, postoperative diagnosis, and tissue diagnosis by qualified pathologist on tissue surgically removed;
10. Physician's, or dentist's when applicable, progress notes and nurses' observations;
11. Record of temperature, pulse and respiration;
12. Final diagnosis *using terminology in the current version of the International Classification of Diseases or the American Psychiatric Association's Diagnostic and Statistical Manual, as is applicable*;
13. Discharge summary, including condition of patient on discharge, and date of discharge; and
14. In case of death, autopsy findings, if performed.

(e) Records shall be indexed according to disease, operation, and attending medical staff member. For indexing, any recognized system may be used.

1. The disease and operative indices shall be developed using a recognized nomenclature, and shall include each specific disease treated and each operative procedure performed, and shall include all essential data on each patient having that particular condition;
2. The attending medical staff index shall include all patients attended or seen in consultation by each medical staff member;
3. Indexing shall be current, within six (6) months following discharge of the patient.

Section 4. Provision of Services. (1) Medical staff services.

(a) Medical care provided in the hospital shall be under the direction of a medical staff member in accordance with staff privileges granted by the governing authority.

(b) The attending medical staff member shall assume full responsibility for diagnosis and care of his/her patient. A physician, or other member of the medical staff if so designated in the hospital bylaws, shall conduct and record a complete history and physical examination for the patient within twenty-four (24) hours after admission to the hospital.

(c) The attending medical staff member shall state his final diagnosis, complete the discharge summary and sign the records within fifteen (15) days following the patient's discharge.

(d) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(e) There shall be sufficient medical staff coverage for all clinical services of the hospital in keeping with their size and scope of activity.

(2) Nursing service.

(a) The hospital shall have a nursing department organized to meet the nursing care needs of the patients and maintain established standards of nursing practice. A registered nurse, preferably one who has a bachelor of science degree in nursing, shall serve as director of the nursing department.

(b) There shall be a registered nurse on duty at all times.

1. There shall be registered nurse supervision and staff nursing personnel for each service or nursing unit to insure the immediate availability of a registered nurse for all patients on a twenty-four (24) hour basis.
2. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the service of a registered nurse.
3. There shall be additional registered nurses for surgical, obstetrical, emergency, and other services of the hospital in keeping with their size and scope of activity.
4. All persons not employed by the hospital who render special duty nursing services in the hospital shall be under the supervision of the nursing supervisor of the department or service concerned.

(c) The hospital shall have written nursing care procedures and written nursing care plans for patients. Patient care shall be carried out in accordance with attending medical staff member's orders, nursing care plans, and nursing care procedures.

1. Nursing care plans shall be developed for each patient and shall be kept current daily. Plans shall indicate long and short-term goals, nursing care needed, and methods, approaches and modifications necessary to insure best results for the patient.
2. A registered nurse shall assign staff and evaluate the nursing care of each patient in accordance with the patient's need and the nursing staff available.
3. Nursing notes shall be written and signed on each shift by persons rendering care to patients. The notes shall be descriptive of the nursing care given and shall include information and observations of significance which contribute to the continuity of patient care.
4. Medications shall be administered by a registered nurse, a physican, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.
5. No medication or treatment shall be given without a written order signed by a physician or dentist, when applicable. Telephone orders for medications shall be given only to registered nurses or a pharmacist and signed by the medical staff member within twenty-four (24) hours from the time the order is given.
6. No form of patient restraint or protective device other than bed rails shall be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary, the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.
7. Meetings of the nursing staff and other nursing personnel shall be held at least monthly to discuss patient care,

nursing service problems, and administrative policies. Written minutes of all meetings shall be kept.

(3) Dietary services.

(a) The hospital shall have a dietary department, organized, directed and staffed to provide quality food service and optimal nutritional care.

1. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

2. The dietary service shall have at least one (1) qualified dietitian or nutritionist, either full-time, part-time, or on a consultative basis, to supervise the nutritional aspects of patient care.

3. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

4. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage. handling, and preparation.

5. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

(b) Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

(c) Meals shall correspond with the posted menu. When changes in menu are necessary, substitution shall provide equal nutritive value and the changes shall be recorded on the menu. Menus shall be kept on file for thirty (30) days.

(d) All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect the diet or eating habits.

(e) Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

(f) If a patient refuses foods served, nutritious substitutions shall be offered.

(g) At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and a breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

(h) There shall be at least a three (3) day supply of food available in the facility at all times to prepare well-balanced palatable meals for all patients.

(i) There shall be an identification system for patient trays, and methods used to assure that each patient receives the appropriate diet as ordered.

(j) The hospital shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code). The Division for Licensing and Regulation, Office of Inspector General, *Cabinet* [Department] for Human Resources shall carry out the provisions of this Act as they relate to inspections, follow-up and recommendations for issuance and/or revocation of food service permits.

(4) Laboratory services. The hospital shall have a well-organized, adequately supervised laboratory with the necessary space, facilities and equipment to perform those services commensurate with the hospital's needs for its patients. Anatomical pathology services and blood bank services shall be available either in the hospital or by arrangement with other facilities.

(a) Clinical laboratory. Basic clinical laboratory services necessary for routine examinations shall be available regardless of the size, scope and nature of the hospital.

1. Equipment necessary to perform the basic tests shall be provided by the hospital.

2. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

3. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology, serology, and clinical microscopy.

a. Some of these services may be provided through arrangements with another licensed hospital which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

b. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

4. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

b. Where services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the hospital.

5. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. Laboratory services shall be under the direction of a pathologist on a full-time, regular part-time, or a consultative basis. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

6. Signed reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. The laboratory report shall be signed by the technologist who performed the test.

b. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by a medical staff member.

(b) Anatomical pathology. Anatomical pathology services shall be provided as indicated by the needs of the hospital either in the hospital or under arrangements as specified in paragraph (a)3a of this subsection.

1. Anatomical pathology services shall be under the direct supervision of a pathologist on a full-time, regular part-time or regular consultative basis. If the latter pertains, the hospital shall provide for at least monthly consultative visits by a pathologist.

2. The pathologist shall participate in staff, departmental and clinicopathologic conference.

3. The pathologist shall be responsible for establishing

the qualifications of staff and for their inservice training.

4. With exceptions of those exclusions listed in written policies of the medical staff, all tissues removed at surgury shall be macroscopically, and if necessary, microscopically examined by the pathologist.

a. A list of tissues which do not routinely require microscopic examination shall be developed in writing by the pathologist or desingated physician with the approval of the medical staff.

b. A tissue file shall be maintained in the hospital.

c. In the absence of a pathologist, there shall be an established plan for sending to a pathologist outside the hospital all tissues requiring examination.

5. Signed reports of tissue examinations shall be promptly filed with the patient's medical record and duplicate copies kept in the department.

a. All reports of macro and microscopic examinations performed shall be signed by the pathologist.

b. Provision shall be made for the prompt filing of examination results in the patient's medical record and notification of the medical staff member requesting the examination.

c. Duplicate copies of the examination reports shall be filed in the laboratory in a manner which permits ready identification and accessibility.

(c) The laboratory shall meet the minimum proficieny testing and quality control provisions in accordance with Medicare certification requirements.

(d) Blood bank. Facilities for procurement, safekeeping and transfusion of blood and blood products shall be provided or be readily available.

1. The hospital shall maintain, as a minimum, proper blood storage facilities under adequate control and supervision of the pathologist or other authorized physician.

2. For emergency situations the hospital shall maintain at least a minimum blood supply in the hospital at all times, shall be able to obtain blood quickly from community blood banks or institutions, or shall have an up-to-date list of donors and equipment necessary to bleed them.

3. If the hospital utilizes outside blood banks, there shall be a written agreement governing the procurement, transfer and availability of blood.

4. There shall be a provision for prompt blood typing and cross-matching and for laboratory investigation of transfusion reactions, either through the hospital or by arrangements with others on a continuous basis, under the supervision of a physician.

5. Blood storage facilities in the hospital shall have an adequate alarm system, which shall be regularly inspected and tested and is otherwise safe and adequate.

6. Records shall be kept on file indicating the receipt and dispostion of all blood provided to patients in the hospital.

7. A committee of the medical staff or its equivalent shall review all transfusions of blood or blood derivatives and shall make recommendations concerning policies governing such practices.

8. Samples of each unit of blood used at the hospital shall be retained, according to the instructions of the committee indicated in subparagraph 7 of this paragraph, for futher testing in the event of reactions. Blood not so retained which has exceeded its expiration date shall be disposed of promptly.

9. The review commitee shall investigate all transfusion reactions occurring in the hospital and shall make recommendations to the medical staff regarding improvements in transfusion procedures.

(5) Pharmaceutical services.

(a) The hospital shall have adequate provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and regulations.

1. A hospital which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the hospital.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Hospitals not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall be dispensed by a registered pharmacist elsewhere. The drug room shall be operated under the supervision of a pharmacist employed at least on a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the hospital on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(b) Records shall be kept of the transactions of the pharmacy or drug room and correlated with other hospital records where indicated.

1. In accordance with accounting procedures of the hospital, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the hospital for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

2. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

(c) The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

1. The administration of medications only upon the order of an individual who has been assigned clinical privileges or who is an authorized member of the house staff;

2. Review of the physician's, or dentist's when applicable, original order, or a direct copy by the pharmacist dispensing the drugs;

3. The establishment and enforcement of automatic stop orders;

4. Proper accounting for and dispostion of unused medications or special prescriptions returned to the pharmacy as a result of patient being discharged, or when such medications/prescriptions do not meet sterile and label requirements;

5. Provision for emergency pharmaceutical services; and

6. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

(d) Therapeutic ingredients of medications dispensed shall be included in the United States Pharmacopoeia, Na-

tional Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

1. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

2. There shall be available a formulary or list of drugs accepted for use in the hospital which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

(6) Radiology services.

(a) The hospital shall have diagnostic radiology facilities. The radiology service shall have a current license or registration pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder.

1. The hospital shall provide at least one (1) fixed diagnostic x-ray unit which is capable of general x-ray procedures.

2. The hospital shall have a radiologist on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

3. Personnel adequate to supervise and conduct the services shall be provided, and at least one (1) certified radiation operator shall be on duty or on call at all times.

(b) There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

1. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

2. Radiologic services shall be performed only upon written order of a physician or dentist, and the order shall contain a concise statement of the reason for the service/examination.

3. Reports of interpretations shall be written or dictated and signed by the radiologist.

4. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes.

(c) The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(7) Physical restoration/rehabilitation service.

(a) Hospitals in which physical restoration/rehabilitation services are available shall provide individualized techniques required to achieve maximum physical function normal to the patient while preventing unnecessary debilitation and immobilization.

(b) Written policies and procedures shall be developed for each rehabilitation service provided.

(c) A member of the medical staff shall be designated to have responsibility for coordinating the restorative services provided to the patients in accordance with their needs.

(d) Equipment for physical therapy shall be adequate to meet the needs of the service and shall be in good condition.

(e) Physical therapy services shall be provided only upon written orders of a medical staff member.

(f) Physical therapy services shall be provided by or under the supervision of a licensed physical therapist, on a full-time, part-time or consultative basis.

(g) Complete therapy reports shall be maintained for each patient provided such services. The reports shall be signed by the therapist who prepared it and shall be a part of the patient's medical record.

(8) Emergency services.

(a) Every hospital shall have procedures for taking care of the emergency patient with at least a registered nurse on duty to evaluate the patient and a physician on call.

(b) If the facility has an organized emergency department/service, policies and an emergency care procedures manual governing medical and nursing care provided in the emergency room shall be established by and be a continuing responsibility of the medical staff.

1. The emergency service shall be under the direction of a licensed physician. Medical staff members shall be available at all times for the emergency service, either on duty or on call. Current schedules and telephone numbers shall be posted in the emergency room.

2. Nursing personnel shall be assigned to, or designated to cover, the emergency service at all times.

3. Facilities shall be provided to assure prompt diagnosis and emergency treatment. A specific area of the hospital shall be utilized for patients requiring emergency care on arrival. The emergency area shall be located in close proximity to an exterior entrance of the facility and shall be independent of the operating room suite.

4. Diagnostic and treatment equipment, drugs, and supplies shall be readily available for the provision of emergency services and shall be adequate in terms of the scope of services provided.

5. Adequate medical records shall be kept on every patient seen in the emergency room. These records shall be under the supervision of the Medical Record Service and, where appropriate, shall be integrated with inpatient and outpatient records. Emergency room records shall include at least:

a. A log book listing chronologically the patient visits to the emergency room including patient identification, means of arrival and person(s) transporting patient, and time of arrival;

b. History of present complaint and physical findings;

c. Laboratory and x-ray reports, where applicable;

d. Diagnosis;

e. Treatment ordered and details of treatment provided;

f. Patient disposition;

g. Record of all referrals;

h. Instructions to the patient and/or family for those not admitted to the hospital; and

i. Signatures of attending medical staff member, and nurse when applicable.

(9) Outpatient services.

(a) A hospital which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, and the needs of the patient it serves.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall

be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the hospital or a laboratory in another licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

(f) Medical records shall be maintained and, where appropriate, coordinated with other hospital medical records.

1. The outpatient medical record shall be filed in a location which insures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

(10) Surgery services.

(a) Hospitals in which surgery is performed shall have an operating room(s) and a recovery room supervised by a registered nurse qualified by training, experience and ability to direct surgical nursing care.

1. Sufficient surgical equipment including suction facilities and instruments in good repair shall be provided to assure safe and aseptic treatment of all surgical cases.

2. When flammable anesthetics are used, precautions shall be taken to eliminate hazards of explosions, including use of shoes with conductive soles and prohibition of garments or other items of silk, wool, or synthetic fibers which accumulate static electricity.

(b) There shall be effective policies and procedures regarding surgical staff privileges, functions of the service, and evaluation of the surgical patient.

1. Surgical privileges shall be delineated for all members of the medical staff doing surgery in accordance with the competencies of each, and a roster shall be maintained.

2. Except in emergencies, a surgical operation or other hazardous procedures shall be performed only on written consent of the patient or his legal representative.

3. The operating room register shall be complete and up to date. It shall include the patient's name; hospital room number; preoperative and postoperative diagnosis; complications, if any; names of surgeon, first assistant, anesthesiologist or anesthetist, scrub and circulating nurse; operation performed; and type of anesthesia.

4. There shall be a complete history and physical work-up in the chart of every patient prior to surgery. If such has been transcribed but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the attending medical staff member in the chart. The chart of the patient shall accompany him to the operating suite and shall be returned to the patient's floor or room after the operation.

5. An operative report describing the techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon.

6. All tissues removed by surgery shall be placed in suitable solutions, properly labeled, and submitted to the pathologist for macroscopic and, if necessary, microscopic examinations.

7. All infections of clean surgical cases shall be recorded and reported to the appropriate committee of the medical staff. A procedure shall exist for the investigation of such cases.

(c) Rules and policies related to the operating rooms shall be available and posted.

(11) Anesthesia services.

(a) The hospital which provides surgical or obstetrical services shall have anesthesia services available, and these services shall be organized under written policies and procedures regarding staff privileges, the administration of anesthetics, and the maintenance of safety controls.

(b) A physician member of the medical staff shall be the medical director of anesthesia services. Whenever possible, the director shall be a physician specializing in anesthesiology.

(c) If anesthetics are not administered by an anesthesiologist, the medical staff shall designate a medical staff anesthetist or a registered nurse anesthetist qualified to administer anesthetics under the supervision of the operating surgeon.

(d) Every patient requiring anesthesia services shall have a pre-anesthetic physical examination by a medical staff member with findings recorded within forty-eight (48) hours of surgery, an anesthetic record on a special form, a post-anesthetic follow-up, with findings recorded by the anesthesiologist, medical staff anesthetist, or nurse anesthetist.

(e) The post-anesthetic follow-up note shall be written within three (3) to twenty-four (24) hours after the procedures which required anesthesia. This note shall include a record of blood pressure, pulse, presence or absence of the swallowing reflex and cyanosis, any postoperative abnormalities or complications, and the general condition of the patient.

(12) Obstetrics service.

(a) Hospitals providing obstetrical care of patients shall have adequate space, necessary equipment and supplies, and a sufficient number of nursing personnel to assure safe and aseptic treatment of mothers and newborns and provide protection from infection and cross-infection.

1. The obstetrics service shall be under the medical direction of a physician and under the supervision of a registered nurse qualified by training, experience, and ability to direct effective obstetrical and newborn nursing care. In hospitals where the obstetrical caseload does not justify a separate nursing staff, obstetrical nurses shall be designated and shall be oriented to the specific needs of obstetrical patients.

2. A registered nurse shall be on duty in the labor and delivery unit whenever any patient is in the unit. Each obstetrics patient shall be kept under close observation by professional personnel during the period of recovery after delivery, whether in the delivery room or in a recovery area, until she is transferred to the maternity unit.

3. An on-call schedule or other suitable arrangement shall be provided to ensure that a physician who is experienced in obstetrics is readily available for consultation and obstetrical emergencies.

4. Provisions shall be made for the care of patients in labor with adequately equipped labor rooms.

(b) An adequate supply of prophylaxis for the prevention of infant blindness shall be kept on hand and administered before the infant is removed from the delivery room.

(c) The hospital shall comply with the provisions of KRS 214.155 and 902 KAR 4:030 in administering tests for inborn errors of metabolism to infants.

(d) There shall be an acceptable method and procedure for the positive associative identification of the mother and infant. This shall be done in the delivery room at the time of birth and shall remain in place during the entire period of hospitalization.

(e) An up-to-date register book of all deliveries shall be maintained containing the following information:

1. Infant's full name, sex, date, time of birth and weight;
2. Mother's full name, including maiden name, address, birthplace and age at time of this birth;
3. Father's full name, birthplace, age at time of this birth; and
4. Full name of attending physician *or nurse midwife.*

(f) Each hospital providing maternity service shall provide a nursery which shall not be used for any other purpose. Specific routines for daily care of infants and their environment shall be prepared in writing and posted in the nursery workroom.

(g) A policy shall be established for deliveries occurring outside the delivery room and for patients who are infectious.

(h) Written policies and procedures shall be developed to cover alternative use of obstetrical beds.

(13) Pediatric services.

(a) Hospitals providing pediatric care shall have proper facilities for the care of children apart from the newborn and maternity nursing services. If there is not a separate area permanently designated as the pediatric unit, there shall be an area within an adult care unit for pediatric patient care. There shall be available beds and other equipment which are appropriate in size for pediatric patients.

(b) There shall be proper facilities and procedures for the isolation of children with infectious, contagious or communicable conditions. At least one (1) patient room shall be available for isolation use.

(c) A physician with pediatric experience shall be on call at all times for the care of pediatric patients.

(d) Pediatric nursing care shall be under the supervision of a registered nurse qualified by training, experience and ability to direct effective pediatric nursing. All nursing personnel assigned to pediatric service shall be oriented to the special care of children.

(e) Policies shall be established to cover conditions under which parents may stay with small children or "room-in" with their hospitalized child for moral support and assistance with care.

(14) Psychiatric services. Hospitals which have a psychiatric unit shall designate the location and number of beds to be licensed as psychiatric beds and meet the requirements of psychiatric hospitals operations and services, licensure regulation.

(15) Chemical dependency treatment services. Hospitals providing chemical dependency treatment services shall meet the requirements of 902 KAR 20:160, Chemical dependency treatment services and facility specifications, Section 3, Administrative and Operation and Section 4, Provision of Services, and designate location and the number of beds to be used for this purpose.

(16) [(14)] Medical library.

(a) The hospital shall maintain appropriate medical library services according to the professional and technical needs of hospital personnel.

(b) The medical library shall be in a location accessible to the professional staff, and its contents shall be organized and available at all times to the medical and nursing staffs.

FRANK W. BURKE, SR, Chairman
ADOPTED: March 16, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 3, 1983 at 2:30 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 Health Services
(Proposed Amendment)

902 KAR 45:005. Food service code.

RELATES TO: KRS 219.011 to 219.081, 219.991(1)
PURSUANT TO: KRS 13.082, 194.50, 211.090
NECESSITY AND FUNCTION: KRS 219.011 to 219.081 and 219.991(1), the Kentucky Hotel and Food Service Establishment Act, authorizes the *Cabinet* [Department] for Human Resources to regulate food service establishments in Kentucky. KRS 219.041(2) directs the *cabinet* [department] to adopt a State Food Service Code. The function of this regulation is to establish a uniform State Food Service Code for the regulation of all food service establishments within the Commonwealth of Kentucky for the purpose of protecting the public health.

Section 1. Citation of Regulation. This regulation may be cited as "State Food Service Code."

Section 2. Definitions. As used in this regulation: (1) "Adulterated food and food products" means any food or food product adulterated as provided by KRS 217.025 of the Kentucky Food, Drug and Cosmetic Act.

(2) "Approved" means acceptable to the *cabinet* [department] based on determination as to conformance with appropriate standards and good public health practices.

(3) "Cabinet" means the Cabinet for Human Resources, the Department for Health Services, the local health department having jurisdiction and their duly designated representatives.

(4) [(3)] "Chemical preservative" means any chemical that, when added to a food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.

(5) [(4)] "Closed" means without openings large enough for the entrance of insects. An opening of one-sixteenth (1/16) inch or less is closed.

(6) [(5)] "Corrosion-resistant material" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions and other conditions of the use environment.

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

(7) "Easily cleanable" means that surfaces are readily accessible and made of such material and finish and so fabricated that residue may be effectively removed by normal cleaning methods.

(8) "Employee" means the permit holder, individuals having supervisory or management duties and any other person working in a food handling establishment.

(9) "Equipment" means stoves, ranges, hoods, ovens (including microwave), cookers, bins, conveyor belts, refrigerators, freezers, mixers, grinders, saws, sinks, tables, display cases, meat blocks, wrapping machines, scales, checkout counters, vehicles and similar items.

(10) "Food contact surfaces" means those surfaces with which food may come in contact, and those surfaces that drain onto surfaces that may come in contact with food.

(11) "Kitchenware" means all multi-use utensils other than tableware used in the storage, preparation, conveying or serving of food.

(12) "Misbranded food and food products" means any food or food product misbranded as provided by KRS 217.035 of the Kentucky Food, Drug and Cosmetic Act.

(13) "Mobile food unit" means a food service establishment that is designed to be readily movable.

(14) "Packaged" means bottled, canned, cartoned, or securely wrapped at a food processing establishment.

(15) "Package" means any container or wrapping in which any food is enclosed for use in the delivery or display to retail purchasers, but does not include: shipping containers or outer wrappings used by retailers to ship or deliver any food to retail customers if such containers and wrappings bear no printed matter pertaining to any particular commodity; containers used for tray pack displays in retail establishments; transparent wrappers or containers which do not bear written, printed, or graphic matter obscuring the label information, and any other exemption granted pursuant to the Federal Food, Drug and Cosmetic Act.

(16) "Perishable food" means food of such type or in such conditions or physical state that it may spoil or otherwise become unfit for human consumption.

(17) "Pesticides" includes pesticides, insecticides, fungicides, herbicides, and rodenticides as defined in KRS 217B.040(2), (3), (4), (5), and (9) and any other toxic substance or compound designated by the department.

(18) "Potentially hazardous food" means any food which consists in whole or in part of milk or milk products, eggs or egg products, meat or meat products, poultry or poultry products, fish or fish products, shellfish (oysters, clams, mussels and edible crustacea) or shellfish products, cooked rice, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole, uncracked, odor-free shell eggs or foods which have a pH level of 4.6 or below or a water activity (aw) value of 0.85 or less, nor does it include hard-boiled, peeled eggs, commercially prepared, packaged and properly labeled.

(19) "Pushcart" means a non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at safe temperatures or limited to the preparation and serving of frankfurters.

(20) "Reconstituted" means dehydrated food products combined with water or other liquids.

(21) "Safe temperature" means, when considering potentially hazardous food, food temperature of forty-five (45) degrees Fahrenheit or below and 140 degrees Fahrenheit or above, except for frozen food, which should be stored at zero (0) degrees Fahrenheit, or less.

(22) "Sanitization" means effective bactericidal treatment by a process that provides enough accumulative heat or concentration of chemicals for enough time to reduce the bacterial count, including pathogens, to a safe level on utensils and equipment.

(23) "Sealed" means free of cracks or other openings which permit the entry or passage of moisture.

(24) "Single-service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping material including bags, toothpicks and similar articles which are designed for one-time, one-person use and then discarded.

(25) "Tableware" means all multi-use eating and drinking utensils.

(26) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days.

(27) "Utensil" means any implement used in the preparation, storage, transportation or service of food.

(28) "Wholesome" means in sound condition, clean, free from adulteration, and otherwise suitable for use as human food.

Section 3. Applicability. The requirements of this regulation are applicable to all food service establishments, as defined by KRS 219.011(3) located within the Commonwealth of Kentucky.

Section 4. Application for Permit to Operate a Food Service Establishment. Any person desiring to operate a food service establishment shall make written application for a permit on forms provided by the *cabinet* [department]. Such application shall include the name and address of the applicant, the location and type of the proposed food service establishment, and the signature of the applicant. If the application is for a temporary food service establishment, it shall also include the dates of the proposed operation. Prior to approval of an application for permit, the *cabinet* [department] shall inspect the proposed food service establishment to determine compliance with the provisions of this regulation. The *cabinet* [department] shall issue a permit to the applicant if the inspection reveals that the proposed food service establishment complies with the requirements of this regulation.

Section 5. Food Supplies. (1) Food shall be wholesome and free from spoilage, filth, or other contamination and shall be safe for human consumption. Food shall be obtained from sources that comply with all applicable federal and state laws relating to food and food labeling. The use of food and food products canned, prepared or processed in the home is prohibited.

(2) Fluid milk and fluid milk products used or served shall be pasteurized and shall meet the Grade A quality standards as established by law and regulation. Dry milk and milk products shall be made from pasteurized milk and milk products.

(3) All shellfish, fresh or frozen shall be packed in non-returnable packages identified with the name and address of the original shell stock processor, shucker-packer, or repacker, and the interstate certification number issued according to law. Shell stock and shucked shellfish shall be kept in the container in which they were received until they are used. Each container of unshucked shell stock (oysters,

mussels, clams and edible crustacea) shall be identified by an attached tag that states the name and address of the original shell stock processor, the kind and quantity of shell stock, and the interstate certification number issued by the state or foreign shellfish control agency and shall comply with applicable *cabinet* [department] regulations relating thereto.

(4) Only clean whole eggs, with shell intact and without cracks or checks, or pasteurized liquid or pasteurized dry egg or egg products shall be used; except that hard-boiled peeled eggs, commercially prepared and packaged, may be used.

(5) All meat and meat products, poultry and poultry products shall have been inspected and passed for wholesomeness under an official governmental regulatory program.

(6) All fish and fish products shall be from approved sources that comply with all applicable federal and state laws relating to food and food labeling.

Section 6. Food Protection. (1) Food shall be protected while being stored, prepared, displayed, served, or transported from potential contamination including dust, insects, rodents, unclean equipment and utensils, unnecessary handling, coughs and sneezes, flooding, drainage and overhead leakage or condensation. The temperature of potentially hazardous foods shall be forty-five (45) degrees Fahrenheit or below or 140 degrees Fahrenheit or above at all times, except during necessary periods of preparation and service. Shell eggs shall be stored at sixty (60) degrees Fahrenheit or below.

(2) In the event of fire, flood, power outage, water cutoff, or similar catastrophic event that might result in the contamination of food, or that might prevent potentially hazardous foods from being held at required temperatures, the person in charge shall immediately contact the *cabinet* [department]. Upon receiving notice of this occurrence, the *cabinet* [department] shall take whatever action that it deems appropriate to protect the public health.

Section 7. Food Storage. (1) Food, whether raw or prepared, if removed from the container or package in which it was obtained, shall be stored in a clean covered container except during necessary periods of preparation or service. Container covers shall be impervious and nonabsorbent, except that linens or napkins may be used for lining or covering bread or roll containers. Solid cuts of meat shall be protected by being covered in storage, except that quarters or sides of meat may be hung uncovered on clean sanitized hooks if no food product is stored beneath the meat.

(2) Containers of food shall be stored a minimum of six (6) inches above the floor in a manner that protects the food from splash and other contamination, and that permits easy cleaning of the storage area, except that:

(a) Metal pressurized beverage containers, and cased food packaged in cans, glass or other waterproof containers need not be elevated when the food container is not exposed to floor moisture;

(b) Containers may be stored on dollies, racks or pallets, provided such equipment is easily movable.

(3) Food or containers of food shall not be stored under exposed sewer or non-potable water lines, except for automatic fire protection sprinkler heads. Food shall not be stored in toilet room or toilet room vestibule.

(4) Food not subject to further washing or cooking before serving shall be stored in a way that protects it against contamination from food requiring washing or cooking. Food shall be stored in such a way that protects it from cross-contamination.

(5) Packaged food shall not be stored in contact with water or undrained ice. Wrapped sandwiches shall not be stored in direct contact with ice or water.

(6) Unless its identity is unmistakable, bulk food such as cooking oil, syrup, salt, sugar, flour, meal and similar products, not stored in the container or package in which it was obtained shall be stored in a container identifying the food by common name.

(7) Enough conveniently located refrigeration facilities or effectively insulated facilities shall be provided to assure the maintenance of potentially hazardous food at the required temperature of forty-five (45) degrees Fahrenheit or below during storage. Each mechanically refrigerated facility storing potentially hazardous foods shall be provided with a numerically scaled indicating thermometer, accurate to plus or minus three (3) degrees Fahrenheit located to measure the air temperature in the warmest part of the facility and located to be easily readable. Recording thermometers accurate to plus or minus three (3) degrees Fahrenheit may be used in lieu of indicating thermometers. Cold potentially hazardous foods shall be maintained at forty-five (45) degrees Fahrenheit or below during transportation.

(8) The temperature of potentially hazardous foods requiring refrigeration shall be forty-five (45) degrees Fahrenheit or below except during necessary periods of preparation.

(9) Frozen foods shall be kept frozen and should be stored at a temperature of zero (0) degrees Fahrenheit or below.

(10) Ice intended for human consumption shall not be used as a medium for cooling stored food, food containers, or food utensils, except that such ice may be used for cooling tubes conveying beverages or beverage ingredients to a dispenser head, provided: tubes, cold plates and etc., are kept clean, in good repair, and are constructed from approved materials. Ice used for cooling and maintaining cold temperatures of stored food and food containers shall not be used for human consumption.

(11) Enough conveniently located hot food storage facilities shall be provided to assure the maintenance of potentially hazardous food at the required temperature of 140 degrees Fahrenheit or above during storage. Each hot food facility storing potentially hazardous foods shall be provided with a numerically scaled indicating thermometer accurate to plus or minus three (3) degrees Fahrenheit located to measure the air temperature in the coolest part of the facility and located to be easily readable. Recording thermometers, accurate to plus or minus three (3) degrees Fahrenheit, may be used in lieu of indicating thermometers. Where it is impractical to install thermometers on equipment such as bainmaries, steam tables, steam kettles, heat lamps, cal-rod units, or insulated food transport carriers, a product thermometer accurate to within plus or minus three (3) degrees Fahrenheit shall be readily available and used by the establishment personnel to check internal food temperatures.

(12) The internal temperature of potentially hazardous foods requiring hot storage shall be 140 degrees Fahrenheit or above except during necessary periods of preparation and such hot potentially hazardous foods to be transported shall be held at an internal temperature of 140 degrees Fahrenheit at all times during transportation.

Section 8. Food Preparation. (1) Food shall be prepared

with the least possible manual contact, using suitable utensils, and on surfaces that prior to use have been cleaned, rinsed and sanitized to prevent cross-contamination.

(2) Raw fruits and raw vegetables shall be washed thoroughly before being cooked or served.

(3) Potentially hazardous foods requiring cooking shall be cooked to heat all parts of the food to a temperature of at least 140 degrees Fahrenheit except that:

(a) Poultry, poultry stuffings, and stuffed meats shall be cooked to heat all parts of the food to at least 165 degrees Fahrenheit with no interruption of the cooking process.

(b) Raw pork and products containing raw pork shall be cooked to heat all parts of the food to at least 150 degrees Fahrenheit.

(c) Rare roast beef shall be cooked to an internal temperature of at least 130 degrees Fahrenheit, and rare beef steak shall be cooked to a temperature of 130 degrees Fahrenheit unless otherwise ordered by the immediate customer.

(4) Reconstituted dry milk and dry milk products may be used in instant desserts and whipped products, or for cooking and baking purposes.

(5) Liquid, frozen, dry eggs and egg products shall be used only for cooking and baking purposes.

(6) Potentially hazardous foods that were cooked and then refrigerated shall be reheated rapidly to 165 degrees Fahrenheit or higher throughout before being served or before being placed in a hot food storage facility. Steam tables, bainmaries, warmers, and other hot food holding facilities are prohibited for the rapid reheating of potentailly hazardous foods.

(7) Non-dairy creaming, whitening, or whipping agents may be reconstituted on the premises only when they will be stored in sanitized, covered containers not exceeding one (1) gallon in capacity and cooled to forty-five (45) degrees Fahrenheit or below.

(8) Metal stem-type numerically scaled indicating thermometers accurate to plus or minus three (3) degrees Fahrenheit shall be provided and used to assure attainment of proper internal cooking temperatures of all potentially hazardous foods.

(9) Potentially hazardous foods shall be thawed:

(a) In refrigerated units in a way that the temperature of the food does not exceed forty-five (45) degrees Fahrenheit; or

(b) Under potable running water of a temperature of seventy (70) degrees Fahrenheit or below, with sufficient water velocity to agitate and float off loose food particles into the overflow; or

(c) In a microwave oven only when the food will be immediately transferred to conventional cooking facilities as part of a continuous cooking process or when the entire, uninterrupted cooking process takes place in the microwave oven; or

(d) As part of the conventional cooking process.

Section 9. Food Display and Service. (1) Potentially hazardous foods shall be kept at a temperature of forty-five (45) degrees Fahrenheit or lower or at a temperature of 140 degrees Fahrenheit or higher during display and service.

(2) Food on display shall be protected from consumer contamination by the use of easily cleanable counter-protector devices, display cases and similar equipment in addition to other means of protection.

(3) Reuse of soiled tableware by self-service consumers returning to the service area for additional food is prohibited. Beverage cups and glasses are exempt from this requirement. Clean tableware shall be made available and a sign shall be posted in self-service food area to inform customers of this requirement.

(4) Suitable utensils shall be used by employees or provided for consumers self-service to avoid unnecessary contact with food. Between uses during service, utensils shall be:

(a) Stored in food containers with the food they are being used to serve; or

(b) Stored clean and dry; or

(c) Stored in running water; or

(d) In the case of dispensing utensils and malt collars used in serving frozen desserts, stored either in a running water dipper well, or clean and dry.

(5) Ice for consumer use shall be dispensed only with scoops, tongs, or other ice-dispensing utensils by either employees or self-service or through automatic self-service ice-dispensing equipment. Between uses during service, ice-dispensing utensils and ice receptacles shall be stored in a way that protects them from contamination.

(6) Sugar, condiments, seasonings, and dressings for self-service use shall be provided only in individual packages or from dispensers or containers that protect their contents.

(7) Milk and milk products for drinking purposes shall be provided to the consumer in an unopened, commercially filled package not exceeding one (1) pint in capacity, or served from an approved bulk milk dispenser. When a bulk dispenser for milk or milk products is not available and portions of less than one-half (½) pint are required for mixed drinks, cereal, or dessert service, milk and milk products may be poured from a commercially filled container of not more than one-half (½) gallon capacity.

(8) Cream, half and half, or non-dairy creamers or whitening agents shall be provided in an individual service container, protected pour-type pitcher or drawn from a refrigerated dispenser designed for such service.

(9) Once served to a consumer, individual portions of food shall not be served again. Packaged food, other than potentially hazardous food, that is still packaged and is still wholesome, may be re-served.

Section 10. Food Transportation. During transportation, food and food utensils shall be in covered containers or completely wrapped or packaged so as to be protected from contamination. During transportation, including transportation to another location for service or catering operations, food shall meet the requirements of this regulation relating to protection and storage of food.

Section 11. Employee Health. No person, while infected with a disease in a communicable form that can be transmitted by foods or who is a carrier of organisms that cause such a disease or while afflicted with a boil, an infected wound, or an acute respiratory infection, shall work in a food service establishment, except as noted in Section 39 of this regulation.

Section 12. Personal Cleanliness. Employees shall thoroughly wash their hands and the exposed portions of their arms with soap and warm water before starting work, during work as often as is necessary to keep them clean, and after smoking, eating, drinking or using the toilet. Employees shall keep their fingernails clean and trimmed.

Section 13. Clothing. (1) The outer clothing of all employees shall be clean and suitable for the task to be performed.

(2) Hairnets, hats, scarfs, or similar hair coverings shall be required for all employees working in food preparation areas. Employees working in other areas of establishments shall arrange their hair to prevent the contamination of food, equipment and utensils.

Section 14. Employee Practices. (1) Employees shall consume food only in designated dining areas. An area shall not be designated as a dining area if consuming food there might result in contamination of other food, equipment, utensils, or other items needing protection.

(2) Employees shall not use tobacco in any form while engaged in food preparation or service, nor while in equipment or utensil-washing or food preparation areas. Employees shall use tobacco in any form only in designated areas. An area shall not be designated for that purpose if the use of tobacco there might result in contamination of food, equipment, utensils, or other items needing protection.

(3) Employees shall handle soiled tableware in a way that minimizes contamination of their hands.

(4) Employees shall maintain a high degree of personal cleanliness and shall conform to good hygienic practices.

(5) Employees shall remove all insecure jewelry, and during periods when food is manipulated by hand, remove from hands any jewelry that cannot be adequately sanitized.

Section 15. Equipment and Utensils Materials. (1) Multi-use equipment and utensils shall be made and repaired with safe materials, including finishing materials; shall be corrosion resistant and shall be nonabsorbent; and shall be smooth, easily cleanable, and durable under conditions of normal use. Single-service articles shall be made from clean, sanitary, safe materials. Equipment, utensils and single-service articles shall not impart odors, color or taste, nor contribute to the contamination of food.

(2) If soft solder or hard solder (silver solder) is used, it shall be composed of safe materials and be corrosion resistant.

(3) Hard maple or equivalently nonabsorbent materials that meet the general requirements set forth in subsection (1) of this section may be used for cutting blocks, cutting boards, salad bowls, and bakers' tables. The use of wood as a food-contact surface under other circumstances is prohibited, except in the case of single service articles such as chopsticks, coffee stirrers, ice cream spoons and similar articles.

(4) Safe plastic or safe rubber or safe rubber-like materials that are resistant under normal conditions of use to scratching, scoring, decomposition, crazing, chipping, and distortion, that are of sufficient weight and thickness to permit cleaning and sanitizing by normal dishwashing methods, and which meet the general requirements set forth in subsection (1) of this section are permitted for repeated use. The use of equipment and utensils made of materials not meeting the requirements of this section is prohibited.

(5) Mollusk and crustacea shells may be used only once as a serving container. Further re-use of such shells for food service is prohibited.

Section 16. Equipment and Utensils Design and Fabrication. (1) All equipment and utensils, including plasticware, shall be designed and fabricated for durability under conditions of normal use and shall be resistant to denting, buckling, pitting, chipping, and crazing. Food-contact surfaces shall be easily cleanable, smooth, and free of breaks, open seams, cracks, chips, pits, and similar imperfections, and free of difficult to clean internal corners and crevices. Cast iron may be used as a food-contact surface only if the surface is heated, such as in grills and skillets. Threads shall be designed to facilitate cleaning; ordinary "V" type threads are prohibited, except that in equipment, such as ice makers or hot oil cooking equipment and hot oil filtering systems, the use of such threads shall be minimized.

(2) Equipment containing bearings and gears requiring unsafe lubricants shall be designed and constructed so that the lubricant cannot leak, drip, or be forced into food or onto food-contact surfaces. Only safe lubricants shall be used on equipment designed to receive lubrication of bearings and gears on or within food-contact surfaces.

(3) Sinks, dish tables, and drain boards shall be self-draining.

(4) Unless designed for in-place cleaning, food-contact surfaces shall be accessible for cleaning and inspection:

(a) Without being disassembled; or

(b) By disassembling without the use of tools; or

(c) By easy disassembling with the use of only simple tools kept available near the equipment, such as a mallet, a screwdriver, or an open-end wrench.

(5) Pipes, tubes, valves, and lines contacting food and intended for in-place cleaning shall be so designed and fabricated that:

(a) Cleaning and sanitizing solutions can be circulated throughout a fixed system using an effective cleaning and sanitizing regimen; and

(b) Cleaning and sanitizing solutions will contact all interior food-contact surfaces; and

(c) The system is self-draining or capable of being completely evacuated.

(6) Thermometers required for immersion into food or cooking media shall be of metal stem-type construction, numerically scaled, and accurate to plus or minus three (3) degrees Fahrenheit.

(7) Surfaces of equipment not intended for contact with food, but which are exposed to splash or food debris or which otherwise require frequent cleaning, shall be designed and fabricated so as to be smooth, washable, free of unnecessary ledges, projections, or crevices, and readily accessible for cleaning, and shall be of such material and in such repair as to be easily maintained in a clean and sanitary condition.

(8) Ventilation hoods and devices shall be designed to prevent grease or condensate from dripping into food or onto food-contact surfaces. Filters where used, shall be readily removable for cleaning and replacement.

Section 17. Equipment Installation and Location. (1) Equipment, including ice makers and ice storage equipment, shall not be located under exposed sewer lines, nonpotable water lines, stairwells or other sources of contamination. This prohibition does not apply to automatic fire protection sprinkler heads.

(2) Equipment that is placed on tables or counters, unless portable, shall be sealed to the table or counter or mounted on legs at least four (4) inches high and shall be installed to facilitate the cleaning of the equipment and adjacent areas.

(3) Equipment is portable within the meaning of subsection (2) of this section if:

(a) It is small and light enough to be moved easily by one (1) person; and

(b) It has no utility connection, or has a utility connection that disconnects quickly, or has a flexible utility connection line of sufficient length to permit the equipment to be moved for easy cleaning.

(4) Floor-mounted equipment, unless readily movable, shall be:

(a) Sealed to the floor; or

(b) Installed on raised platforms of concrete or other smooth masonry in a way that prevents liquids or debris from seeping or settling underneath, between, or behind the equipment in spaces that are not fully open for cleaning and inspection; or

(c) Elevated on legs at least six (6) inches off the floor, except that vertically mounted floor mixers may be elevated as little as four (4) inches off the floor if no part of the floor under the mixer is more than six (6) inches from cleaning access. Unless sufficient space is provided for easy cleaning between and behind each unit of floor-mounted equipment, the space between it and adjoining equipment units and between it and adjacent walls shall be closed or, if exposed to seepage, the equipment shall be sealed to the adjoining equipment or adjacent walls.

(5) Aisles and working spaces between units of equipment and between equipment and walls should be unobstructed and of sufficient width to permit employees to perform their duties readily without contamination of food or food-contact surfaces by clothing or personal contact.

(6) Equipment which was installed prior to the effective date of this regulation and which does not meet fully all of the requirements of this section, shall be deemed acceptable, if it is in good repair, capable of being maintained in a sanitary condition and the food contact surfaces are nontoxic. Such equipment shall be so located and installed as to enable reasonable compliance with the requirements of this section.

Section 18. Equipment and Utensil Cleaning and Sanitization. (1) Tableware shall be cleaned and sanitized after each use.

(2) Kitchenware and food-contact surfaces of equipment used in the preparation, service, display or storage of potentially hazardous foods shall be cleaned and sanitized after each use and following any interruption of operations during which time contamination may have occurred.

(3) Where equipment and utensils are used for the preparation of potentially hazardous foods on a continuous or production line basis, utensils and the food-contact surfaces of equipment shall be cleaned and sanitized at intervals throughout the day on a schedule based on food temperature, type of food, and amount of food particle accumulation.

(4) The food-contact surfaces of grills, griddles, and similar cooking devices and the cavities and door seals of microwave ovens shall be cleaned at least once a day, except that this shall not apply to hot oil cooking and filtering devices and systems. Food contact surfaces of all cooking equipment shall be kept free of encrusted grease deposits and other accumulated soil.

(5) Non-food contact surfaces of equipment shall be cleaned as often as is necessary to keep the equipment free of accumulation of dust, dirt, food particles, and other debris.

(6) Cloths used during service for wiping food spills on food contact surfaces shall be clean, dry, and used for no other purpose. Moist cloths used for wiping food-contact surfaces of equipment shall be clean and rinsed frequently or stored in one (1) of the sanitizing solutions permitted by subsection (7)(a) of this section. Moist cloths, or sponges used for cleaning non-food-contact surfaces shall be clean and used for no other purpose. These cloths shall be rinsed frequently or stored in one (1) of the sanitizing solutions permitted by subsection (7)(a) of this section.

(7) When manual cleaning and sanitizing is used, sinks shall be cleaned prior to use. Equipment and utensils shall be preflushed or prescraped and, when necessary, presoaked to remove gross food particles and soil. Equipment and utensils shall be thoroughly washed in a hot detergent solution in the first compartment, rinsed in the second compartment and shall be sanitized in the third compartment according to one (1) of the methods included in paragraph (a)1 through 4.

(a) All tableware and the food-contact surfaces of all other equipment and utensils shall be sanitized by:

1. Immersion for at least one-half (½) minute in clean, hot water of a temperature of at least 170 degrees Fahrenheit; or

2. Immersion for at least one (1) minute in a clean solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite and having a temperature of at least seventy-five (75) degrees Fahrenheit; or

3. Immersion for at least one (1) minute in a clean solution containing at least 12.5 parts per million of available iodine and having a pH not higher than 5.0 and having a temperature of at least seventy-five (75) degrees Fahrenheit; or

4. Immersion in a clean solution containing other chemical sanitizing agents approved by the department that will provide the equivalent bactericidal effect of a solution containing at least fifty (50) parts per million of available chlorine as a hypochlorite at a temperature of at least seventy-five (75) degrees Fahrenheit for one (1) minute; or

5. Treatment with steam free from harmful materials or additives in the case of equipment too large to sanitize by immersion, but in which steam can be confined; or

6. Rinsing, spraying, or swabbing with a chemical sanitizing solution of at least twice the strength required for that particular sanitizing solution under subsection (7)(a)4 of this section when used for immersion sanitization in the case of equipment too large to sanitize by immersion.

(b) When chemicals are used for sanitization, they shall not have concentrations higher than the maximum permitted under the Code of Federal Regulations, Title 21, Food and Drug Administration Chapter 1, Subpart "B," Substances Utilized to Control the Growth of Microorganisms, Section 178.1010 Sanitizing Solutions, and a test kit or other device that accurately measures the parts per million concentration of the solution shall be provided and used.

(c) A three (3) compartment sink shall be used if cleaning and sanitization of equipment or utensils is done manually; provided, that existing establishments not having a three (3) compartment sink that can demonstrate an acceptable procedure for cleaning and sanitizing equipment and utensils may be exempt from this requirement by the department. Sinks shall be large enough to permit the complete immersion of the equipment and utensils and each compartment of the sink shall be supplied with hot and cold potable running water. Suitable equipment shall

be made available if cleaning and sanitizing cannot be accomplished by immersion.

(d) Dish tables or drain boards of adequate size shall be provided for proper handling of soiled utensils prior to washing and for cleaned utensils following sanitizing and shall be located so as not to interfere with the proper use of the dishwashing facilities.

(e) When hot water is used for sanitizing, the following facilities shall be provided and used:

1. An integral heating device or fixture installed in or under the sanitizing compartment of the sink capable of maintaining the water at a temperature of at least 170 degrees Fahrenheit; and

2. A numerically scaled indicating thermometer accurate to plus or minus three (3) degrees Fahrenheit convenient to the sink that can be used for frequent checks of water temperature; and

3. Dish baskets of such size and design to permit complete immersion of the tableware, kitchenware, and equipment in the hot water.

(8) When mechanical cleaning and sanitizing is used, cleaning and sanitizing may be done by spray-type or immersion dishwashing machines or by any other type of machine or device if it is demonstrated that it thoroughly cleans and sanitizes equipment and utensils. Such machines and devices shall be properly installed and maintanined in good repair. Automatic detergent dispensers and wetting agent dispensers, if any, shall be properly installed and maintained.

(a) The pressure of water supplied to spray-type dishwashing machines shall be not less than fifteen (15) or more than twenty-five (25) pounds per square inch measured in the water line immediately adjacent to the machine. A suitable gauge cock shall be provided immediately upstream from the final rinse sprays to permit checking the flow pressure of the final rinse water.

(b) Easily readable numerically scaled indicating thermometers accurate to plus or minus three (3) degrees Fahrenheit shall be provided that indicate the temperature of the water in each tank of the machine and the temperature of the final rinse water as it enters the manifold.

(c) Rinse water tanks shall be so protected by baffles or other effective means as to minimize the entry of wash water into the rinse water. Conveyors in dishwashing machines shall be accurately timed to assure proper exposure times in wash and rinse cycles as determined by specifications attached to the machines.

(d) Drain boards shall be of adequate size for the proper handling of soiled utensils prior to washing and of cleaned utensils following sanitization and shall be so located and constructed as not to interfere with the proper use of the dishwashing facilities.

(e) Equipment and utensils shall be flushed or scraped and, when necessary, soaked to remove gross food particles and soil prior to their being cleaned in a dishwashing machine. After flushing, scraping, or soaking, equipment and utensils shall be placed in racks, trays, or baskets, or on conveyors, in a way that food-contact surfaces are subject to the unobstructed application of detergent wash and clean rinse waters and that permits free draining. Clean rinse water shall remove particulate matter and detergent residues. All dishwashing machines shall be thoroughly cleaned at least once a day or more often when necessary to maintain them in a satisfactory operating condition.

(9) When chemicals are used for sanitization, they shall be automatically dispensed in such concentration and for such a period of time as to provide effective bactericidal treatment of equipment and utensils. Wash water shall be kept clean. In machines using chemicals for sanitization (single-tank, stationary-rack, door-type machines, and spray-type glass washers), the temperature of the wash water shall be not less than 120 degrees Fahrenheit. The sanitizing rinse water shall be not less than seventy-five (75) degrees Fahrenheit nor less than the temperature specified by the machine manufacturer.

(10) Where machines using hot water sanitization are used, wash waters and pumped rinse waters shall be kept clean. Water shall be maintained at not less than the temperatures stated in paragraphs (a) to (e) of this subsection; provided, that existing machines not fully meeting the requirements of this subsection may be acceptable, if capable of meeting such time and temperature requirements as are acceptable by the department. Wash and pumped rinse temperatures shall be measured in the respective tanks, and final rinse temperatures shall be measured at the manifold.

(a) Single tank, stationary rack, dual temperature machine:

1. Wash temperature: 150 degrees Fahrenheit.
2. Final rinse temperature: 180 degrees Fahrenheit.

(b) Single tank, stationary rack, single temperature machine:

1. Wash temperature: 165 degrees Fahrenheit.
2. Final rinse temperature: 165 degrees Fahrenheit.

(c) Single tank, conveyor machine:

1. Wash temperature: 160 degrees Fahrenheit.
2. Final rinse temperature: 180 degrees Fahrenheit.

(d) Multiple tank, conveyor machine:

1. Wash temperature: 150 degrees Fahrenheit.
2. Pumped rinse temperature: 160 degrees Fahrenheit.
3. Final rinse temperature: 180 degrees Fahrenheit.

(e) Single tank, pot, pan, and utensil washer (either stationary or moving rack):

1. Wash temperature: 140 degrees Fahrenheit.
2. Final rinse temperature: 180 degrees Fahrenheit.

(11) All equipment and utensils shall be air-dried.

Section 19. Equipment and Utensil Storage. (1) Cleaned and sanitized equipment and utensils shall be handled in a way that protects them from contamination. Spoons, knives, and forks shall be touched only by their handles. Cups, glasses, and bowls shall be handled without contact with inside surfaces or with surfaces that contact the user's mouth.

(2) Cleaned and sanitized utensils and movable equipment shall be stored at least six (6) inches above the floor in a clean, dry location in a way that protects them from contamination by splash, dust and other means. The food-contact surfaces of fixed equipment shall also be protected from contamination. Equipment and utensils shall not be placed under exposed sewer or nonpotable water lines. This requirement does not apply to automatic fire protection sprinkler heads.

(a) Utensils shall be air-dried before being stored or shall be stored in a self-draining position on suitably located racks.

(b) Wherever practical, stored utensils shall be covered or inverted. Facilities for the storage of spoons, knives, and forks shall be provided and shall be designed to present the handle to the employee or consumer.

(3) If presetting is practiced, all unprotected, unused, preset tableware shall be collected for washing and sanitiz-

ing after the meal period; and after any place at a table is occupied.

(4) Single-service articles shall be stored at least six (6) inches above the floor in closed cartons or containers which protect them from contamination.

(a) Single-service articles shall be commercially packaged for individual use or shall be available to the consumer from a dispenser in a way that prevents contamination of surfaces that may contact food or the user's mouth. Handling of single-service articles in bulk shall be conducted in a way that protects them from contamination. Storage shall not be in toilet rooms or vestibules of toilet rooms nor under nonpotable water lines or exposed sewer lines.

(b) Single-service articles shall be used only once.

Section 20. Sanitary Facilities and Controls. (1) The water supply shall be potable, adequate, and from an approved public supply of a municipality or water district, if available. In the event a public water supply of a municipality or a water district if not available, the supply for a food service establishment shall be developed and approved in accordance with applicable requirements of the *Cabinet* [Department] for Natural Resources and Environmental Protection; provided, however, if a public water supply of a municipality or water district subsequently becomes available, connections shall be made thereto and the private supply shall be discontinued. Hot and cold running water under pressure shall be provided in all areas where food is prepared, or equipment, utensils or containers are washed. Steam used in contact with food or food contact surfaces shall be free from any materials or additives other than those specified in the Code of Federal Regulations, Title 21, Food and Drug Administration Chapter I, sub-part "D," Specific Usage Additives Section 173.310 Boiler Water Additives.

(2) Bottled and packaged potable water shall be obtained from a source that complies with all applicable laws and regulations and shall be handled and stored in a way that protects it from contamination. Bottled and packaged water shall be dispensed from the original containers.

(3) All potable water not provided directly by pipe to the food service establishment from the source shall be transported in a bulk water transport system and shall be delivered to a closed water system. Both of these systems shall be constructed of approved materials and operated in accordance with applicable laws and regulations.

Section 21. Sewage. All sewage, including liquid waste, shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the *Cabinet* [Department] for Natural Resources and Environmental Protection and the *cabinet* [Department of Housing, Buildings and Construction]; provided, however, if a public sewerage system subsequently becomes available, connections shall be made thereto and the private sewerage system shall be disconnected. Only non-water carried disposal methods which have been approved by the *cabinet* [department] for temporary use shall be used and operation of such facilities shall be in conformance with applicable state laws and regulations.

Section 22. Plumbing. (1) All plumbing shall be sized, installed, and maintained in accordance with the State Plumbing Code. There shall be no cross-connection between the safe water supply and any unsafe or questionable water supply, or source of pollution through which the safe water supply might become contaminated.

(2) A nonpotable water system is permitted only for purposes such as air-conditioning and fire protection and only if the system is installed according to applicable state laws and regulations and the nonpotable water does not contact, directly or indirectly, food, potable water, equipment that contacts food, or utensils. The piping of any nonpotable water system shall be durably identified so that it is readily distinguishable from piping that carries potable water.

(3) The potable water system shall be installed to preclude the possibility of backflow. Devices to protect against backflow and backsiphonage shall be installed at all fixtures and equipment wherever backflow or backsiphonage may occur. A hose shall not be attached to a faucet unless a backflow prevention device is installed.

(4) If used, grease traps shall be located to be easily accessible for cleaning.

(5) Except for properly trapped open sinks, there shall be no direct connection between the sewage system and any drains originating from equipment in which food, portable equipment or utensils are placed.

Section 23. Toilet Facilities. (1) In existing food service establishments, adequate toilet facilities shall be provided and shall be so located as to be readily accessible to employees at all times. In new establishments, or establishments that are extensively altered, toilet facilities [for each sex] shall be provided *in accordance with the requirements of the State Plumbing Code* [and readily accessible for the use of both patrons and employees; provided, however, that carry out type food service operations shall be exempted from providing toilet facilities for the use of patrons and provided further that food service establishments located within malls, shopping centers, or similar facilities shall not be required to provide toilet facilities for patrons if such facilities are available within the mall or shopping center].

(2) Toilets and urinals shall be designed to be easily cleanable.

(3) Toilet room doors shall be solid, tight-fitting, and self-closing, and shall be closed except during cleaning or maintenance. Doors may be louvered if installed in accordance to the State Fire Marshal's regulations.

(4) Toilet facilities, including vestibules, if any, shall be kept clean and in good repair and free of objectionable odors. A supply of toilet tissue shall be provided at each toilet at all times. Easily cleanable receptacles shall be provided for waste materials, and the receptables in toilet rooms used by women shall be covered.

Section 24. Lavatory Facilities. (1) Lavatories shall be installed in accordance with the State Plumbing Code and shall be equipped with hot and cold running water or running water tempered by means of a mixing valve or combination faucet. Steam mixing valves are prohibited. Hand cleansing soap or detergent, and approved sanitary towels or other approved hand drying devices are to be conveniently located at each lavatory. If disposable towels are used, waste receptacles shall be located near the lavatory. Common towels are prohibited.

(2) Lavatories shall be located within or immediately adjacent to all toilet rooms. In all new establishments, and establishments which are extensively altered, lavatories

shall be conveniently located within the food preparation area and dishwashing area. Sinks used for food preparation or for washing equipment or utensils shall not be used for handwashing.

(3) Lavatories, soap dispensers, and hand drying devices and all related facilities shall be kept clean and in good repair.

Section 25. Garbage and Refuse. (1) Garbage and refuse shall be kept in durable insect-proof and rodent-proof containers that are leakproof and do not absorb liquids. Plastic bags and wet-strength paper bags may be used to line these containers, and may be used for storage inside the food service establishment when protected from insects and rodents.

(2) Containers, compactors, and compactor systems shall be easily cleanable, shall be provided with tight-fitting lids, doors, or covers, and shall be kept covered when not in actual use. Drain plugs, where required, shall be in place at all times, except during cleaning.

(3) There shall be a sufficient number of containers to hold all the garbage and refuse that accumulates.

(4) After being emptied, each container shall be thoroughly cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food-preparation areas. In new establishments, suitable facilities, including hot water and detergent, shall be provided and used for washing containers.

(5) The garbage and refuse on the premises shall be stored in a place inaccessible to insects and rodents. Outside storage of plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material not containing garbage or food wastes need not be stored in covered containers.

(6) Garbage or refuse storage rooms, if used, shall be constructed of easily cleanable, nonabsorbent, washable materials, shall be kept clean, shall be insect-proof and rodent-proof, and shall be large enough to store the garbage and refuse containers that accumulate.

(7) Outside storage areas or enclosures shall be large enough to store the garbage and refuse containers that accumulate and shall be kept clean. Garbage and refuse containers and compactor systems located outside shall be stored on or above a smooth surface of non-absorbent material, such as concrete or machine-laid asphalt, that is kept clean and maintained in good repair.

(8) Garbage and refuse shall be disposed of often enough to prevent the development of odor and the attraction of insects and rodents.

(9) Where garbage or refuse is burned on the premises, it shall be done by controlled incineration that prevents the escape of particulate matter in accordance with applicable regulations of the *Cabinet* [Department] for Natural Resources and Environmental Protection. Areas around incineration facilities shall be kept clean and orderly.

Section 26. Insect and Rodent Control. (1) Effective measures intended to eliminate the presence of rodents and flies, roaches, and other insects on the premises shall be utilized. The premises shall be kept in such condition as to prevent the harborage or feeding of insects or rodents.

(2) Openings to the outside shall be effectively protected against the entrance of rodents and shall be protected against the entrance of insects by tight-fitting, self-closing doors, closed windows, screening, controlled air currents, or other means. Screen doors shall be self-closing, and screens for windows, doors, skylights, transoms, and other openings to the outside shall be tight-fitting and free of breaks. Screening material shall not be less than sixteen (16) mesh to one (1) inch.

Section 27. Construction and Maintenance of Physical Facilities. (1) The floors of all food preparation, food storage, and utensil-washing areas, and the floors of all walk-in refrigerators, dressing rooms, locker rooms, and toilet rooms and vestibules shall be constructed of smooth, durable materials such as sealed concrete, terrazzo, ceramic tile, durable grades of linoleum or plastic, or tight wood impregnated with plastic, and shall be maintained in good repair.

(2) Carpeting, if used, shall be properly installed, easily cleanable and maintained in good repair. Carpeting is prohibited in toilet rooms, food preparation areas, and in equipment-washing and utensil-washing areas where it would be exposed to large amounts of grease and water.

(3) Sawdust, wood shavings, peanut hulls, or similar material on the floors in food processing areas is prohibited.

(4) Properly installed floor drains shall be provided in floors that are water flushed for cleaning or that receive discharge of water or other fluid waste from equipment. Such floors shall be constructed of sealed concrete, terrazzo, ceramic tile, or similar material graded to drain all parts of the floor.

(5) The floor of each walk-in refrigerator shall be graded to drain all parts of the floor to the outside through a waste pipe, doorway, or other opening, or equipped with a floor drain.

(6) Mats and duckboards shall be of nonabsorbent, grease resistent materials and of such size, materials, design, and construction as to facilitate their being easily cleaned. Duckboards shall not be used as storage racks.

(7) In all new establishments utilizing concrete, terrazzo, ceramic tile or similar material, and where water flush cleaning methods are used, junctures of walls with floors shall be coved and sealed. In all other cases, the junctures between the walls and floors shall not present an open seam of more than one thirty-second (1/32) of an inch.

(8) Utility service lines and pipes shall not be unnecessarily exposed on floors in food preparation and utensil-washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

(9) Walls and ceilings, including doors, windows, skylights, and similar closures, shall be maintained in good repair.

(10) The walls, including nonsupporting partitions, wall coverings, and ceilings of all food preparation and utensil-washing areas and of toilet rooms shall be smooth, nonabsorbent, and easily cleanable. The use of rough or unfinished building materials such as brick, concrete blocks, wooden beams, or shingles is prohibited in those locations except by special plan approval by the *cabinet* [department].

(11) Studs, joists, and rafters shall not be exposed in walk-in refrigerators, food preparation areas, equipment and utensil washing areas and in toilet rooms except by special plan approval by the *cabinet* [department].

(12) Utility service lines and pipes shall not be unnecessarily exposed on walls or ceilings in food preparation and utensil washing areas and in toilet rooms. Exposed lines and pipes shall be installed in a way that does not obstruct or prevent cleaning.

(13) Light fixtures, vent covers, wall-mounted fans, decorative materials, and similar equipment attached to walls and ceilings shall be easily cleanable and shall be maintained in good repair.

(14) Covering material such as sheet metal, linoleum, vinyl, and similar materials shall be easily cleanable and nonabsorbent and shall be attached and sealed to the wall and ceiling surfaces so as to leave no open spaces or cracks.

(15) Concrete or pumice blocks used for interior wall construction shall be finished and sealed to provide an easily cleanable surface.

Section 28. Cleaning Physical Facilities. Floors, mats, duckboards, walls, ceilings, and attached equipment and decorative materials shall be kept clean. Only dustless methods of cleaning floors and walls shall be used, such as vacuum cleaning, wet cleaning, or the use of dust-arresting sweeping compounds with push brooms. All cleaning of floors and walls, except emergency cleaning of floors, shall be done during periods when the least amount of food is exposed, such as after closing or between meals. In new establishments, or establishments that are extensively altered, readily accessible service sinks or curbed cleaning facilities shall be provided.

Section 29. Lighting. (1) At least thirty (30) foot-candles of natural or artificial light shall be provided to all working surfaces and to all other surfaces and equipment in food preparation, utensil washing, and hand washing areas, and in toilet rooms. At least twenty (20) foot-candles of light at a distance of thirty (30) inches from the floor shall be provided in all walk-in refrigerators, food storage areas and dining and entry areas, except that this requirement applies to dining areas only during cleaning operations.

(2) Shielding to protect against broken glass falling into food shall be provided for all artificial lighting fixtures located over, by, or within food storage, preparation, service and display facilities and facilities where utensils and equipment are cleaned and stored. Shatter-proof bulbs may be approved by the *cabinet* [department] without further shielding. Heat lamps shall be protected by a shield surrounding and extending beyond the bulb, leaving only the face of the bulb exposed.

Section 30. Ventilation. (1) All rooms shall have sufficient ventilation to keep them free of excessive heat, steam, condensation, vapors, smoke and fumes. Ventilation systems shall be installed and operated according to applicable state laws and regulations and, when vented to the outside, shall not create an unsightly, harmful, or unlawful discharge.

(2) Rooms, including toilet room areas, and equipment, from which aerosols, obnoxious odors, or noxious fumes or vapors may originate shall be vented effectively to the outside.

(3) Intake air ducts, if any, shall be designed and maintained to prevent the entrance of dust, dirt, insects and other contaminating materials.

Section 31. Dressing Areas and Lockers. (1) If employees routinely change clothes within the establishment, areas shall be designated for that purpose. Those areas shall not be located in areas used for food preparation, storage, or service or for utensil-washing or storage, except that a storage room containing only completely packaged food may be so designated.

(2) Enough lockers or other suitable facilities shall be provided and used for the storage of employees' clothing and other belongings. If dressing areas are designated, the lockers or other facilities shall be located within those areas.

Section 32. Poisonous or Toxic Materials. (1) Only those poisonous or toxic materials required to maintain the establishment in a sanitary condition or required for sanitization of equipment or utensils shall be present in food service establishments.

(2) Containers of poisonous or toxic materials, including insecticides and rodenticides, shall be prominently and distinctly labeled for easy identification of contents.

(3) Poisonous or toxic materials consist of the following three (3) categories:

(a) Pesticides, which include insecticides, rodenticides, herbicides, and fungicides;

(b) Detergents, sanitizers, and related cleaning and drying agents; and

(c) Caustics, acids, polishes and other chemicals.

Each of these three (3) categories shall be stored and located to be physically separated from each other. All poisonous and toxic materials shall be stored in cabinets or in similar physically separated compartments or facilities used for no other purpose. To preclude potential contamination, poisonous or toxic materials shall not be stored above or with food, food equipment, utensils, or single service articles, except that this requirement does not prohibit the convenient availability of detergents or sanitizers at utensil or dishwashing stations.

(4) Bactericides, cleaning compounds, or other compounds intended for use on food-contact surfaces shall not be used in a way that leaves a toxic residue on such surfaces, or in a way that constitutes a hazard to employees or other persons.

(5) Poisonous or toxic materials shall not be used in a way that contaminates food, equipment, or utensils, nor in a way that constitutes a hazard to employees or other persons nor in a way other than in full compliance with the manufacturer's labeling.

(6) Personal medications shall not be stored in food storage, preparation, or service areas.

(7) First-aid supplies shall be stored in a way that prevents them from contaminating food and food contact surfaces.

Section 33. Premises. (1) Food service establishments and all parts of the property used in connection with operation of the establishment shall be kept free of litter.

(2) The walking and driving surfaces of all exterior areas of food service establishments shall be surfaced with concrete or asphalt or with gravel or similar material effectively treated to facilitate maintenance and to minimize dust. These surfaces shall be drained and shall be kept clean.

(3) Only articles necessary to the operation and maintenance of the food service establishment shall be stored on the premises.

(4) The traffic of unnecessary persons through the food preparation and utensil-washing areas and the presence in those areas of persons not authorized to be there by the permit holder or person in charge is prohibited.

(5) No operation of a food service establishment shall be conducted in any room used as living or sleeping quarters. A solid self-closing door shall separate food service operations from any living or sleeping area.

(6) No laundry operation shall be conducted, except that

linens, uniforms and aprons used in the establishment may be laundered on the premises separate from food preparation and service areas.

(7) Clean cloths and napkins shall be stored in a clean place and protected from contamination until used. Nonabsorbent containers or washable laundry bags shall be provided and damp or soiled linens and cloths shall be kept in them until removed for laundering.

(8) Maintenance and cleaning materials and equipment shall be maintained and stored in a way that does not contaminate food, utensils, equipment, or linen storage.

(9) Live animals, including birds and turtles, shall be excluded from all food service establishments and from areas adjacent to serving areas that are under the control of the permit holder. The exclusion does not apply to edible crustacea, shellfish, or fish, nor to fish in aquariums. Escorted police patrol dogs or guide dogs accompanying blind persons shall be permitted in dining areas.

Section 34. Mobile Food Units or Pushcarts. (1) Mobile units or pushcarts shall comply with the requirements of this regulation, except as otherwise provided in this subsection and in subsection (2) of this section. The *cabinet* [department] may impose additional requirements to protect against health hazards related to the conduct of the food service establishment as a mobile or pushcart operation, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this regulation relating to physical facilities, except those requirements of subsections (4) and (5) of this section and Sections 35 and 36.

(2) A mobile unit or pushcart that serves only food that was prepared, packaged in individual servings, transported, and stored under conditions meeting the requirements of this regulation or beverages that are not potentially hazardous and are dispensed from protected equipment need not comply with requirements of this regulation pertaining to the necessity of water and sewage systems nor to those requirements pertaining to the cleaning and sanitization of equipment and utensils if the required equipment for cleaning and sanitization exists at its commissary; however, frankfurters may be prepared and served from these units or pushcarts.

(3) Mobile food units or pushcarts shall provide only single-service articles for use by the consumer.

(4) A mobile food unit requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning, and sanitization, and handwashing, in accordance with the requirements of this regualtion. The water inlet shall be located in such a position that it will not be contaminated by waste discharge, road dust, oil, or grease, and it shall be provided with a transition connection of a size or type that will prevent its use for any other service. All water distribution pipes or tubing shall be constructed and installed according to the State Plumbing Code.

(5) If liquid waste results from operation of a mobile food unit it shall be stored in permanently installed retention tanks that are at least fifty (50) percent larger than the water supply tank. Liquid waste shall not be discharged from the retention tank when the mobile food unit is in motion. All connections on the vehicle for servicing mobile food unit waste disposal facilities shall be of a different size or type than those used for supplying potable water to the food unit. The waste connection shall be located below the water connection to preclude contamination of the potable water system.

Section 35. Commissary. Mobile food units or pushcarts shall operate from a commissary or other fixed food service establishment that is constructed and operated in compliance with this regulation; provided, however, mobile food service units equipped with a potable water supply sytem under pressure, liquid waste system retention tanks, sinks, lavatories, etc., shall not be required to operate from a commissary or other fixed food service establishment.

Section 36. Mobile Food Unit or Pushcart Servicing Area and Operations. (1) Potable water servicing equipment shall be stored and handled in a way that protects the water and equipment from contamination.

(2) The mobile food unit liquid waste retention tank, where used, shall be thoroughly flushed and drained during the servicing operation. The flushing and draining area for liquid wastes shall be separate from the area used for loading and unloading of food and related supplies. All sewage and waste matter shall be disposed of into a public sewerage system, if available. In the event a public sewerage system is not available, disposal shall be made into a private system designed, constructed and operated in accordance with the requirements of the *Cabinet* [Department] for Natural Resources and Environmental Protection and the *cabinet* [Department of Housing, Buildings and Construction]; provided, however, if a public sewerage system subsequently becomes available, connection shall be made thereto and the establishment sewerage system shall be disconnected.

Section 37. Temporary Food Service Establishment. (1) A temporary food service establishment shall comply with the requirements of this regulation, except as otherwise provided in this section. The *cabinet* [department] may impose additional requirements to protect against health hazards related to the conduct of the temporary food service establishment, may prohibit the sale of some or all potentially hazardous foods, and when no health hazard will result, may waive or modify requirements of this regulation, except those requirements of subsections (2) to (10) of this section.

(2) Only those potentially hazardous foods requiring limited preparation, such as hamburgers and frankfurters, which require seasoning and cooking, shall be prepared or served. The preparation or service of other potentially hazardous foods, including pastries filled with cream or synthetic cream, custards, and similar products, and salads or sandwiches containing meat, poultry, eggs, or fish is prohibited. This prohibition does not apply, however, to any potentially hazardous food that is obtained in individual servings, is stored at a temperature of forty-five (45) degrees Fahrenheit or below, or at a temperature of 140 degrees Fahrenheit or above, and is served directly in the unopened container in which it was packaged.

(3) Ice that is consumed or that contacts food shall have been made under conditions meeting the requirements of this regulation. The ice shall be obtained only in chipped, crushed, or cubed form and in single-use foodgrade plastic or wet-strength paper bags filled and sealed at the point of manufacture. The ice shall be held in these bags until used, and when used, it shall be dispensed in a way that protects it from contamination.

(4) Equipment shall be located and installed in a way that facilitates cleaning the establishment and that prevents food contamination. Food-contact surfaces of equipment shall be protected from contamination by consumers and other contaminating agents. Where necessary to prevent

contamination, effective shields for such equipment shall be provided.

(5) Enough potable water shall be available in the establishment for cleaning and sanitizing utensils and equipment and for handwashing. Enough hot water for these purposes shall be provided.

(6) The storage of packaged food in contact with water or undrained ice is prohibited, except that cans or bottles of nonpotentially hazardous beverages may be so stored when the water contains at least fifty (50) parts per million of available chlorine and is changed often enough to keep both the water and containers clean.

(7) Liquid waste shall be disposed of in such a manner as not to create a public health hazard or nuisance.

(8) A facility shall be provided for employee handwashing. Where water under pressure is unavailable, such facility shall consist of a pan, warm water, hand cleanser, and individual paper towels.

(9) Floors shall be made of concrete, tight wood, asphalt, or other similar cleanable material, except that dirt or gravel floors may be used if graded to preclude the accumulation of liquids and covered with removable, cleanable platforms or duckboards.

(10) Walls and ceilings of food preparation areas shall be constructed in a way that prevents the entrance of insects. Ceilings shall be made of wood, canvas, or other material that protects the interior of the establishment from the weather. Screening material used for walls shall be at least sixteen (16) mesh to the inch. Counter service openings shall not be larger than is necessary for the particular operation conducted. When flies are prevalent, counter-service openings shall be provided with tight-fitting solid or screened doors or windows or shall be provided with fans installed and operated to restrict the entrance of flying insects. Doors and windows, if any, shall be kept closed, except when food is being served.

Section 38. Plan Review of Future Construction. When a food service establishment is hereafter constructed or extensively remodeled, or plumbing relocated, or additional plumbing added, or when an existing structure is converted for use as a food service establishment, properly prepared plans and specifications for such construction, remodeling, or alteration, showing layout, arrangements, size, location and type of facilities and a plumbing riser diagram shall be submitted to the *cabinet* [department] for approval before such work is begun.

Section 39. Procedure When Infection is Suspected. When the *cabinet* [department] has reasonable cause to suspect possibility of disease transmission from any food service establishment employee, it may secure a morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The *cabinet* [department] may require any or all of the following measures:

(1) The immediate exclusion of the employee from all food service establishments;

(2) The immediate closing of the food service establishment concerned until, in the opinion of the *cabinet* [department], no further danger of disease outbreak exists;

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

(4) Adequate medical and laboratory examinations of the employee, of other employees, and of his and their body discharges.

Section 40. Enforcement Provisions. (1) Whenever the *cabinet* [department] has substantial reason to believe that an imminent public health hazard exists, or whenever the permit holder or an authorized agent thereof has interfered with the *cabinet* [department] in the performance of its duties, after its agents have duly and officially identified themselves, or if an inspection of an establishment reveals a rating score of less than sixty (60), the permit shall be suspended immediately upon notice to the permit holder without a hearing. In such event, the permit holder may request a hearing which shall be granted as soon as practical, or in any event not to exceed seven (7) days.

(2) In all other instances of violation of the provisions of this regulation the *cabinet* [department] shall serve upon the holder of the permit a written notice specifying the violations and afford the holder a reasonable opportunity to correct same. Whenever a permit holder or operator has failed to comply with any written notice issued under the provisions of this regulation, the *cabinet* [department] may suspend the permit, provided that the permit holder or operator is notified in writing that the permit shall be suspended at the end of five (5) days following service of such notice, unless a written request for a hearing is filed with the *cabinet* [department], by the permit holder, within such five (5) day period.

(3) Any person whose permit has been suspended may, at any time, make application for a reinspection for the purpose of reinstatement of the permit. Within seven (7) days following receipt of a written request, including a statement signed by the applicant that in his opinion the conditions causing suspension of the permit have been corrected, the *cabinet* [department] shall make a reinspection. If the reinspection reveals that the conditions causing suspension of the permit have been corrected, the permit shall be reinstated.

(4) For serious or repeated violations of any of the requirements of this regulation, or for interference with the *cabinet* [department] in the performance of its duties, the permit may be permanently revoked after an opportunity for a hearing has been provided by the *cabinet* [department]. Prior to such action, the *cabinet* [department] shall notify the permit holder in writing, stating the reasons for which the permit is subject to revocation and advising that the permit shall be permanently revoked at the end of five (5) days following service of such notice, unless a request for a hearing is filed with the *cabinet* [department], by the permit holder, within such five (5) day period. A permit may be suspended for cause pending its revocation or a hearing relative thereto.

(5) Notices provided for under this regulation shall be deemed to have been properly served when the original of the inspection report form or other notice has been delivered personally to the permit holder or person in charge, or such notice has been sent by registered or certified mail, return receipt requested, to the last known address of the permit holder.

(6) The hearings provided for in this regulation shall be conducted by the *cabinet* [department] at a time and place designated by it. Based upon the record of such hearing, the *cabinet* [department] shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A transcript of the hearing need not be made unless the interested party assumes the costs thereof and a request is made therefor at the time a hearing is requested.

(7) At least once every six (6) months, the *cabinet* [department] shall inspect each food service establishment

and shall make as many additional inspections and reinspections as are necesssary for the enforcement of this regulation.

(8) Whenever an inspection is made of a food service establishment, the findings shall be recorded on the inspection report form provided for that purpose, and shall constitute a written notice to the permit holder. The original of the inspection report shall be furnished to the permit holder or person in charge. The inspection report form shall summarize the requirements of this regulation and shall set forth a weighted point value for each requirement. The rating score of the establishment shall be the total of the weighted point value for all violations, subtracted from 100.

(9) The inspection report form shall specify a specific and reasonable period of time for the correction of the violations found, and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:

(a) When the rating score of the establishment is eighty-five (85) or more, all violations of one (1) or two (2) point weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.

(b) When the rating score of the establishment is at least seventy (70) but not more than eighty-four (84), all violations of one (1) or two (2) point weighted items shall be corrected as soon as possible, but in any event, within a period not to exceed thirty (30) days.

(c) Regardless of the rating score of the establishment, all violations of four (4) or five (5) point weighted items shall be corrected within a time specified by the *cabinet* [department] but in any event, not to exceed ten (10) days.

(d) When the rating score of the establishment is less than seventy (70), the establishment shall be issued a notice of intent to suspend the permit. The permit shall be suspended within five (5) days after receipt of such notice unless a written request for a hearing is filed with the *cabinet* [department], by the permit holder, within such five (5) day period.

(e) In the case of temporary food service establishments, all violations shall be corrected within a specified period of time not to exceed twenty-four (24) hours. If violations are not so corrected, the permit shall be immediately suspended. In such event the permit holder may request a hearing which shall be granted as soon as practical.

(f) The report of inspection shall state that failure to comply with any time limits for corrections shall result in suspension of permit and that an opportunity for appeal from any notice or inspection findings will be provided if a written request for hearing is filed within five (5) days. If a request for hearing is received, a hearing shall be held at a time and place designated by the *cabinet* [department].

(g) Whenever a food service establishment is required under the provisions of this regulation to cease operations, it shall not resume operations until such time as a reinspection determines that conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time, but in no event to exceed seven (7) days.

(10) Subsections (7) and (9)(a), (b), (c), (d) and (e) of this section do not apply to food service establishments operated in conjunction with health care facilities and day care centers.

Section 41. Special Enforcement Provisions for Health Care Facilities and Day Care Centers. (1) Where required by regulations promulgated pursuant to KRS Chapter 216B, the cabinet's Division for Licensing and Regulation shall conduct inspections of food service establishments operated in conjunction with health care facilities.

(2) Day care centers shall comply with the provisions of KRS 199.894 and 199.896 and 905 KAR 2:010 that relate to the preparation and serving of food in day care centers and the cabinet's Division for Licensing and Regulation shall conduct inspections of the food service facilities in such centers.

(3) The Division for Licensing and Regulation shall conduct routine inspections in conjunction with the annual inspections for licensure and conduct as many additional inspections as are necessary for the enforcement of this regulation. Complaint investigations may be conducted at any time.

(4) The permit holder or operator of the facility shall be notified in writing of any violations found during the inspection visit and a written plan for the correction of the violations shall be submitted to the Division for Licensing and Regulation within a specified time.

(5) The report of the annual inspection visit shall be posted in a conspicuous place within the facility.

Section *42.* [41.] Examination and Detention of Foods. The *cabinet* [department] may examine and collect samples of foods as often as necessary for the enforcement of this regulation. The *cabinet* [department] shall, upon written notice to the permit holder or authorized agent specifying the reason therefor, place under quarantine any food which it has probable cause to believe is adulterated or misbranded within the meaning of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 to 217.215 and 217.992.

DAVID T. ALLEN, Commissioner
ADOPTED: April 14, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 3, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

FINANCE AND ADMINISTRATION CABINET
State Investment Commission

200 KAR 14:040. Priority to public depositories.

RELATES TO: KRS Chapter 42
PURSUANT TO: KRS 13.082, 42.520
NECESSITY AND FUNCTION: KRS 42.520 requires the State Investment Commission to assign priority to public depositories on the basis of compliance with regulations promulgated pursuant to KRS Chapter 13.

Section 1. Definitions. For purposes of this regulation:
(1) "Commission" means the State Investment Commission; and
(2) "DIDM" means the Division of Investment and Debt Management.

Section 2. General. The purpose of this regulation is to provide a standard procedure by which the commission will assign priorities to public depositories to receive time deposits, as required by KRS 42.520. Priority must be based on their demonstrated effectiveness in serving the convenience and economic development need of the communities in which they are chartered to do business. This regulation does not affect the process by which bank transaction services are contracted. KRS 45A.475 provides that those services are to be selected on the basis of competitive bidding, as regulated by the Kentucky Model Procurement Code.

Section 3. Source of Data. (1) The commission shall advise all commercial banks chartered in Kentucky or by the United States with their main office in Kentucky, that wish to be considered as a depository for state certificates of deposit, that wish to remain a depository for state certificates of deposit, that they must submit a copy of their quarterly Report of Condition, including all accompanying schedules, to the commission. A photostatic copy of this report and schedules, as prepared for the Federal Deposit Insurance Corporation, the Comptroller of the Currency, or the appropriate Federal Reserve Bank will be sufficient to meet this reporting requirement.
(2) The DIDM shall report the results of the scoring, based on the publicly available data, to the commission at the end of each quarter.

Section 4. Application of Methodology. The formula of the methodology is hereby incorporated by reference (adopted April 26, 1983). Copies may be obtained by contacting:

James R. Ramsey, Director
Division of Investment and Debt Management
Finance and Administration Cabinet
Room 201, Capitol Annex
Frankfort, Kentucky 40601

Section 5. Frequency of Scoring. The DIDM shall update the scoring of potential depositories quarterly and submit the same to the commission quarterly. Any bank not submitting its report and schedules in a timely manner will not be considered eligible for the receipt of new funds or renewal of existing instruments until the most current report and schedules are submitted by the bank and accepted by the commission. The scoring shall be kept as a moving average for each fiscal year. This moving average will be restarted with the September 30 Reports of Condition each year. Reports will be submitted to the DIDM no later than forty-five (45) days following the close of each calendar quarter.

Section 6. Appeal Process. Any bank shall have the opportunity to appeal the results of the prioritization process to the State Investment Commission.

ROBERT L. WARREN, Secretary
ADOPTED: May 12, 1983
RECEIVED BY LRC: May 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Dr. James Ramsey, Director, Office of Investment and Debt Management, 201 Capitol Annex Building, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Agriculture
Division of Livestock Sanitation

302 KAR 20:065. Sale and exhibition for Kentucky livestock only.

RELATES TO: KRS Chapter 257
PURSUANT TO: KRS 13.082, Chapter 257
NECESSITY AND FUNCTION: To specify general sanitary and health requirements in relation to the sale and exhibition of Kentucky livestock in Kentucky.

Section 1. Cattle. (1) General requirements.
(a) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void 150 days after issuance for exhibition and thirty (30) days after issuance for sale.
(b) If animals are from accredited or certified herds, health certificate shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.
(c) Blood tests for brucellosis must be conducted in a state-federal laboratory and be negative according to recommended procedures of the Uniform Methods and Rules published by APHIS, VS, USDA.
(2) Brucellosis.
(a) Sale. All breeding cattle moving from one (1) premise to another premise on the change of ownership must be negative to the brucellosis test within thirty (30) days prior to movement.
(b) Exhibition. Animals six (6) months of age or over shall be negative to an official test for brucellosis within 150 days of date of exhibition, unless exempt by one (1) of the following:
1. Originate directly from a certified herd.
2. Official vaccinate under twenty (20) months of age

for the dairy breeds and twenty-four (24) months of age for the beef breeds.

3. Steers. Must be accompanied by approved health certificate showing individual identification. No brucellosis test required.

(3) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days of date of sale, unless exempt by one (1) of the following:

1. Originate directly from an accredited herd.

2. Originate directly from a herd in which all animals six (6) months of age or older are negative to an official tuberculin test within last twelve (12) months of date of sale.

(b) Exhibition. No test required.

Section 2. Performance Bull Testing Program. (1) All animals shall be accompanied by approved health certificates.

(2) Brucellosis. Animals entered in this program shall, if six (6) months of age or older, be negative to an official brucellosis test within thirty (30) days of date of entry or originate directly and immediately from a certified herd.

(3) Tuberculosis. All animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days or originate directly and immediately from an accredited herd.

Section 3. Horses. (1) All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within the past six (6) months. Only horses offered for sale for slaughter shall be exempt from the requirements.

(2) All horses and other equidae offered for entry into fairgrounds, livestock show grounds, public boarding stables and for trail rides or racing shall be negative to test for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(3) All reactors to AGID test for equine infections anemia shall be officially, permanently identified using numbers and letter 61A with a brand on the left neck region.

(4) All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are prevalent. These animals will also be kept at least 200 yards from all other horses.

(5) The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(6) All horses in a herd in which a reactor is found shall be quarantined pending a negative test on all horses.

Section 4. Swine. (1) All swine for exhibition and sale must be accompanied by an approved health certificate which shall be void 150 days after issuance for exhibition and thirty (30) days after issuance for sale.

(2) Brucellosis.

(a) Sale. All swine except barrows six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on the approved health certificate.

(b) Exhibition. All swine except barrows six (6) months of age or older shall have a negative 150 day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on health certificate.

(3) Identification. All swine must have a permanent means of identification.

(4) Pseudorabies.

(a) Sale. All swine must be negative to the serum neutralization test within thirty (30) days or originate from a qualified pseudorabies negative herd.

(b) Exhibition. All swine must be negative to the serum neutralization test within 150 days of consignment for exhibition or originate from a qualified pseudorabies negative herd.

Section 5. Sheep. (1) Scrapie. No sheep or lambs shall be consigned that originated from or are known to be exposed to flocks under surveillance for scrapie.

(2) Scabies. All sheep or lambs for breeding and feeding purposes consigned from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies-eradicated-free area.

(3) Sore mouth. Any sheep or lambs showing lesions of contagious exythma shall not be consigned.

(4) Sale. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for thirty (30) days after issuance.

(5) Exhibition. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for 150 days after issuance.

Section 6. Goats. (1) Scabies. All goats must originate from a scab free area.

(2) Scrapie. No goats from a herd under surveillance for scrapie that are known to have been exposed to or that are progeny shall be considered.

(3) Brucellosis.

(a) Sale. Animals six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, as applies to the bovine test or originate directly from a certified herd and be accompanied by an approved health certificate which shall be void thirty (30) days after issuance.

(b) Exhibition. Goats six (6) months of age or older shall be negative to an official blood test for brucellosis within 150 days of exhibition or originate directly from a certified herd and be accompanied by an approved health certificate which shall be void 150 days after issuance.

(4) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall have a negative tuberculin test in last sixty (60) days or originate directly and immediately from an accredited herd.

(b) Exhibition. No test required.

Section 7. Poultry. Negative pullorm agglutination test within thirty (30) days for sale and/or exhibition. Test record must accompany poultry.

Section 8. Dogs and Cats. (1) All dogs over four (4) months of age for sale or exhibition shall be accompanied by a health certificate signed by a licensed, accredited

veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment if killed virus vaccine is used. Any vaccine approved for a three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.), qualifies a dog if it is one (1) year of age when vaccinated; provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish an approved health certificate.

(2) All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Department for Health Services, Kentucky Cabinet for Human Resources.

Section 9. 302 KAR 20:060, Sales and exhibition, is hereby repealed.

ALBEN W. BARKLEY, II, Commissioner
ADOPTED: May 9, 1983
RECEIVED BY LRC: May 9, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Alben W. Barkley, II, Commissioner, Department of Agriculture, 7th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Certificate of Need and Licensure Board

902 KAR 20:132. Expenditure minimums.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(2)
PURSUANT TO: KRS 13.082, 216B.040, 216B.130
NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to promulgate administrative regulations. KRS 216B.130 requires the Certificate of Need and Licensure Board to annually adjust expenditure minimums provided in KRS Chapter 216B. This regulation provides for the adjustment of expenditure minimums for capital expenditures and operating costs for the period beginning July 15, 1983, and ending July 14, 1984.

Section 1. (1) Expenditure minimums or limits provided in KRS Chapter 216B and regulations promulgated pursuant thereto shall be adjusted for the twelve (12) month period beginning July 15, 1983, and ending July 14, 1984, to reflect the changes in the preceding twelve (12) month period in an index designated by federal regulation pursuant to the Health Planning and Resources Development Amendments of 1979, P.L. 96-79, as amended.

(2) Federal regulations designated the Department of Commerce Composite Construction Cost Index to be used in making these adjustments (42 CFR 123.401). Notice published in the Federal Register on April 11, 1983, indicated that states authorized to adjust the capital expenditure minimums may increase them up to six-tenths (0.6) percent.

Section 2. (1) The expenditure minimums provided in KRS Chapter 216B shall be increased for the twelve (12) month period from July 15, 1983, to July 14, 1984, as follows:

(a) The expenditure minimum for capital expenditures shall be increased by six-tenths (0.6) percent, from $600,000 to $603,600;

(b) The expenditure minimum for operating costs shall be increased by six-tenths (0.6) percent, from $250,000 to $251,500; and

(c) The expenditure minimum for major medical equipment shall be increased by six-tenths (0.6) percent, from $400,000 to $402,400.

FRANK W. BURKE, SR., Chairman
ADOPTED: May 12, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 13, 1983 at 3 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 Health Services
Certificate of Need and Licensure Board

902 KAR 20:170. Facility specifications; psychiatric hospitals.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1),(2)
PURSUANT TO: KRS 13.082, 216B.040, 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 the licensure requirements for the structural specifications and physical plant requirements for new construction, alteration and maintenance of psychiatric hospital facilities. Psychiatric hospital facilities licensed prior to the effective date of this regulation shall meet the facility specifications in force on the date of their most recent licensure inspection.

Section 1. Definitions. (1) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(2) "Certificate of need" means an authorization by the board to proceed to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service pursuant to KRS Chapter 216B.

(3) "License" means an authorization issued by the board for the purpose of operating a pyschiatric hospital facility.

(4) "Licensure agency" means the Division for Licens-

ing and Regulation in the office of the Inspector General, Cabinet for Human Resources.

Section 2. Preparation and Approval of Plans and Specifications. After receiving a certificate of need from the board, plans and specifications shall be submitted to the licensure agency and required approvals shall be obtained pursuant to the requirements of 902 KAR 20:009, Sections 2 and 3.

Section 3. Compliance with Building Codes, Ordinances and Regulations. (1) This section of this regulation may be administered independently from other sections of this regulation.

(2) Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements of the Kentucky Building Code pursuant to 815 KAR 7:010 through 815 KAR 7:060;

(b) Requirements for safety pursuant to 815 KAR 10:020, as amended;

(c) Requirements for plumbing pursuant to 815 KAR 20:010 through 20:191, as amended;

(d) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010;

(e) Requirements for elevators pursuant to 815 KAR 4:010;

(f) Requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder;

(g) Review of x-ray installation, construction and modification plans pursuant to 902 KAR 100:160;

(h) Food Service Establishment Act (KRS 219.011 to 219.081) and State Food Service Code (902 KAR 45:005), as amended; and

(i) Requirements for boilers pursuant to 815 KAR 15:010 through 815 KAR 15:070.

(4) Prior to occupancy the facility shall have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Fire Marshal's office before relicensure is granted by the licensing agency.

Section 4. Facility Requirements and Special Conditions. (1) A copy of the narrative program as submitted in the Certificate of Need application for each project shall be provided to the licensure agency by the sponsor which describes the functional space requirements, staffing patterns, departmental relationships, and other basic information relating to the fulfillment of the objectives of the facility.

(2) The extent (number and types of rooms) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services to be provided and the estimated patient load as described in the narrative program.

Section 5. Nursing Unit. (1) Patient room. Each patient room shall meet the following requirements:

(a) Minimum floor area of 100 square feet in one (1) bed rooms and eighty (80) square feet per patient in multi-bed rooms with a maximum of two (2) patients per room.

(b) Patient toilet rooms. A toilet room shall be directly accessible from each patient room without going through the general corridor. One (1) toilet room may serve two (2) patient rooms.

(c) Lavatory. A lavatory shall be provided in each patient room. If the patient room is served by its own private toilet room the lavatory may be located in the toilet room.

(d) Window. Sill height shall not be higher than three (3) feet above the floor. Windows in psychiatric units shall be of security type or a type that can only be opened by keys or tools that are under the control of staff. Degree of security required shall be as determined by the program. Operation of the sash shall be restricted to inhibit possible tendancy for escape or suicide. Where glass fragments may create a hazard, safety glazing and/or other appropriate security features shall be incorporated.

(e) If a nurses' call system is included, provisions shall be made to permit removal of call buttons and/or use of blank plates as appropriate.

(f) Visual privacy shall be provided to each patient as needed which isolates patients from one another but not from observation by staff.

(g) No patient room shall be located more than 120 feet from the nurses' station.

(h) No room shall be used as a patient room where the access is through another patient's room.

(2) Service areas. Each nursing unit shall include:

(a) A separate space for occupational therapy at the rate of fifteen (15) square feet per patient and a minimum area of 400 square feet. This space may be outside the nursing unit.

(b) A minimum of two (2) separate social spaces, one (1) appropriate for noisy activities and the other for quiet activities shall be provided. The combined area shall not be less than thirty (30) square feet per patient or not less than 120 square feet for each of the two (2) spaces, whichever is greater. This space may be shared by dining activities and may be outside of the nursing unit.

(c) Storage for patients' belongings.

(d) Bathing facilities. Bathtubs or showers shall be provided at the rate of one (1) for each four (4) beds which are not individually served. At least one (1) bathing facility shall have space for a wheelchair patient with an assisting attendant.

(e) Nurses' station for charting, communications, and storage for supplies with a sink equipped for handwashing.

(f) Clean workroom or clean holding area. There shall be a clean workroom with a work counter, handwashing and storage facilities or a clean holding room which is part of a central system for storage and distribution of clean and sterile supplies.

(g) Soiled workroom or soiled holding room. There shall be a soiled workroom with a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle or a soiled holding room which is a part of a central system for collection and disposal of soiled materials.

(h) Medicine area. Provision shall be made for twenty-four (24) hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If a medicine preparation room or unit is used it shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. If a medicine dispensing unit is used it may be located at the nurses' station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff. The controlled substances locker must have a double lock.

(i) Clean linen storage in an enclosed space (may be a designated area within the clean workroom). If a closed cart system is used, storage may be in an alcove.

(3) Seclusion room(s). A seclusion room shall be provided for patients requiring security and protection from either himself or others. The room shall be located in a manner affording direct observation of the patient by the nursing staff. It shall be a single room and be constructed to minimize the patient's hiding, escape, injury or suicide. There shall be a minimum of one (1) seclusion room for every twenty-four (24) beds. The seclusion room(s) is intended for short term occupancies by patients who may have become violent or suicidal. Therefore, special fixtures, hardware, etc., including ground fault interrupters for electrical circuits and tamper proof screws, shall be used. Doors shall have provisions for staff observation while maintaining privacy from public and other patients.

Section 6. Outpatient Services. (1) Outpatient department. If outpatient services are provided outpatient facilities shall provide for the privacy and dignity of the patient during interview, examination, and treatment. Facilities shall be located so that outpatients do not transverse areas being used by inpatients.

Section 7. Laboratory Facilities. Facilities for laboratory services shall be provided directly within the psychiatric hospital or through a contract with a hospital or laboratory service for hematology, clinical chemistry, urinalysis, cytology, and bacteriology. If the pyschiatric hospital has a full medical laboratory providing these services it shall comply with the applicable requirements of 902 KAR 20:009 concerning laboratories. If these services are provided through a contract, the following shall be provided in the psychiatric hospital:

(1) Laboratory work counter(s) with sink, gas and electric service;

(2) Lavatory(ies) with handwashing facility;

(3) Storage cabinet(s) or closet(s); and

(4) Specimen collection facilities. Urine collection rooms shall be equipped with a water closet and lavatory. Blood collection facilities shall have space for a chair and work counter.

Section 8. Pharmacy or Drug Room. There shall be adequate facilities for the safe storage and handling of pharmaceuticals including double locking of controlled substances and refrigeration for biologicals and drugs which require refrigeration.

Section 9. Other Medical Services. If the psychiatric hospital provides radiologic, physcial therapy, surgical services or other medical services not addressed by this regulation the facility shall comply with the applicable requirements of 902 KAR 20:009, Facility specifications, hospitals.

Section 10. Dietary Department. Food service facilities shall be designed and equipped for sanitary storage, processing, and handling of food. The facilities shall include refrigerated storage and dry storage to accommodate a three (3) day minimum supply and dining space for ambulatory patients, staff and visitors.

Section 11. Administrative and Public Areas. The facility shall have adequate administrative, public, and staff facilities (e.g., offices, lobby, toilet facilities) to accommodate the needs of the public, patients, and staff without interfering with the provision of medical care services.

Section 12. Medical Records Unit. This unit shall include adequate space for record storage, record review and dictating, record sorting and recording.

Section 13. Laundry. (1) The arrangement of facilities and equipment shall assure an orderly work flow with a minimum of cross traffic that might mix clean and soiled operations.

(2) If linen is to be processed in the hospital, the following shall be provided:

(a) Soiled linen receiving, holding, and sorting room with handwashing facilities;

(b) Laundry processing room with commercial-type equipment which can process seven (7) days of linen needs within a regularly scheduled work week. Handwashing facilities shall be provided;

(c) Clean linen storage, inspection, and issuing room or area; and

(d) Cart storage and cart sanitizing facilities.

(3) If linen is to be processed off the hospital site there shall be a soiled linen holding room with a handwashing facility conveniently accessible and a room or rooms for receiving, inspection and storage of clean linen.

Section 14. Waste Processing Services. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques.

Section 15. Details and Finishes. All details and finishes shall meet the following requirements:

(1) Doors to patient toilet rooms and other rooms needing access for wheelchairs shall have a minimum width of two (2) feet and ten (10) inches.

(2) All doors to patient-room toilets and patient-room bathrooms shall swing outward or be equipped with hardware that will permit access in an emergency.

(3) Grab bars provided at patients' toilets, showers, or tubs shall have one and one-half (1½) inches clearance to walls and shall be of sufficient strength and anchorage to sustain a concentrated load of 250 pounds for a period of five (5) minutes.

(4) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed areas unless special provisions are made to minimize such noise.

(5) Rooms containing heat-producing equipment such as boiler rooms, laundries, and food preparation areas shall be insulated and ventilated to prevent any floor surface from exceeding a temperature of ten (10) degrees Fahrenheit above the ambient room temperature.

(6) Noise reduction criteria. Partition, floor, and ceiling construction in patient areas shall comply with Section 19, Table 1.

(7) Floors that are subject to traffic while wet, such as shower and bath areas shall have a non-slip finish.

Section 16. Elevators. (1) Number of elevators. All hospitals having patients' facilities, such as patient rooms, dining rooms or recreation areas, or diagnostic or therapy areas, located other than on the main entrance floor shall have elevators.

(a) At least one (1) hospital-type elevator shall be installed where one (1) to fifty-nine (59) patient beds are located on any floor other than the main entrance floor.

(b) At least two (2) hospital-type elevators shall be installed where sixty (60) to 200 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds.

(c) At least three (3) hospital-type elevators shall be installed where 201 to 350 patient beds are located on floors other than the main entrance floor, or where the inpatient services are located on a floor other than those containing patient beds.

(d) For hospitals with more than 350 beds the number of elevators shall be determined from a study of the hospital plan and the estimated vertical transportation requirements.

(2) Cars and platforms. Cars of hospital elevators shall have inside dimensions that will accommodate a hospital bed and attendant and shall be at least five (5) feet wide by seven (7) feet and six (6) inches deep. The car door shall have a minimum clear opening of not less than three (3) feet and eight (8) inches.

Section 17. Mechanical Requirements. (1) General. Prior to completion of the contract and final acceptance of the facility, the architect and/or engineer shall obtain from the contractor certification in writing that all mechanical systems have been tested and that the installation and performance of these systems conform with the final plans and specifications.

(2) Steam and hot water systems.

(a) Boilers. If boilers are used, a minimum of two (2) shall be provided and the combined capacity of the boilers, based upon the published Steel Boiler Institute or Institute of Boiler and Radiation Manufacturer's net rating, must be able to supply 150 percent of the normal requirements for all systems and equipment in the facility.

(b) Boiler accessories. Boiler feed pumps, condensate return pumps, fuel oil pumps, and circulation pumps shall be connected and installed to provide normal and standby service.

(3) Air-conditioning, heating and ventilation systems.

(a) Temperatures. For all areas occupied by inpatients, the indoor winter design temperature shall be seventy-two (72) degrees Fahrenheit and the indoor summer design temperature shall be seventy-five (75) degrees Fahrenheit.

(b) Ventilation system details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates as shown in Section 19, Table 2 of this regulation, shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

1. Outdoor air intakes shall be located as far as practical but not less than twenty-five (25) feet from exhaust outlets of ventilation systems, combustion equipment stacks, plumbing vent stacks, or from areas which may collect vehicular or other noxious fumes. The bottom of outside air intakes serving central air systems shall be located as high as practical but not less than six (6) feet above ground level or if installed above the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced in accordance with the pressure relationships as shown in Section 19, Table 2 of this regulation.

3. All room supply, return and exhaust outlets shall be located not less than three (3) inches above the finished floor.

4. Corridors shall not be used to supply air to or exhaust air from any room, except that exhaust air from corridors may be used to ventilate rooms such as bathrooms, toilet rooms, or janitor's closets which open directly on corridors.

(4) Plumbing systems.

(a) Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that its discharge point is a minimum of five (5) inches above the rim of the fixture. All fixtures in medical and nursing staff work areas and all lavatories used by food handlers shall be equipped with valves which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half (4½) inches in length, except that handles on scrub sinks and clinical sinks shall be not less than six (6) inches long. These special fixtures are not required on lavatories in patient rooms or patient toilet rooms.

(b) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(c) Hot water heating systems. The hot water heating equipment shall have a sufficient capacity to supply water at the temperature and amounts indicated below:

	Hot Water Use		
	Clinical	Dishwasher	Laundry
Gal/hr/bed	6½	4	4½
Temp. F.	100-110	180*	140-180**

* Temperature may be reduced to 160 degrees Fahrenheit if a chloritizer is used. Required temperature must be maintained throughout the wash and rinse cycles.

** If the temperature used is below 180 degrees Fahrenheit, the facility shall utilize detergents and other additives to insure that the linens will be adequately cleaned.

Section 18. Electrical Requirements. (1) General. All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards.

(2) Panelboards. Lighting and appliance panelboards shall be located on the same floor as the circuits they serve.

(3) Lighting. Patients' bedrooms shall have general lighting and night lighting. A reading light shall be available for each patient. Patients' reading lights and other fixed lights not switched at the door shall have switch controls located convenient to the luminaire. A fixed type night light shall be provided in each patient room.

(4) Receptacles (convenience outlets).

(a) Patient room. Each patient room shall have duplex receptacles as follows: one (1) on each side of the head of the bed; and one (1) on another wall. Receptacles shall be of the safety type or shall be protected by five (5) milliampere ground fault interrupters.

(b) Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart and within twenty-five (25) feet of ends of corridors. Receptacles shall

be of the safety type or shall be protected by five (5) milliampere ground fault interrupters.

(5) Nurses' emergency calling system. An emergency calling system, which may be used by nurses to summon assistance, shall be provided in each nursing unit.

(6) Emergency electrical.

(a) To provide electricity during interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(b) The source of this emergency electric service shall be as follows:

1. An emergency generating set, when the normal service is supplied by one (1) or more central station transmission lines.

2. An emergency generating set or a central station transmission line, when the normal electric supply is generated on the premises.

(c) Emergency generating set. The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. Generator sets shall be self-sufficient insofar as possible without dependency on public utilities that may be subject to cutoff or outages. Exception: A system of prime movers which are ordinarily used to operate other equipment and alternately used to operate the emergency generator(s) will be permitted provided that the number and arrangement of the prime movers are such that when one (1) of them is out of service (due to breakdown or for routine maintenance), the remaining prime mover(s) can operate the required emergency generator(s) and provided that the connection time requirements as listed in Section 19 of this regulation are met. The emergency generator set shall be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency electrical system. The power factor rating of the generator shall be not less than eighty (80) percent.

(d) Emergency electrical connections. Emergency electric service shall be provided to circuits as follows:

1. Lighting.

a. Exitways and all necessary ways of approach thereto including exterior of exits, exit doorways, stairways, and corridors.

b. Nursing station and medication preparation areas.

c. Generator set location, switch-gear location, mechanical room and boiler room;

d. Elevator cabs.

e. Night light in patient rooms.

f. Dining and recreational areas, occupational therapy and physical therapy.

2. Equipment. Essential to life safety and for protection of important equipment or vital materials:

a. Nurses' calling system.

b. Paging or speaker systems, if intended for issuing instructions during emergency conditions.

c. Fire pump and jockey pump, if installed.

d. Sewerage or sump lift pump, if installed.

e. Selected receptacles at the nurses' stations; medicine dispensing area; and basic laboratory functions, if provided.

f. Duplex receptacles in patient corridors.

g. Equipment necessary for maintaining telephone service.

3. Heating. Equipment for heating patient rooms; except that service for heating of patient rooms will not be required if:

a. The hospital is supplied by two (2) or more electrical services supplied from separate generating sources, or a utility distribution network having multiple power input sources and arranged to provide mechanical and electrical separation; so that a fault between the hospital and generating sources will not likely cause an interruption of the hospital service feeders;

b. The hospital has an alternate emergency heating system for the heating of corridors; or

c. The hospital has a written plan approved by the licensure agency for the transfer of patients within a reasonable time to other facilities.

(e) Details. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and it must be connected within ten (10) seconds through one (1) or more primary automatic transfer switches to all emergency lighting systems; alarms systems; nurses' calling systems; equipment necessary for maintaining telephone service; and task illumination and receptacles in patient corridors. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system shall be distinctively marked for identification. Storage-battery-powered lights, provided to augment the emergency lighting or for continuity of lighting during the interim of transfer switching immediately following an interruption of the normal service supply, shall not be used as a substitute for the requirement of a generator. Where stored fuel is required for emergency generator operation, the storage capacity shall be sufficient for not less than twenty-four (24) hours of continuous operation.

Section 19. Table 1—Sound Transmission Limitations in Psychiatric Hospitals. Table 2—Pressure Relationships and Ventilation of Certain Psychiatric Hospital Areas.

Table 1. Sound Transmission Limitations in Psychiatric Hospitals

Location	Airborne Sound Transmission Class (STC) a*		Impact Insulation Class (IIC) b*
	Partitions	Floors	Floors
Patients' room to patients' room	45	45	45
Corridor to patients' room	40	45	45 c*
Public space to patients' room d*	50	50	50 c*
Service areas to patients' room e*	55	55	55 c*

a* Sound transmission class (STC) shall be determined by tests in accordance with the methods set forth in ASTM Standard E-90 and ASTM Standard E-413.

b* Impact insulation class (IIC) shall be determined in accordance with criteria set forth in HUD FT/TS-24, "A Guide to Airborne, Impact and Structure Borne Noise—Control in Multi-Family Dwellings."

c* Impact noise limitation applicable only when corridor, public space, or service area is over patients' room.

d* Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar spaces.

e* Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above patients' rooms, offices, nurses' stations and similar occupied spaces shall be effectively isolated relating to noise transmission.

Note: The requirements set forth in this table assume installation methods which will not appreciably reduce the efficiency of the assembly as tested.

Table 2. Pressure Relationships and Ventilation of Certain Psychiatric Hospital Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Patient room	O	—	1
Patient area corridor	O	—	2
Treatment room	O	—	2
Physical therapy and hydrotherapy if applicable	N	—	2
Dining and recreation areas	O	—	2
Soiled workroom	N	—	2
Clean workroom	P	Yes	2
Toilet room	N	—	—
Bedpan room if applicable	N	—	—
Bathroom	N	—	—
Janitor's closet	N	—	—
Linen and trash chute rooms	N	—	—
Food preparation center	O	Yes	2
Dishwashing area	N	—	—
Dietary day storage	O	—	—
Laundry, general	O	Yes	2
Soiled linen sorting and storage	N	—	2
Clean linen storage	P	—	1

P Positive N Negative O Equal — = Optional

Table 2. Continued

Area Designation	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors
Patient room	4	—
Patient area corridor	4	—
Treatment room	6	—
Physical therapy and hydrotherapy if applicable	6	—
Dining and recreation areas	4	—
Soiled workroom	4	Yes
Clean workroom	4	—
Toilet room	10	Yes
Bedpan room if applicable	10	Yes
Bathroom	10	Yes
Janitor's closet	10	Yes
Linen and trash chute rooms	10	Yes
Food preparation center	10	Yes
Dishwashing area	10	Yes
Dietary day storage	2	—
Laundry, general	10	Yes
Soiled linen sorting and storage	10	Yes
Clean linen storage	4	—

FRANK W. BURKE, SR., Chairman
ADOPTED: March 16, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: May 3, 1983 at 2:30 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 1:120. Health insuring organization and prepaid health plan services.

RELATES TO: KRS 205.520, 205.560
PURSUANT TO: KRS 13.082, 194.050, Chapter 398 of the 1982 Kentucky Acts
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 and 205.560 empower the cabinet, by regulation, to designate and limit the scope of medical care which will be provided through the Medical Assistance Program to Kentucky's indigent citizenry. The 1982 Kentucky Acts, Chapter 398, Part I, Section 52a2 require the cabinet to implement a Medicaid cost containment plan. This regulation sets forth the coverage provisions which apply with regard to eligible recipients receiving medical assistance services pursuant to contracts between the cabinet and health insuring organizations (HIO's) or prepaid health plans (PHP's).

Section 1. Participation Requirements. Each health insuring organization (HIO) or prepaid health plan (PHP) desiring to participate must meet the following requirements:
(1) An application for participation shall be made to the cabinet using the procedures specified by the Commis-

sioner, Department for Social Insurance, Cabinet for Human Resources. A vendor number shall be assigned to the HIO or PHP by the department when participation status is achieved by award of a contract; such contract shall be pursuant to, and designed to be in compliance with, applicable federal regulations contained at 42 CFR 431 Subpart L. The terms "health insuring organization" and "prepaid health plan" shall have the same meanings shown in 42 CFR 431 Subpart L;

(2) The HIO or PHP must submit a comprehensive plan and proposed contract for providing services to all or a described class of recipients of medical assistance of a defined geographic area of the Commonwealth, through contracts with appropriately licensed providers of health services;

(3) The cabinet shall review the plan and proposed contract, and if in the cabinet's opinion services are offered at a lower cost than prevailing medical assistance vendor costs for the designated geographic area without any reduction of services or decrease in availability of services to recipients, the cabinet may submit to the federal Department of Health and Human Services a request for appropriate waivers, if any are needed, to obtain authorization for implementation of the proposed plan;

(4) Upon approval of the necessary waivers, if any, the cabinet may award a vendor contract to the HIO or PHP, or any qualifying intervening organization which has offered the same services at lower cost;

(5) The HIO or PHP shall enroll all eligible recipients identified to it, arrange for the provision of the medical assistance services specified in the contract, and directly reimburse participating providers and/or subcontractors for services provided in accordance with the terms and conditions specified in the contract;

(6) The cabinet and the HIO or PHP are responsible for acting in accordance with the terms of the contract. If the contract is terminated, the cabinet shall provide covered medical assistance services, and make reimbursement for those services, in the usual manner provided for by regulation; and

(7) The HIO or PHP must arrange for the provision of covered services to enrollees which are of the same quality as those services provided to other patients of those health care providers participating in the program. Participating health care providers must meet reasonable standards which at a minimum are equal to Kentucky Medical Assistance Program standards. Health care providers will be subject to removal from the program in accordance with the physician contract.

Section 2. Covered Services. The following named services shall be provided by the HIO or PHP to eligible recipients identified by the cabinet and enrolled by the HIO or PHP in its service delivery system, and shall not be provided to those recipients by the cabinet in its usual program of Medical Assistance in the geographic area covered by the HIO or PHP. If the service is not obtained in the manner prescribed in this regulation, no payment shall be made pursuant to this regulation to the extent the service is obtained in the covered area or contiguous counties in Kentucky and adjoining states, and the service shall be considered uncovered in such circumstances. If services are received in other counties, the Medicaid program shall cover such services in the usual manner (with appropriate adjustments in payments to the HIO or PHP).

(1) Hospital inpatient services shall be provided to the same extent such services are available to the general medical assistance recipient, except that up to an additional seven (7) days per admission may be provided at the HIO's or PHP's expense; hospital inpatient services shall be prior authorized by the HIO or PHP.

(2) Hospital outpatient services shall be provided to the same extent such services are available to the general medical assistance recipient. Hospital outpatient services shall be prior authorized; however, bona fide emergency services, if appropriate, need not be prior authorized.

(3) Primary physician services, defined as the medical services of a general practitioner, family practitioner, general internist, pediatrician, and physician clinic (limited to the four (4) preceding physician classifications), shall be provided to the same extent such services are available to the general medical assistance recipient. Obstetrical services meeting criteria specified by the cabinet may be considered primary physician services.

(4) Other physician services (non-primary physician services) shall be provided to the same extent such services are available to the general medical assistance recipient; other physician services shall be prior authorized by the HIO or PHP.

(5) Home health services shall be provided to the same extent such services are available to the general medical assistance recipient; home health services shall be prior authorized by the HIO or PHP.

(6) Other Title XIX (Medicaid) covered services may be provided by agreement between the cabinet and the HIO or PHP.

(7) Other related services not covered by Title XIX (Medicaid) may be provided by the HIO or PHP at the HIO or PHP's cost; no responsibility for provision of such services shall accrue to the cabinet.

Section 3. Determination of Eligibility and Assignment of Primary Health Provider. (1) Medical assistance eligibility shall be determined in accordance with appropriate Kentucky Administrative Regulations.

(2) Recipients shall be offered their choice of HIO or PHP primary health provider from a list provided by the HIO or PHP to the state. The recipient shall then be enrolled as the responsibility of the provider selected. Those recipients who do not make a choice will be assigned to a provider from the HIO or PHP provided list on a geographic basis to the extent reasonable. No provider may be assigned less than 300 recipients (or, for clinics, 400 recipients) nor more than 1,800 recipients, and the cabinet reserves the right to assign or re-assign recipients so as to ensure the upper limit is not exceeded. Within this context, "provider" means participating physician, physician clinic, primary care center, ambulatory care center, and access unit, with the upper limit applicable on an individual physician basis for each physician who is associated with the provider. The 1,800 enrollees per physician maximum can be exceeded if the physician can demonstrate that quality care will be delivered to all enrollees. The minimum of 300 enrollees per physician can be waived by HIO or PHP if it is determined by the HIO or PHP that it is in the best interest of the HIO or PHP program.

Section 4. Appeals. Each applicant or recipient covered under this regulation shall retain all rights of appeal to the cabinet specified in 904 KAR 2:055, Hearings and appeals.

Section 5. Limitations. This regulation shall not be applicable with regard to any eligible resident of the area who is not within the covered class specified. This regulation shall not be applicable with regard to any covered medical

assistance service not specified in Section 2 of this regulation for any eligible recipient, even if within the class.

JOHN CUBINE, Commissioner
ADOPTED: April 22, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: April 27, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 1:130. Payments for health insuring organizations and prepaid health plan services.

RELATES TO: KRS 205.520, 205.560
PURSUANT TO: KRS 13.082, 194.050, Chapter 398 of the 1982 Kentucky Acts
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 and 205.560 empower the cabinet, by regulation, to designate and limit the scope of medical care which will be provided through the Medical Assistance Program to Kentucky's indigent citizenry. The 1982 Kentucky Acts, Chapter 398, Part I, Section 52a2 require the cabinet to implement a Medicaid cost containment plan. This regulation sets forth the method for determining amounts payable by the cabinet for covered medical assistance services provided by health insuring organizations (HIO's) and prepaid health plans (PHP's) pursuant to contract between the HIO or PHP and the cabinet.

Section 1. Coverage. The Cabinet for Human Resources shall reimburse a participating health insuring organization (HIO) or prepaid health plan (PHP) for services rendered to eligible medical assistance recipients who are identified to the HIO or PHP by the cabinet and enrolled by the HIO or PHP in its health coverage program. Reimbursement shall be only for those services the HIO or PHP may by regulation provide, and as set forth by contract between the cabinet and the HIO or PHP. No reimbursement shall be made for services rendered to ineligible individuals, or for eligible individuals not properly and appropriately enrolled in the HIO or PHP program of health care. All HIO or PHP subcontracts except those with physicians will require prior approval by the state. All subcontracts must provide that the Commonwealth of Kentucky shall not be liable to the subcontractor for its performance under the subcontract.

Section 2. Payment Amounts. (1) The HIO or PHP will be reimbursed on a capitated basis; capitation may vary by category of assistance, sex and age. The capitation amount(s) shall be based on statistics showing normal utilization and cost for the affected category(ies).
(2) Payments made on the capitation basis shall not exceed the cost of providing the same services (covered by the contract between the HIO or PHP and the cabinet) to a comparable medical assistance population on a fee-for-service basis.
(3) The additional seven (7) days of hospital inpatient coverage, and other uncovered services which may be provided, are not to be considered reimbursable services under the Medical Assistance Program, and the cost of such services shall not be included when computing the capitation fee.

Section 3. Reports and Data. The HIO or PHP, and all subsidiary providers or subcontractors, shall be required to retain and make available to the cabinet and to the Department of Health and Human Services all records pertaining to service delivery and amounts paid under the contract, and the HIO or PHP shall provide any and all information which the cabinet needs for the administration of the contract. Such information is expected to include utilization data, data relating to payment rates, summaries of complaints, summaries of amounts of third party recoveries, marketing and enrollment material and performance records, and similar or related data which may be necessary to determine the efficiency and effectiveness of this method of health care.

JOHN CUBINE, Commissioner
ADOPTED: April 22, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: April 27, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, CHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the April 26, 1983 Meeting

(Subject to subcommittee approval at the May 25-26 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Tuesday, April 26, 1983, at 10 a.m., in Room 109 of the Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senator Pat McCuiston; Representatives Albert Robinson and James Bruce.

Guests: Representative Gerta Bendl; Dave Nicholas and Gwynne Goldberg, Board of Examiners of Social Work; John Walker, Irving Bell, Sara Pratt, Donna Penrose, Ked Fitzpatrick, and Joe Smith; Mary Lewis Bradshaw and J. D. Wolf, Department of Agriculture; Carlene Gobert, Don Hart, and Lynette Uhl, Department of Education; Bill Graves, Department of Fish and Wildlife Resources; Patrick Watts, Department of Insurance; Dot Darby, Governor's Office; Pam Johnson, Bobby McKee, and William Musick, Kentucky Retirement Systems; Julie Shaw and Ronald Duvall, Kentucky State Fair Board; George Risk and Steve Taylor, Natural Resources and Environmental Protection Cabinet; Kenneth Gilbert, Gerald Geiser, Bobby Powell, Edward Mattingly, and Elwood Harris, Revenue Cabinet; James Greenebaum, KAOP, KC-

COA, JCCOA, NCJW; Pat Rupp and Irving Lipetz, Kentucky Association for Older Persons; Ted LaPin, Kentucky Combined Committee on Aging; Mack Morgan and John Hinkle, Kentucky Retail Federation; Karen Cades, Nursing Home Residents; C. B. Edwards, Coalition for the Handicapped.

LRC Staff: Susan Harding, Joe Hood, June Mabry, Carla Arnold, Jim Peyton, Paula Payne, Scott Payton, and Shirley Hart.

Press: Herb Sparrow, Associated Press.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Bruce, seconded by Senator McCuiston, the minutes of the March 22-23, 1983, meeting were approved.

The following regulations were recommended for deferral by the subcommittee until the May 25 meeting:

REVENUE CABINET
Department of Professional and Support Services
Selective Excise Tax; Motor Vehicle Usage
103 KAR 44:010. Usage tax.

FINANCE AND ADMINISTRATION CABINET
Department for Administration
State Investment Commission
200 KAR 14:010. General rules.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Water Quality
401 KAR 5:050. Definitions and general provisions; KPDES permitting program.
401 KAR 5:055. Scope and applicability of the KPDES program.
401 KAR 5:060. KPDES application requirements.
401 KAR 5:065. KPDES permit conditions.
401 KAR 5:070. Provisions of the KPDES permit.
401 KAR 5:075. Cabinet review procedures for KPDES permits.
401 KAR 5:080. Criteria and standards for the Kentucky pollutant discharge elimination system.
401 KAR 5:085. KPDES discharge permit and variance fee.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Food and Cosmetics
902 KAR 45:045. Sanitation; retail food markets.
Department for Social Insurance
Medical Assistance
904 KAR 1:140. Alternative home and community based services for the mentally retarded.
904 KAR 1:150. Payments for alternative home and community based services for the mentally retarded.

The subcommittee took no action on the following emergency regulations:

ENERGY AND AGRICULTURE CABINET
Department of Agriculture
Livestock Sanitation
302 KAR 20:110E. Treatment of imported mares.
302 KAR 20:130E. Treatment of contagious equine metritis.
302 KAR 20:140E. Breeding shed for female equine.

The subcommittee recommended that the following regulations be approved for filing:

REVENUE CABINET
Department of Professional and Support Services
General Administration
103 KAR 1:010. Protests and appeals.
Ad Valorem Tax; State Assessment
103 KAR 8:060. Unclaimed pari-mutuel tickets; records; redemption.
Income Tax; General Administration
103 KAR 15:050. Filing dates and extensions.
Income Tax; Corporations
103 KAR 16:170. Repeal. (Repeals 103 KAR 16:160.)
Sales and Use Tax; Service and Professional Occupations
103 KAR 26:050. Common carriers.
Sales and Use Tax; Miscellaneous Retail Transactions
103 KAR 28:010. Admissions.
Sales and Use Tax; General Exemptions
103 KAR 30:190. Interstate and foreign commerce.
Sales and Use Tax; Administration and Accounting
103 KAR 31:110. Resale certificates.
103 KAR 31:120. Exemption certificates.
103 KAR 31:140. Interest, penalties and compensation.
Selective Excise Tax; Alcoholic Beverages
103 KAR 40:050. Transportation.
103 KAR 40:100. Consumer tax; customs.

KENTUCKY EMPLOYES' RETIREMENT SYSTEM
General Rules
105 KAR 1:010. Contributions and interest rates.
105 KAR 1:020. Reciprocal program between CERS, KERS, SPRS, TRS and Legislators' retirement plan.

FINANCE AND ADMINISTRATION CABINET
Division of Occupations and Professions
Board of Examiners of Social Work
201 KAR 23:020. Examination fee.

COMMERCE CABINET
Department of Fish and Wildlife Resources
Game
301 KAR 2:045. Upland game birds, furbearers and small game; seasons, limits.
301 KAR 2:150. Deer hunting seasons. (Repeals 301 KAR 2:115.)

ENERGY AND AGRICULTURE CABINET
Department of Agriculture
Livestock Sanitation
302 KAR 20:110. Treatment of imported mares.
302 KAR 20:130. Treatment of contagious equine metritis.
302 KAR 20:140. Breeding shed for female equine.
Kentucky State Fair Board
Fair Grounds and Exhibition Centers
303 KAR 1:100. Exposition Center grounds; sales and dissemination of real property, fixtures and goods, solicitation of contribution of sales during annual State Fair; rental of space; use of sound amplification equipment.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining and Reclamation and Enforcement
General Provisions
405 KAR 7:050. Coal processing waste disposal sites. (As amended with technical correction.)

EDUCATION AND HUMANITIES CABINET
Department of Education
Instructional Services
704 KAR 3:292. Chapter I, ECIA Migrant Plan.
Exceptional and Handicapped Programs
707 KAR 1:003. Annual program plan for the administration of the education of the handicapped act.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance
Agents, Consultants, Solicitors and Adjusters
806 KAR 9:040. Variable annuity agents' examination; exception.

CABINET FOR HUMAN RESOURCES
Administration
900 KAR 2:030. Quality of care rating system for long term care facilities.
900 KAR 2:040. Citations and violations criteria and specific acts. (As amended.)
Department for Health Services
Sanitation
902 KAR 10:070. Onsite sewage disposal manuals.
Department for Social Insurance
Medical Assistance
904 KAR 1:004. Resource and income standard of medically needy.
904 KAR 1:011. Technical eligibility requirements.
904 KAR 1:160. Home and community based services.
904 KAR 1:170. Payments for home and community based services.
904 KAR 1:180. Alternative birth center services.
Public Assistance
904 KAR 2:050. Time and manner of payments.

The meeting was adjourned at 12:30 p.m. until May 25, 1983.

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NOTE: Emergency regulations expire upon being repealed or replaced.

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101 KAR 1:130E	311	7-16-82
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302 KAR 45:010E	325	7-16-82
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904 KAR 1:045E	337	7-16-82
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904 KAR 2:050E	552	9-28-82
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904 KAR 2:115E	914	1-3-83
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