Administrative Register of Kentucky

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

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

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Administrative Register of Kentucky

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Public Hearings Scheduled

DEPARTMENT OF INSURANCE

A public hearing will be held on October 10, 1983, at 9:30 a.m. at 151 Elkhorn Court, Frankfort, Kentucky, on the following regulation:

806 KAR 38:080. Health maintenance organizations' reserve fund. [10 Ky.R. 510]

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Division of Water

A public hearing will be held on November 4, 1983, at 10 a.m. in Room G-1, Capital Plaza Tower, Frankfort, Kentucky, on the following regulation:

401 KAR 5:045. Biochemically degradable wastes; treatment. [10 Ky.R. 430]

Division of Air Pollution

A public hearing will be held on November 29, 1983, at 10 a.m. in Room G-2, Capital Plaza Tower, Frankfort, Kentucky, on the following regulations:

401 KAR 53:005. General provisions. [10 Ky.R. 431]
401 KAR 53:010. Ambient air quality standards. [10 Ky.R. 432]
401 KAR 59:260. New blast furnace casthouses. [10 Ky.R. 434]
401 KAR 61:015. Existing indirect heat exchangers. [10 Ky.R. 434]
401 KAR 61:080. Steel plants using existing basic oxygen process furnaces. [10 Ky.R. 440]
401 KAR 61:170. Existing blast furnaces casthouses. [10 Ky.R. 441]

Emergency Regulations Now In Effect

(NOTE: Emergency regulations expire upon being repealed or replaced.)

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 83-775
August 31, 1983

EMERGENCY REGULATION
Kentucky Retirement Systems

WHEREAS, KRS 61.645 vests the Board of Trustees of the Kentucky Retirement Systems with the responsibility for the administration of the State Police Retirement System, the Kentucky Employees Retirement System, and the County Employees Retirement System; and

WHEREAS, KRS 61.670 provides that said Board shall adopt such actuarial tables as are necessary for the administration of the system; and

WHEREAS, on July 6, 1983, the United States Supreme Court rendered a decision in *Arizona Governing Committee v. Norris* _____ U.S. _____ (1983) which held that employee retirement plans must pay retirement benefits as derived from contributions made after July 6, 1983 without regard to the sex of the beneficiary; and

WHEREAS, pursuant to the mandate of *Arizona Governing Committee v. Norris,* the Board of Trustees has adopted conforming tables, effective September 1, 1983; and

WHEREAS, as presently codified, Section 5 of 105 KAR 1:010 establishes a table for conversion factors to be applied to determine immediate annuity which could be purchased by $1,000 of contributions and interest after doubling as provided in KRS 16.576 and 61.559, which unconstitutionally differentiates between male and female beneficiaries; and

WHEREAS, this table is no longer needed due to the adoption of sex-neutral tables, effective September 1, 1983; and

WHEREAS, because of the need for immediate implementation, the Board of Trustees has determined in a letter dated August 29, 1983 that an emergency exists as to the need for deleting Section 5 from 105 KAR 1:010:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by KRS 13.088(1), do hereby acknowledge the finding of the Board of Trustees of the Kentucky Retirement Systems that an emergency exists and direct that the attached regulation shall become effective immediately 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

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems

105 KAR 1:010E. Contributions and interest rates.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.702, 78.510 to 78.852

PURSUANT TO: KRS 13.082, 16.576, 16.640, 61.559, 61.645, 78.780

EFFECTIVE: September 1, 1983

NECESSITY AND FUNCTION: KRS 16.645, 61.565 and 78.545, require the board to determine the employer contribution rate based on an actuarial valuation. KRS 61.552 requires the board to adopt a rate of interest payable on a recontribution of refund. KRS 16.560, 61.575 and 78.640 provide that the board may determine the rate of interest payable on the members' contribution account. KRS 61.670 provides that the board shall adopt such actuarial tables as are necessary for the administration of the system. This regulation sets the employer contribution rates, and rate of interest on a recontribution of refund and member contribution account and establishes the actuarial tables for computation of retirement allowances for members of the Kentucky Employes Retirement System (KERS), County Employes Retirement System (CERS) and State Police Retirement System (SPRS).

Section 1. The employer contribution rate payable by a participating agency applicable to creditable compensation earned on or after July 1, 1983, shall be as follows:

KRS 61.565 State Police Retirement System 18½%
KRS 61.656 Kentucky Employes Retirement System 7¼%
KRS 61.565 County Employes Retirement System 6¼%
KRS 61.592 Kentucky Employes Retirement System 18¼%
KRS 61.592 County Employes Retirement System 14%

Section 2. The interest rate on a recontribution of refund as provided under KRS 61.552 shall be as follows:

(1) For time elapsed from date of refund through June 30, 1982, six (6) percent compounded annually.

(2) For time elapsed from July 1, 1982 (or date of refund if after July 1, 1982) seven and one-half (7½) percent compounded annually. The interest rate on recontribution of refund made by an employee who has been reinstated by order of the Personnel Board shall be at the rate of zero (0) percent, if the refund is recontributed within a reasonable period of time.

Section 3. Interest creditable on a member's accumulated contributions in accordance with KRS 16.560, 61.575, and 78.640 shall be at the rate of six (6) percent.

Section 4. Reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to normal retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, below, except:

(1) A KERS hazardous duty member who is age fifty (50) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age fifty-five (55), if the employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE A

Years Required to Complete 30 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(2) A SPRS or CERS hazardous duty member who is age fifty (50) or older and would attain twenty-five (25) years of service (for SPRS, fifteen (15) of which would be current service) prior to age fifty-five (55), if his employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE B

Years Required to Complete 25 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age sixty-five (65) if employment were continued shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on SPRS, CERS hazardous or KERS hazardous early retirement eligibility, and would have attained thirty (30) or more years of service (fifteen (15) of which would be current service) on or before reaching his sixty-fifth (65th) birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE E

Years Required to Complete 25 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(5) A KERS hazardous member who dies prior to age fifty (50) and would have attained thirty (30) or more years of service (fifteen (15) or which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time of death.

(6) A SPRS or CERS hazardous member who dies prior to age fifty (50) and would have attained twenty-five (25) or more years of service (for SPRS, fifteen (15) of which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty-five (25) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time death.

TABLE F

Years Prior to Age 50	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE G

Early Age	Normal Retirement Age	
	65	55
64	95.0%	
63	90.0%	
62	85.0%	
61	80.0%	
60	75.0%	
59	71.0%	
58	67.0%	
57	63.0%	
56	59.0%	
55	55.0%	
54	51.3%	94.5%
53	47.9%	89.0%
52	44.9%	83.5%
51	42.1%	78.0%
50	39.5%	72.5%
49	37.1%	68.8%
48	34.9%	65.2%
47	33.0%	61.7%
46	31.3%	58.2%
45	29.9%	54.7%
44	28.7%	51.3%
43	27.6%	47.9%
42	26.7%	44.9%
41	25.8%	42.1%
40	25.1%	39.5%
39	24.4%	37.1%
38	23.8%	34.9%
37	23.2%	33.0%
36	22.5%	31.3%
35	21.9%	29.9%
34	21.2%	28.7%
33	20.6%	27.6%
32	20.0%	26.7%
31	19.5%	25.8%
30	19.0%	25.1%
29	18.5%	24.4%
28	18.0%	23.8%
27	17.5%	23.2%
26	17.0%	22.5%
25	16.5%	21.9%

The member's exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(7) Benefits paid in the event of death prior to retirement pursuant to subsections (1) through (6) of this section shall be reduced, as required by KRS 61.640 and as determined in "Contingent Annuity Factors," "Integrated Survivor Factors" and "Ten Year Certain Factors" incorporated herein by reference.

[Section 5. Conversion factors to be applied to determine immediate annuity which could be purchased by $1,000 of contributions and interest after doubling as provided in KRS 16.576 and 61.559, effective April 1, 1982.]

[TABLE H

	Age	Male	Female
Non-Hazardous	65	$ 9.92141	$ 8.57730
	66	$10.19723	$ 8.77301
	67	$10.49134	$ 8.98625
	68	$10.80397	$ 9.21964
	69	$11.13655	$ 9.47497
	70	$11.48855	$ 9.75310
	71	$11.85855	$10.05393
	72	$12.24723	$10.37652
	73	$12.65979	$10.72087
	74	$13.10404	$11.08806
	75	$13.58700	$11.47901
	76	$14.11350	$11.89596
	77	$14.68390	$12.34116
	78	$15.29153	$12.81648
	79	$15.93155	$13.32415
	80	$16.60395	$13.86536
Hazardous	50	$ 7.46966	$ 6.90106
	51	$ 7.56685	$ 6.96348
	52	$ 7.67007	$ 7.03073
	53	$ 7.77991	$ 7.10321
	54	$ 7.89699	$ 7.18139
	55	$ 8.02206	$ 7.26577
	56	$ 8.15598	$ 7.35689
	57	$ 8.29982	$ 7.45528
	58	$ 8.45481	$ 7.56147
	59	$ 8.62204	$ 7.67598
	60	$ 8.80177	$ 7.79939
	61	$ 8.99462	$ 7.93237
	62	$ 9.20156	$ 8.07563
	63	$ 9.42411	$ 8.23009
	64	$ 9.66376	$ 8.39690
	65	$ 9.92141	$ 8.57730
	66	$10.19723	$ 8.77301
	67	$10.49134	$ 8.98625
	68	$10.80397	$ 9.21964
	69	$11.13655	$ 9.47497
	70	$11.48855	$ 9.75310
	71	$11.85855	$10.05393
	72	$12.24723	$10.37652
	73	$12.65979	$10.72087
	74	$13.10404	$11.08806
	75	$13.58700	$11.47901
	76	$14.11350	$11.89596
	77	$14.68390	$12.34116
	78	$15.29153	$12.81648
	79	$15.93155	$13.32415
	80	$16.60395	$13.86536]

JOHN D. ROBEY, Chairman
ADOPTED:August 18, 1983
RECEIVED BY LRC: September 1, 1983 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 83-829
September 14, 1983

EMERGENCY REGULATION
Department of Fish and Wildlife Resources

WHEREAS, the United States Fish and Wildlife Service, Department of the Interior, has jurisdiction over the regulation of hunting throughout the several states; and

WHEREAS, all regulation as implemented by the Kentucky Department of Fish and Wildlife Resources pertaining to season framework, daily bag, possession limits, and the shooting hours for migratory species, must comply with federal regulations; and

WHEREAS, the Kentucky Department of Fish and Wildlife has recently promulgated a regulation for the taking of migratory birds which is in conformity with the revised federal regulations; and

WHEREAS, the recent promulgation of federal hunting regulations makes it impossible for the Kentucky Department of Fish and Wildlife Resources to comply with normal filing procedures under Chapter 13 of the Kentucky Revised Statutes; and

WHEREAS, the Commissioner of the Department of Fish and Wildlife Resources has determined in a letter dated September 12, 1983, that an emergency exists with respect to said regulation and that, therefore, said regulation should, pursuant to the provisions of KRS 13.088(1), become effective upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by the authority vested in me by Section 13.088(1) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Fish and Wildlife Resources that an emergency exists and direct that the attached regulation become effective immediately upon being filed in the office of the Legislative Research Commission as provided under KRS 13.088(1).

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

COMMERCE CABINET
Department of Fish and Wildlife Resources

301 KAR 2:088E. Limits and seasons for taking migratory birds.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360, 150.600

PURSUANT TO: KRS 13.082

EFFECTIVE: September 15, 1983

NECESSITY AND FUNCTION: This regulation pertains to the bag limits, possession limits, and seasons for the taking of certain migratory birds. This regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

Section 1. Seasons for Gun and Archery. (1) Ducks, Coots and Mergansers: November 12 through November 26 and December 17 through January 20.

(2) Geese:

(a) Eastern zone: November 12 through January 20, east

of a boundary beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, east on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.

(b) Western zone: December 12 through January 20, west of the boundary described in paragraph (a) of this subsection.

(c) Ballard quota zone: December 23 through January 31, or until such time as 6,000 Canada geese are harvested, whichever occurs first. This zone is defined as the area within the following boundary: Starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the Canada goose quota of 6,000 will be filled prior to January 31, the season for taking geese in this zone will close. Notice will be given through the news media at least forty-eight (48) hours in advance of the time and date of closing.

(3) Sora and Virginia Rails and Gallinules: November 12 through January 20.

Section 2. Limits for Gun and Archery. (1) Ducks, Coots and Mergansers:

(a) A point system bag limit is in effect. Point values are as follows for either sex unless specified:

1. Canvasback and black duck: 100;
2. Hen mallard, wood duck, hooded merganser and redhead: 70;
3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, widgeon, gadwall, shoveler, scaup and mergansers except hooded merganser: 10;
4. Drake mallard and all other species of ducks not mentioned above: 25;
5. Coots, but limited to fifteen (15) daily and thirty (30) in possession: 0.

(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points.

(c) The possession limit is the maximum number of ducks which could have legally been taken in two (2) days.

(2) Geese:

(a) The bag limit is five (5) with no more than two (2) Canada and two (2) white-fronted geese.

(b) The possession limit is ten (10), not to include more than four (4) Canada and four (4) white-fronted.

(3) Sora and Virginia Rails: The bag and possession limits are twenty-five (25) singly or in the aggregate.

(4) Gallinules: The bag and possession limits are fifteen (15) and thirty (30), respectively.

Section 3. Shooting Hours. One-half (½) hour before sunrise to sunset for all species listed in this regulation.

Section 4. Shot Size Restrictions. No shot larger than BBs may be in possession while hunting the species listed in this regulation.

Section 5. Falconry Season. November 1 through January 20. All species listed in this regulation may be taken by falconry.

Section 6. Falconry Limits. The bag and possession limits are three (3) and six (6), respectively, of any species listed in this regulation, singly or in the aggregate.

Section 7. Hunting Hours for Falconry. The hunting hours will conform with the shooting hours stated in Sections 3 and 9.

Section 8. Migratory Bird Shipping and Transporting Restrictions. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of any licensed waterfowl hunter, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese.

Section 9. Exceptions for Specified Wildlife Management Areas and Counties. Unless otherwise specified in this section, stipulations of preceding sections of this regulation apply.

(1) Ballard County Wildlife Management Area, except the Miller Tract, located in Ballard County.

(a) Species and seasons.

1. The season for ducks, coots and mergansers is December 26 through January 20.
2. The season for geese is December 26 through January 31, or until such time as the Ballard Quota Zone is closed, whichever occurs first.
3. No hunting is permitted on Sundays.

(b) General rules. There will be a ten (10) shell limit per hunter when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is permitted in goose hunting areas but shooting geese in duck areas is prohibited. Any hunter under the age of eighteen (18) years must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Shooting hours. The shooting hours are one-half (½) hour before sunrise to twelve (12) o'clock noon.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties.

(a) Closed areas. Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. Duncan Bay is closed to all activity. The Environmental Education Center is closed to waterfowl hunting.

(b) LBL Permit. An annual LBL Hunting Permit is required for waterfowl hunting on all shoreline and inland areas. Shoreline areas are defined as all LBL areas along Kentucky and Barkley Lakes from the waters edge to twenty-five (25) yards above elevation 359 feet. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to Lake Barkley Wildlife Management Area regulations. Inland areas are defined as all areas above shoreline areas. No waterfowl hunting is permitted on inland areas during quota gun deer hunt days. Permanent pits and blinds are not permitted on inland areas nor along Kentucky Lake shoreline area. Temporary blinds and decoys may be used, but they must be removed at the end of each hunting day.

(3) Lake Barkley Wildlife Management Area.

(a) Closed areas. Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated in this subsection and designated on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15

within an area including a row of islands on the west side of the main channel as marked by buoys and signs between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, Fulton Bay will remain closed until March 15 and Honker Bay until March 1, or later if marked by buoys and signs. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15. Recreation areas and access points are closed to hunting.

(b) Blinds and pits. Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a current Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Maintenance Shop located at Barkley Dam off U.S. Highway 641-62 on October 3 from 8:00 a.m. to 9:00 a.m. Applicants for permanent blinds or pits will take part in a drawing to determine the order of blind registration. Hunters who miss the October 3 drawing will be registered on a first come-first served basis at the Resource Manager's Office from October 6 through November 11. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. Within a specified area around Duck Island Refuge permanent blinds shall remain within ten (10) yards of the assigned number blind marker for the entire waterfowl season. This area is bounded as follows: Beginning at the mouth of Donaldson Creek and proceeding south along the east side of the old Cumberland River channel as marked by buoys, to a point due west of the boat ramp at Linton, then east to the Linton boat ramp, then north along the east shore of Barkley Lake to the mouth of Donaldson Creek. All other blinds within this described area must be temporary. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. All blinds or pits must be erected or installed no later than the day before the opening of the goose hunting season. All pits and blinds must be 200 yards apart and 200 yards from any refuge as designated by signs. Permanent blinds or pits must be removed no later than thirty (30) days after the close of the waterfowl season. Any extension must be approved by the Lake Barkley Resource Manager.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties. All recreation areas, operational areas and islands, except Mason Island, are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration and a drawing for permanent blinds will be conducted at the Barren Lake Resource Manager's Office located near the dam off Kentucky Highway 252, on October 5 from 7:00 a.m. to 9:00 a.m. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season.

(5) Green River Wildlife Management Area. All recreation and park areas are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration for a drawing for blind permits will be conducted on October 1 from 8 a.m. to 10 a.m. at the Resource Manager's office located off Highway 55 between Campbellsville and Columbia. Registrants must have a valid Kentucky hunting license. No more than one (1) blind permit will be issued per immediate family.

(6) Nolin, Rough River, and Buckhorn Wildlife Management Areas. All recreation and park areas are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the Resource Managers' offices located at or near the dam sites, from October 5 through December 31. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season.

(7) Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit. Waterfowl hunting is permitted only from permanent pits or blinds registered by the Department of Fish and Wildlife Resources.

(b) Jenny Hole-Highland Creek Unit. Waterfowl hunting will be allowed from permanent pit or blind sites registered by the Department of Fish and Wildlife Resources and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties.

(c) Shooting hours. The shooting hours on the Grassy Pond-Powell's Lake and Jenny Hole-Highland Creek Units shall be one-half (½) hour before sunrise until 2 p.m.

(d) Pit or blind registration. Applicants for a permanent pit or blind must show a current Kentucky hunting license before a permit will be issued. The drawing for blind registration order will occur September 30, from 6:00 p.m. until 8:00 p.m. at the Henderson Community and Youth Center in Atkinson Park, Henderson. The drawing will be followed by registration in which hunters with the lowest numbers will receive first choice of pit or blind locations. A hunter may designate one (1) other person as a partner for registration. Two (2) nontransferable permits will be issued for each permanent pit or blind and only one (1) permit per hunter will be issued. Either of the permittees for a location will have priority over other users of their registered pits or blinds and may claim ownership by showing their permit. Registered pits or blinds must not be locked to exclude other hunters when not occupied by the permittee. Any waterfowl hunter may occupy any unoccupied pit or blind until claimed by the permittee. Only four (4) persons may occupy a pit or blind at one (1) time. All blinds and pits must be 200 yards apart and at the designated locations. Permit holders who have not constructed their pit or blind at the designated location by November 30 will lose their location and the site may be assigned to another hunter. Blinds or pits and all construction materials must be removed from the area no later than thirty (30) days after the close of the waterfowl season.

(e) When the Ohio River reaches a level that requires boat access to the units, hunting will be allowed from boats spaced 200 yards apart, without regard to the registered pits or blinds.

(f) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. This area includes all state-owned land north and south of Kentucky Highway

268 and privately-owned land south of Kentucky Highway 268 as designated by yellow waterfowl refuge signs. Hunting waterfowl is also prohibited from Kentucky Highway 268 and thirty (30) feet on either side on the center line where it lies adjacent to the refuge.

(8) Ohio River Islands Wildlife Management Area. This area consists of Twin Sisters, Pryor, and Rondeau Islands and the mainland marsh area between Twin Sisters and Pryor Islands. Waterfowl blinds must be removed at the end of each day's hunting. All blinds must be 200 yards apart and only four (4) persons may occupy a blind at one (1) time.

(9) Ohio River Waterfowl Refuge located in Livingston County will be closed to all hunting and molesting of waterfowl from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(10) Dewey Lake Wildlife Management Area located in Floyd County is closed to all waterfowl hunting.

(11) Grayson Lake Wildlife Management Area located in Carter and Elliott Counties is closed to all waterfowl hunting.

(12) Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(13) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties is closed to all waterfowl hunting.

(14) Cane Creek Wildlife Management Area located in Laurel County is closed to all waterfowl hunting.

(15) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all waterfowl hunting.

(16) Redbird Wildlife Management Area located in Leslie and Clay Counties is closed to all waterfowl hunting.

(17) Mill Creek Wildlife Management Area located in Jackson County is closed to all waterfowl hunting.

(18) Ohio County south of Rough River, Muhlenberg County east of state route 181 and Butler County west of state route 79 are closed to goose hunting.

Section 10. 301 KAR 2:087, Migratory birds; limits and seasons for taking, is hereby repealed.

CARL E. KAYS, Commissioner
DR. ROBERT C. WEBB, Chairman
ADOPTED: August 26, 1983
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: September 15, 1983 at 9 a.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 83-772
August 30, 1983

EMERGENCY REGULATION
Department of Alcoholic Beverage Control

WHEREAS, the Alcoholic Beverage Control Board has, by Regulation 804 KAR 9:010, established a general retail liquor license quota based upon county population for any area within a county in which prohibition has been repealed; and

WHEREAS, on April 12, 1983, the citizens of Pikeville, Kentucky, voted to repeal prohibition within the limits of their city; and

WHEREAS, since the resident population of the city of Pikeville is 4,756 and the resident population of Pike County is 81,123, the retail package liquor license quota for the City of Pikeville as calculated under 804 KAR 9:010 would create a permissible number of retail package liquor licenses exceptionally disproportionate to the population to the City of Pikeville; and

WHEREAS, the express provisions of KRS 241.060(2) enable the Alcoholic Beverage Control Board to limit the number of licenses to be issued in any political subdivision of the state and permit the Board to make reasonable division and subdivisions of the state or any political subdivision into districts for this purpose; and

WHEREAS, the Alcoholic Beverage Control Board has determined that in view of this disproportionate number of licenses, a separate and distinct quota should be established by regulation for the City of Pikeville, Kentucky; and

WHEREAS, the Commissioner of the Department of Alcoholic Beverage Control has determined in a letter, dated August 24, 1983, that an emergency exists with respect to said Regulation and that, therefore, said Regulation should, pursuant to the provisions of KRS 13.088(1) become effective upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, pursuant to the authority vested in me by Section 13.088(1) of the Kentucky Revised Statutes, hereby acknowledge the finding of the Department of Alcoholic Beverage Control that an emergency exists and, therefore, direct that the attached Regulation become effective immediately upon being filed in the Office of the Legislative Research Commission as provided under KRS 13.088(1).

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

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

804 KAR 9:040E. Retail package liquor license quota.

RELATES TO: KRS 241.060, 241.065, 241.075, 243.030
PURSUANT TO: KRS 13.082, 241.060
EFFECTIVE: September 1, 1983
NECESSITY AND FUNCTION: The express provisions of KRS 241.060(2) enable the Alcoholic Beverage Control Board to limit the number of licenses to be issued in any political subdivision of the state and permit the board to make reasonable division and subdivisions of the state or any political subdivision into districts for this purpose. 804 KAR 9:010 establishes a general retail liquor license quota based upon county population for any area within that county in which prohibition has been repealed. Instances may arise, however, in which the quota based on county population permits the issuance of retail liquor licenses in a number totally disproportionate to the popula-

tion of the area in said county in which prohibition has been repealed. It is, therefore, necessary for the board to establish individual quotas when such a situation as above described arises.

Section 1. The Alcoholic Beverage Control Board may, for good reason shown, adopt by regulation retail liquor license quotas for political subdivisions less than a county where the county quota established by 804 KAR 9:010 would be excessively disproportionate to that based upon the population of the smaller political subdivisions. In such instances, the quota set in Sections 1 and 2 of 804 KAR 9:010 shall be inapplicable. The quota exceptions contained in Section 2 of 804 KAR 9:010 shall remain in effect and be incorporated herein.

Section 2. Pursuant to the authority herein, the city of Pikeville, having voted to repeal prohibition on April 12, 1983, the actual resident population of the city of Pikeville being 4,756, and the resident population of Pike County being 81,123 according to the 1980 census, it is determined that the retail package liquor license quota established according to 804 KAR 9:010 would create a permissible number of retail package liquor licenses excessively disproportionate to the population of the city of Pikeville, the retail package liquor license quota for the city of Pikeville, Kentucky, is therefore set at thirteen (13).

EDWARD A. FARRIS, Commissioner-Chairman
ADOPTED: August 23, 1983
APPROVED: LEONARD MARSHALL, Secretary
RECEIVED BY LRC: September 1, 1983 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 83-781
September 1, 1983

EMERGENCY REGULATION
Cabinet for Human Resources
Department for Social Insurance
Medical Assistance

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 respect to the provision of medical assistance; and

WHEREAS, the Secretary is required by Chapter 398 of the 1982 Kentucky Acts to contain costs; and

WHEREAS, the Secretary has found that in order to reduce the rate of spending and avoid the imposition of a federal fiscal penalty against the Medical Assistance Program, it is necessary to implement a new regulation governing inpatient hospital services; and

WHEREAS, the Secretary has determined in writing that an emergency exists with respect to said regulation and that, therefore, said regulation 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 regulation on Inpatient Hospital Services, and hereby direct that said regulation shall become effective upon being filed with the Legislative Research Commission, as provided in Chapter 13 of the Kentucky Revised Statutes.

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

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 1:012E. Inpatient hospital services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: September 1, 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 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to inpatient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay. Inpatient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of fourteen (14) days per admission. A recepient may transfer from one (1) hospital to another hospital when such transfer is necessary for the patient to receive medical care which is not available in the first hospital. In addition, for neonatal care related to any of the diagnoses specified in Section 4, an infant recipient may transfer from a hospital with a level III neonatal unit to a different hospital with a level II or level I neonatal unit. Such transfers and admissions shall begin anew the fourteen (14) day per admission limitation; in such situations, the maximum covered inpatient hospital stay that may result is a total of twenty-eight (28) days for the two (2) admissions. *Each admission must have prior approval of appropriateness by the Kentucky Peer Review Organization in order for the admission to be covered under the program; this requirement does not apply for emergency admissions.* [Each admission shall be reviewed by the Kentucky Peer Review Organization and assigned a length of stay date in order to qualify for reimbursement. The admission shall again be reviewed on or before the assigned length of stay date if further admission necessitates.] Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.

Section 2. Covered Admissions. Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an outpatient basis. Admissions relating to only observation or diagnostic purposes or for elective cosmetic, plastic or reconstructive surgeries shall not be covered.

Section 3. Inpatient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.

(2) Private duty nursing.

(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an inpatient.

(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.

(5) Private accommodations unless medically necessary and so ordered by the attending physician.

(6) The following listed surgical procedures, except when a life-threatening situation exists there is another primary purpose for the admission, or the admitting physician certifies a medical necessity requiring admission to a hospital:

(a) Biopsy: breast, cervical node, cervix, lesions (skin, subcutaneous, submucous), lymph node (except high axillary excision, etc), and muscle.

(b) Cauterization or cryotherapy: lesions (skin, subcutaneous, submucous), moles, polyps, warts/condylomas, anterior nose bleeds, and cervix.

(c) Circumcision.

(d) Dilation: dilation and curettage (diagnostic and/or therapeutic non-obstetrical); dilation/probing of lacrimal duct.

(e) Drainage by incision or aspiration: cutaneous, subcutaneous, and joint.

(f) Exam under anesthesia (pelvic).

(g) Excision: bartholin cyst, condylomas, foreign body, lesions lipoma, nevi (moles), sebaceous cyst, polyps, and subcutaneous fistulas.

(h) Extraction: foreign body, and teeth (per existing policy).

(i) Graft, skin (pinch, splint or full thickness up to defect size three-fourths (¾) inch diameter).

(j) Hymenotomy.

(k) Manipulation and/or reduction with or without x-ray; cast change: dislocations depending upon the joint and indication for procedure, and fractures.

(l) Meatotomy/urethral dilation, removal calculus and drainage of bladder without incision.

(m) Myringotomy with or without tubes, otoplasty.

(n) Oscopy with or without biopsy (with or without salpingogram): arthroscopy, bronchoscopy, colonoscopy, culdoscopy, cystoscopy, esophagoscopy, endoscopy, gastroscopy, hysteroscopy, laryngoscopy, laparoscopy, peritoneoscopy, otoscopy, and sigmoidoscopy or procto sidmoidoscopy.

(o) Removal; IUD, and fingernail or toenails.

(p) Tenotomy hand or foot.

(q) Vasectomy.

(r) Z-plasty for relaxation or scar/contractune.

Section 4. Neonatal Diagnosis Appropriate for Additional Stay in A Different Hospital with a Level II or Level I Neonatal Unit. (1) Fetus or newborn affected by maternal conditions which may be unrelated to present pregnancy.

(2) Fetus or newborn affected by maternal complications of pregnancy.

(3) Fetus of newborn affected by complications or placenta, cord, and membranes.

(4) Fetus or newborn affected by other complications of labor and delivery.

(5) Slow fetal growth and fetal malnutrition.

(6) Disorders relating to short gestation and unspecified low birthweight.

(7) Disorders relating to long gestation and high birthweight.

(8) Birth trauma.

(9) Intrauterine hypoxia and birth asphyxia.

(10) Respiratory distress syndrome.

(11) Other respiratory conditions of fetus and newborn.

(12) Infections specific to the perinatal period.

(13) Fetal and neonatal hemorrhage.

(14) Hemolytic disease of fetus or newborn, due to isoimmunization.

(15) Other perinatal jaundice.

(16) Endocrine and metabolic disturbances specific to the fetus and newborn.

(17) Hematological disorders of fetus and newborn.

(18) Perinatal disorders of digestive system.

(19) Conditions involving the integument and temperature regulation of fetus and newborn.

(20) Congenital anomalies and related surgical procedures.

(21) Other and ill-defined conditions originating in the perinatal period.

Section 5. Definitions Relating to Neonatal Care and Admissions. (1) "Infant" means a child not more than twelve (12) months of age.

(2) "Level II neonatal unit" means a unit able to provide the full range of resources and expertise required for the management of any complication of the newborn. A nurse/patient ratio of 1:2 is required.

(3) "Level II neonatal unit" means a unit able to provide care to the moderately ill infant who requires various support services. A nurse/patient ratio of 1:4 is required.

(4) "Level I neonatal unit" means a unit providing care to infants with uncomplicated conditions. Normal nursery staffing is required.

Section 6. The provisions of Sections 1 through 5 of this regulation, as amended, shall be effective *September 1, 1983* [May 1, 1982].

JOHN CUBINE, Commissioner
ADOPTED: August 30, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: September 1, 1983 at 4 p.m.

JOHN Y. BROWN, JR., GOVERNOR
Executive Order 83-750
August 19, 1983

EMERGENCY REGULATION
Cabinet for Human Resources
Department for Social Insurance

WHEREAS, the extreme heat of summer has resulted in a life and health threatening situation for Kentucky's low income population; and

WHEREAS, the Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XX-

VI of the Omnibus Budget Reconciliation Act of 1981) to administer the Home Energy Assistance Program to provide energy assistance for eligible low income households; and

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

WHEREAS, the Secretary has promulgated a regulation for the Home Energy Assistance Program to implement the Emergency Summer Aid Program to provide fans to eligible low income households for the purpose of preventing or alleviating the effects of extreme heat; and

WHEREAS, the time delays inherent in complying with procedural requirements of KRS Chapter 13 would preclude the effectiveness of the regulation during the summer months; and

WHEREAS, the Secretary has determined in a letter dated August 15, 1983, that an emergency exists with respect to said regulation, and that, therefore, said regulation should, in accordance with the provisions of KRS 13.088(1), be effective immediately upon filing with the Legislative Research Commission:

NOW, THEREFORE, I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, by virtue of the authority vested in me by KRS 13.088(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 regulation of the Cabinet for Human Resources providing for the Home Energy Assistance Program, and direct that said regulation shall become effective upon being filed with the Legislative Research Commission as provided in Chapter 13 of the Kentucky Revised Statutes.

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

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

904 KAR 2:115E. Eligibility, criteria for home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 13.082, 194.050
EFFECTIVE: August 22, 1983

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by P.L. 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of *five (5)* [four (4)] components of energy assistance, regular, crisis, Project Warmup, [and] emergency reconnection *and emergency summer aid* under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet.

Section 2. Definitions. Terms used in HEAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) A "fully vulnerable household" is any household living in non-subsidized housing which pays all energy costs directly to the energy provider or any household which rents non-subsidized housing whose energy costs are included in the rent payment.

(6) "Regular component" is that portion of benefits reserved as energy assistance for heating for households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability.

(7) "Crisis component" is that portion of benefits reserved for use as emergency energy assistance after the regular component is terminated for eligible households in emergency or crisis situations.

(8) "Project Warmup" is that component of HEAP administered by local governments and other local organizations under contract with the cabinet to provide benefits to eligible households who are without adequate heat.

(9) "Emergency reconnection component" is that portion of benefits reserved as energy assistance for eligible households who use a utility service with a continuous billing cycle and whose service has been disconnected.

(10) "Emergency summer aid component" is that component administered by local organizations under contract with the cabinet to provide fans to eligible households in need due to extreme heat.

Section 3. Eligibility Criteria. (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the regular, crisis, and emergency reconnection components:

(a) The household must be fully vulnerable for energy cost.

(b) For purposes of determining eligibility, the amount of continuing and non-continuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(c) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or

local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and CETA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$500	$6,000
2	600	7,200
3	700	8,400
4 or more	800	9,600

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, and prepaid burial policies.

(e) Applicants for the crisis and emergency reconnection components must attest that an immediate need for energy exists because the household is financially incapable of meeting their energy costs at the time of application or within fifteen (15) days. The thirty (30) day extension of service prior to energy cut-off granted by Public Service Commission regulations does not affect eligibility for the crisis component.

(f) Under the emergency reconnection component, the utility service for the principal residence of the household must be disconnected.

(2) A household must meet the following conditions of eligibility for receipt of a Project Warmup component benefit:

(a) The household must be without adequate heat.

(b) The household must meet the income and assets criteria contained in subsection (1)(b) through (d) of this section.

(c) The applicant for shelter cannot be, in the opinion of the contracting agency, a threat to the health and/or welfare of other Project Warmup recipients.

(3) Households are eligibile to receive benefits under either the regular, crisis, or emergency reconnection component and Project Warmup. *Receipt of assistance under other HEAP components does not affect eligibility under the emergency summer aid component.*

(4) For the emergency summer aid component, a household must meet the same income and assets criteria contained in subsection (1)(b) through (d) of this section. Households with members who have health/medical problems or who are aged, blind, disabled, or who have children shall receive priority.

Section 4. Benefit Levels. (1) Payment amounts for the regular, crisis, and emergency reconnection components are set at a level to serve a maximum number of households while providing a reasonably adequate payment relative to energy costs. The highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(a) Payments to eligible households will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales

Scale A.
Energy Sources: LP Gas (Propane), Fuel Oil, Electricity, Wood, Kerosene

Monthly Household Income	Payment Amount: Household Size 1 and 2	Payment Amount: Household Size 3 or more
$ 0-300	$275	$300
301-600	238	263
over 600	—	225

Scale B.
Energy Sources: Natural Gas, Coal

Monthly Household Income	Payment Amount: Household Size 1 and 2	Payment Amount: Household Size 3 or more
$ 0-300	$225	$250
301-600	188	213
over 600	—	175

(b) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the regular or crisis components may be reduced proportionately.

(2) Benefits to eligible households under the Project Warmup component shall be in the form of temporary shelter, blankets, space heater(s), short term fuel supplies, or the payment of utility reconnection fees and deposits if such payment will enable the household to obtain heat. Other benefits may be provided which directly or indirectly assist households in obtaining energy. Benefits will be available only in counties which contract with the cabinet for the provision of these services.

(3) Benefits to eligible households under the emergency summer aid component shall be in the form of fans, not to exceed forty dollars ($40) per fan, and not to exceed two (2) fans per household, unless special circumstances warrant a waiver of these provisions.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Payment authorization under the regular and crisis components is of two (2) types.

(a) If the recipient utilizes an energy provider who has a continuous billing cycle, payment is authorized by a two (2) party check made payable to the provider and the recipient, whenever feasible.

(b) When there is no continuous billing cycle or heating is included as an undesignated portion of rent, payment shall be made by a check payable to the recipient and the provider/landlord whenever feasible.

(c) When a two (2) party check is not feasible, the recipient shall sign an affidavit prior to receipt of funds stating that benefits received under HEAP shall be utilized solely for home energy.

(2) Payment authorization under the emergency reconnection component shall be made by a two-party check made payable to the provider and the recipient, whenever feasible.

(3) Under the regular, crisis, or emergency reconnection components, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space

heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For Project Warmup *and emergency summer aid component*, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency as necessary.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055.

Section 7. Time Standards. The cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the regular component shall be accepted beginning January 3, 1983, and ending no later than January 14, 1983, at the close of business.

(2) Applications for the crisis component shall be accepted beginning January 17, 1983.

(3) Applications for the emergency reconnection component shall be accepted beginning February 14, 1983.

(4) Application shall be processed in the order taken until funds are expended. HEAP regular, crisis, and emergency reconnection components shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or March 31, 1983, whichever comes first.

(5) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

(6) Project Warmup may be implemented by contracting agencies on December 15, 1982. Benefits shall be provided until funds are exhausted or March 31, 1983, whichever comes first.

(7) Emergency summer aid component may be implemented by the contracting agency on July 25, 1983. Benefits shall be provided until funds are exhausted or September 15, 1983, whichever comes first.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance.

(2) Up to $1.6 million shall be reserved for Project Warmup.

(3) Remaining benefit funds available under Public Law 97-35 shall be reserved for the regular and crisis components.

(4) Of the approximately $2.57 million oil pricing settlement funds made available to Kentucky by the United States Department of Energy pursuant to the 1983 Further Continuing Appropriation Act, up to $1.0 million shall be reserved for the emergency reconnection component with the remainder made available for use in the crisis component.

(5) Up to $275,000 shall be reserved for administration and implementation of the emergency summer aid component.

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated differently than households not receiving benefits; and

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided.

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

JOHN CUBINE, Commissioner
ADOPTED: August 11, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: August 12, 1983 at 1:45 p.m.

Amended Regulation Now in Effect

CABINET FOR HUMAN RESOURCES
Department for Health Services
As Amended

902 KAR 4:040. Special Supplemental Food Program for Women, Infants and Children (WIC).

RELATES TO: KRS 194.050
PURSUANT TO: KRS 13.082, 194.050, 42 USC 1786
EFFECTIVE: September 7, 1983
NECESSITY AND FUNCTION: Through operation of 42 USC §1786 and 7 CFR 246.10, the state is required to impose sanctions upon vendors participating in the Special Supplemental Food Program for Women, Infants and Children (WIC) when it is determined that a violation of program requirements has occurred. The purpose of this regulation is to set forth the violations for which sanctions are to be imposed, the applicable sanctions, and the appeal rights assured an affected vendor.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.

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

(3) "State agency" means the Cabinet for Human Resources or its designated representative.

(4) "Vendor" means a vendor of food items who, by contract, participates in the Special Supplemental Food Program for Women, Infants and Children (WIC).

(5) "WIC program" means the Special Supplemental Food Program for Women, Infants and Children (WIC) administered pursuant to 42 USC §1786.

Section 2. For the following acts or circumstances committed by the vendor, his employe or agent, the cabinet shall impose the following sanctions:

Types of Abuse	Period of Disqualification 1st offense	2nd offense	3rd offense
1. Providing cash/credit for WIC checks (trafficking)	1 year	2 years	3 years
2. Selling nonfood items for WIC checks	6 months	1 year	18 months
3. Selling related but unauthorized foods	Written Warning	3 months	6 months
4. Charging more than the current retail market price for WIC food items	6 months	1 year	18 months
5. Charging for food not received by the WIC participant	1 year	2 years	3 years
6. Charging for food not authorized on the WIC check	6 months	1 year	18 months
7. Redeeming WIC checks outside valid period	Written Warning	3 months	6 months
8. Not recording actual purchase price on WIC checks at time of purchase	Written Warning	3 months	6 months
9. Giving due bills, IOU's or rainchecks	Written Warning	3 months	6 months
10. Suspension from Food Stamp Program	Equivalent to food stamp disqualification period (does not have to run concurrently)		
11. Nonpayment of a claim made by state agency	3 months	6 months	1 year
12. Discrimination (separate WIC lines, denying trading stamps, other customer courtesies)	Written Warning	3 months	6 months
13. Failure to allow monitoring and inspection of store premises, records and procedures or access to WIC checks	Written Warning	3 months	6 months
14. Failure to return WIC vendor authorization stamp upon request	Add 3 months to previously established disqualification period or monetary penalty in the amount of unauthorized funds received or both		
15. Requiring cash purchase to redeem WIC checks	Written Warning	3 months	6 months

[Sanctions imposed may, in the discretion of the cabinet, run concurrently or consecutively.] Notice of sanction to be imposed by the cabinet and the date upon which such sanction is to commence may be hand-delivered to the vendor or mailed certified mail return receipt requested to the vendor's last known address.

Section 3. (1) Any vendor aggrieved by a decision of the cabinet to impose a sanction authorized by this regulation may file a written request for a hearing with the cabinet no later than twenty (20) days after receipt of notice. Upon receipt of a request for a hearing, the secretary shall appoint one (1) or more impartial hearing officer(s) to conduct the hearing. Within five (5) days of a request for a hearing, the cabinet shall advise the subject vendor of the date, time and place of the scheduled hearing and of the opportunity to review the records of the cabinet prior to the date of the hearing.

(2) On the date of the hearing the subject vendor shall have:

(a) An opportunity to present its case against the imposition of any sanction;

(b) The opportunity to be represented by counsel, if desired; and

(c) The opportunity to confront and to cross-examine witnesses.

(3) The hearing officer(s) shall decide upon the validity of the violation and sanction imposed based upon the record of the hearing and the relevant statutory and regulatory provisions governing the WIC program. The *basis of the* decision shall be in writing and shall be the final decision of the cabinet. It need not contain formal findings of fact and conclusions of law.

(4) A decision shall be reached and written notification of the decision forwarded to the vendor no later than sixty (60) days from the date of receipt of the written request for hearing. Any vendor aggrieved shall have the right to appeal such decision to the circuit court of the county wherein the vendor has his principal place of business.

DAVID T. ALLEN, Commissioner
ADOPTED: May 31, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: June 1, 1983 at 10:45 a.m.

Proposed Amendments

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:020. General provisions.

RELATES TO: KRS 18A.010, 18A.030, 18A.075, 18A.110, 18A.125, 18A.140, 18A.145, 18A.155, 18A.180
PURSUANT TO: KRS 13.082, 18A.075, 18A.110
NECESSITY AND FUNCTION: KRS 18A.075 requires the State Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS 18A.110 requires the Commissioner of Personnel to prepare and submit such rules to the board as *they* relate to the classified service. This rule is to assure an avenue for public and employee participation in rule development and admendment and to allow cooperation with other jurisdictions in administering the rules.

Section 1. Rules. Any officer, employee or citizen who feels that these rules are working or are apt to work an unnecessary hardship on him, or that the efficiency of the state service can be improved by amendment to these rules may appear before the board at any of its regular meetings and shall have the right to be heard upon the matter, provided that the request *is* [to be heard on such matter must be] filed in writing with the *executive director* [commissioner] at least seven (7) days prior to the board meeting.

Section 2. Cooperation with Other Merit Systems. The commissioner may cooperate with the governmental agencies of other jurisdictions whose merit systems operate in conformity with standards comparable to those contained in these rules. The commissioner may announce and administer joint examinations and establish joint lists from which eligibles shall be certified for appointment in accordance with the provisions of these rules.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:030. Personnel board procedures.

RELATES TO: KRS 18A.045, 18A.070
PURSUANT TO: KRS 13.082, 18A.045, 18A.070, 18A.075
NECESSITY AND FUNCTION: KRS 18A.045 establishes the State Personnel Board and KRS 18A.070 sets forth the procedures for operation of the board. KRS 18A.075 further expands the duties of the board. This rule is to assure compliance with these statutes and to define specific methods of compliance.

Section 1. Regular Meetings. Regular meetings of the board shall be held on the second Friday of each month. The chairman or the executive director *shall* [may] provide the time, date, and place of any meeting, [when deemed necessary] and give [due] notice in writing of *any* [the] change, to the board members *and* the commissioner [, and the several appointing authorities. Notice shall be given in writing to each member of the board by the executive director] at least seven (7) days in advance of the meeting.

Section 2. Chairman. At the regular meeting in January of each year, the board shall elect one (1) member to act as chairman and one (1) member to act as vice-chairman for *a* term[s] of one (1) year, or until successors are duly elected. If the office of chairman or vice-chairman is vacated because of death, [or] resignation, or [in] any other manner, before the expiration of his term, the board shall elect *at the next meeting* his successor [at the next meeting] who shall serve for the unexpired term.

Section 3. Rules of Order. Meetings of the board may be informal, subject to such rules of order as may be promulgated by the chairman.

Section 4. Minutes. The executive director shall attend all meetings of the board, act as its secretary, and record its official actions in the minutes. The time and place of each meeting of the board, names of the board members present, all official acts of the board, the votes of each board member except when the acts are unanimous, and when requested a board member's dissent with his reasons shall be recorded in the minutes. The executive director shall cause the minutes to be transcribed and presented for approval or amendment at the next regular meeting. The minutes or a true copy thereof certified by a majority of the board shall be open to public inspection.

Section 5. Reports of Commissioner. The commissioner shall report in writing to the board:
(1) Any new or revised job specification or grade change for each administrative, professional, or supervisory position;
(2) Monthly, the name, classification, grade, salary and department of each disciplined employee, *laid-off employee* and of each employee granted a qualification waiver or exceptional salary increase;
(3) Educational background, and prior experience of each new administrative, professional or supervisory employee in the Department of Personnel, or in agency personnel offices;
(4) Within thirty (30) days, any information concerning personnel or related matters requested in writing by the board;
(5) Semi-annually (April and October), the name, classification, grade, salary, and department of each provisional, seasonal, temporary, or emergency employee.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:040. Classification plan.

RELATES TO: KRS *18A.005, 18A.075, 18A.110* [18.110, 18.170, 18.210, 18.220, 18.240]
PURSUANT TO: KRS 13.082, *18A.075, 18A.110* [18.170, 18.210]
NECESSITY AND FUNCTION: KRS *18A.110* [18.210] requires the Commissioner of Personnel to prepare and submit to the board rules which provide for a position classification plan for all positions in the classified service so that the same qualifications may reasonably be required for and the same schedule of pay equitably applied to all positions in the same class. This rule is to assure uniformity and equity in administering the plan, in accordance with requirements of the statutes.

Section 1. Preparation of Plan. The commissioner shall, after consultation with the appointing authorities, prepare and recommend to the board a comprehensive classification plan. The board shall present the plan to the Governor, through the Secretary of the Executive Department for Finance and Administration, for his adoption. The plan shall be based on investigation and analysis of all the duties and responsibilities assigned to each position, and each position shall be allocated to its proper class in the classification plan after consultation with appointing authorities. When complete, the classification plan shall include for each class of position an appropriate title, description of duties and responsibilities, and the required education, experience and other qualifications.

Section 2. Allocations of Positions. (1) Every position shall be allocated to the appropriate class by the Commissioner who shall consult with appointing authorities and take their recommendations into consideration in making the decision. Every position shall be placed in a specific class before final administrative action can be taken on appointments, transfers, promotions, changes in pay-grade status, or payment of salary involving the position. Such allocations become effective only after written approval of the commissioner.

(2) The Secretary of the Executive Department for Finance and Administration may review and approve all proposed position establishments, allocations, and reallocations on the basis of the availability of funds.

(3) Those positions which are sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and which merit approximately equal pay shall be allocated to the same class.

(4) The commissioner shall allocate new positions to classes upon receipt of the prescribed forms of statements of duties, responsibilities and requirements of such positions from the appointing authority.

(5) The commissioner shall change the classification of existing positions when a material and permanent change in the duties or responsibilities of a position occurs. This type of action is known as reclassification. In all cases of reclassification, the employee *in the* [within a] position at the time it is reclassified, shall [be entitled to] serve therein with the corresponding status he had before the position was reclassified, providing he meets the qualification requirements for the class to which his position is reclassified.

(6) The commissioner shall change the allocation of existing positions when it is determined that the position is incorrectly allocated, and that there has been no substantial change in duties from those in effect when the position was [immediately] previously classified. This type of action is known as reallocation. In all cases of reallocation, the employee [with]in the [class of] position when it is reallocated shall [be entitled to] serve therein with the corresponding status that he had before the position was reallocated.

(7) Any employee affected by the *r*eallocation of his position to a class *has thirty (30) days from date of receipt of notification in which to file a written request for reconsideration to the commissioner in the manner prescribed by the commissioner, with a copy to the appointing authority. The employee will be given a written notification by the commissioner of the final determination, or, if applicable, a status report within ninety (90) days of his request.* [shall, after filing with the commissioner a written request for reconsideration thereof in such manner and form as the commissioner may prescribe, be given a reasonable opportunity to be heard thereon.]

Section 3. Interpretation of Class Specifications. (1) Class specifications are descriptive and explanatory and are not restrictive. They are designed to indicate the kinds of positions which should be allocated to the several classes as determined by their duties or responsibilities and shall not be construed as describing what the duties or responsibilities of any position shall be. The use of an individual expression or illustration as to duties or responsibilities shall not be regarded as excluding assignment of others not mentioned which are of similar kind or quality. The language of class specifications is not to be construed as limiting or modifying the authority which appointing authorities have to take from, add to, eliminate entirely, or otherwise change the duties and responsibilities, to assign duties or delegate responsibility to employees, or direct and control their work.

(2) In determining the class to which any position shall be allocated, the specification for each class shall be considered as a whole and be construed as a general description of the kinds of work characteristics of positions which shall be allocated to the class and not as limiting the authority to prescribe or alter the duties of any position.

(3) Minimum qualifications are comprehensive statements of the minimum background as to education, experience and other qualifications which will be required in all cases as evidence of an appointee's ability to perform the work properly. [Although not expressed, such qualifications as should properly be required of all persons applying for or holding any positions such as suitable physical condition, honesty, and industry are to be considered as being required.]

Section 4. Title of Position. The class title of a position shall be used to designate such position in all budget estimates, payrolls and other official records, documents, vouchers, and communications in connection with all personnel processes. For purposes of internal administration or for any other purposes not involving the personnel processes, any abbreviation or code symbol may be used in lieu of the class title in such instances and any other office title desired by the appointing authority may be used alone to designate the position for purposes not involving personnel processes.

Section 5. Official Copy of Class Specifications. (1) The

Department of Personnel shall maintain a master set of all approved class specifications. Such specifications shall constitute the official class specifications in the classification plan. The copies of the specification for each class shall indicate the date of adoption or the last revision of the specification for such class.

(2) The Department of Personnel shall provide each appointing authority with a set of the class specifications of those classes to which positions in his department are allocated and such other classes as it sees fit. Such class specifications in the Department of Personnel or office of the appointing authorities shall be open for inspection by *any* [the appointing authorities and the] employee or the public under reasonable conditions during business hours.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:060. Applications and examinations.

RELATES TO: KRS *18A.030, 18A.110, 18A.120* [18.190, 18.210, 18.250]
PURSUANT TO: KRS 13.082, *18A.030, 18A.075, 18A.110, 18A.150* [18.170, 18.190, 18.210, 18.212]
NECESSITY AND FUNCTION: KRS *18A.075* [18.170] requires the Personnel Board to adopt comprehensive rules consistent with the provisions of KRS Chapter 18A. KRS *18A.030* [18.190] requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules relating to competitive examinations. KRS *18A.110* [18.210] requires the commissioner to prepare and submit to the board rules which provide for open competitive exams to test the relative fitness of applicants; and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This rule is necessary to implement these statutory requirements and to assure uniformity in administering exams.

Section 1. Notices of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those classes in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. Eligibles will be listed in rank order irrespective of dates on which the examination was taken. Notice of examinations shall be *distributed* [posted in important centers throughout the Commonwealth; and copies shall be sent] to public officials, employment service offices, newspapers, educational institutions, professional and vocational societies, and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and salary range of the class positions; [typical duties to be performed;] the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

Section 2. Minimum Qualifications for Filing. Open-competitive examinations shall be open to all applicants who are citizens of the United States and who are residents of the Commonwealth of Kentucky, and who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position. The citizenship and residence requirements may be waived by the commissioner.

Section 3. Filing Applications. All applications shall be made on forms prescribed by the commissioner and must be filed with him on or prior to the closing date specified in the announcement or postmarked before midnight of that date. For those classes for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may *approve* [recommend to the board] the age limits, which [limits, if approved by the board,] shall be stated in the examination announcement. All applications shall be signed and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade [in education and experience].

Section 4. Disqualification of Applicants. The commissioner may refuse to examine an applicant, or, after examination, may disqualify such applicant, [or] remove his name from a register, [or] refuse to certify any eligible on a register or may consult with the appointing authority in taking steps to remove such person already appointed if:

(1) It is found that he does not meet any one of the *minimum* [preliminary] requirements established for the examination for the class of position;
(2) He is so disabled as to render him unfit for the performance of the duties of the class;
(3) He has made a false statement of material fact in his application;
(4) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;
(5) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;
(6) He has failed to submit his application correctly or within the prescribed time limits;
(7) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;
(8) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause were pending;
(9) He has been convicted of a felony, a job related misdemeanor, or a misdemeanor for which a jail sentence may be imposed;
(10) He has otherwise wilfully violated the provisions of the Act or these rules.

Section 5. Advance Examinations. Any applicant who does not meet minimum requirements as to *education* [training and experience] but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months [immediately] following the [closing] date *of* [for] receipt of application[s], may be allowed to take the examination *at the discretion of the commissioner. An* [A successful] applicant taking the examination under this provision shall have his or her name entered on the register *up to thirty (30) days prior to completing the educational requirements.* [in the same manner as other successful applicants, and his or her name may be certified for appointment if he furnishes the commissioner with administratively acceptable evidence of the successful completion of the required academic work at the time of appointment. Failure to complete the qualifying training within the six (6) months period allocated shall necessitate the removal of the applicant's name from the register.]

Section 6. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular class of position for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants.

Section 7. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

[(3) When practicable, the identity of persons taking competitive assembled tests shall be concealed from the examiners by use of identification numbers.]

[(4) An applicant shall be allowed to take examinations for not more than fifteen (15) classifications in a calendar year. This limit may be exceeded on approval of the commissioner when he or she deems it justified in the public interest.]

Section 8. Rating Examinations. *The commissioner shall determine the rating or standing of applicants on the register for all examinations.* [In any examination the minimum rating or standing through which eligibility on a register may be earned shall be determined by the commissioner.] Such final rating shall be based upon a weighted average of the various parts of the total examination. All applications for the same class of position shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 9. Rating Education and Experience. (1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity, of experience and the pertinency of the education.

(2) The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation bring out information affecting the rating of education and experience, the commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

Section 10. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination boards as needed. An oral examination board shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which the applicants will be examined. Whenever practicable, all candidates for the same class of position who qualify for the oral examination, shall be rated by the same oral examination board. A member of an oral examination board shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 11. Notice of Examination Results. Each competitor shall be notified by mail of his final rating as soon as the rating of the examination has been completed and the register established. Eligibles shall be entitled to information concerning their relative position on the register upon request and presentation of proper identification.

Section 12. Adjustment of Errors. *An* [A manifest] error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 13. Special Examinations. Except in the case of *an* [a manifest] error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 14. Examination Records. The commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:070. Registers.

RELATES TO: KRS 18A.005, 18A.030, 18A.110, 18A.120
PURSUANT TO: KRS 13.082, 18A.030, 18A.110
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to adopt comprehensive rules consistent with the provisions of KRS Chapter 18A. KRS 18A.030 requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules which provide for the manner of completing appointments and promotions; and for creation of eligible lists with successful candidates ranked according to their rating on the examination. KRS 18A.110 requires the commissioner to prepare and submit to the board rules which provide for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative rank on exams; and for the rejection of candidates or eligibles who do not meet reasonable selection requirements of the commissioner. The rules is necessary to comply with these statutory requirements.

Section 1. Responsibility for Maintenance of Registers. It shall be the duty of the appointing authorities to notify the commissioner as far in advance as possible of vacancies which may occur in the agencies. The commissioner shall be responsible for the establishment and maintenance of appropriate register for all positions and for the determination of the adequacy of existing registers.

Section 2. Open-Competitive Registers. After each open-competitive examination, the commissioner shall prepare a register of persons with passing grades. The names of such persons shall be placed on the register in the order of their final ratings, starting with the highest.

Section 3. Use of Related Registers. If a vacancy exists in a *job* class [of position] for which there is no appropriate register, the commissioner may prepare a register for the class from one (1) or more existing related registers. The commissioner shall select registers from classes for which the minimum qualifications are comparable to or higher than those required for the class in which the vacancy exists. The commissioner may, if appropriate, re-rate training and experience on the basis of the minimum qualification required for the class in which the vacancy exists.

Section 4. Duration of Registers. (1) A register shall expire automatically at the end of two (2) years from the time of its establishment unless the register is extended by action of the board for a period not to exceed one (1) additional year.

(2) The life of registers for classes for which continuous recruitment and examination is conducted shall be indefinite but may be terminated by the commissioner. The names of eligibles shall be added to and removed from such registers on a continuous basis. Normally, the name of an eligible shall not remain on a register for a class in the continuous program for longer than two (2) years from the date of its entry on the register. Whenever the name of an eligible is removed from a register, the eligible shall be notified.

(3) When a register becomes so depleted that the preparation of usable certificates for a major portion of the imminent vacancies of the class is impracticable, the register will be considered exhausted. The register which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of a register on the basis of that examination. When a register becomes exhausted, the commissioner shall send to each eligible remaining on such register a notification prior to the administration of a superseding examination.

Section 5. Replenishment of Registers. If the commissioner determines that a register, although not exhausted, is inadequate for the filling of anticipated vacancies, he may announce an open competitive examination for the purpose of replenishing such register. [At the time of the announcement of such examination, all eligibles remaining on the register shall be notified of the action and shall be advised that they may take the examination, if they so desire, for the purpose of improving their respective ranks and that the taking of the examination shall in no way jeopardize their original rating.]

Section 6. Removal of Names from the Register. (1) Reasons for Removal. The commissioner may, on receipt of authoritative information, remove the name of an eligible from a register:

(a) For any of the causes stipulated on 101 KAR 1:060, Section 4;

(b) If the eligible cannot be located by the postal authorities;

(c) If the eligible responds that he no longer desires consideration for a position in that class;

(d) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(e) If it is shown, through agency objection or investigation, that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(f) If the eligible fails to reply within a period of five (5) *working* [calendar] days to the written request of the appointing authority for an interview, or within *seventy-two (72)* [forty-eight (48)] hours to a telegraphic request, or does not report for such an interview within a reasonable time, or fails to appear for an interview which he has scheduled with the appointing authority;

(g) If the eligible accepts an appointment and fails to present[s] himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority;

(h) If the eligible indicates he is not available for appointment or does not wish to be considered for appointment.

(2) The names of eligibles who have been considered for a probationary appointment three (3) times by any one (1) or more appointing authorities and have not been offered employment may be removed if it is determined they would not be suited to the type of work found in the class for which the register is established.

(3) When the Department of Personnel is authoritatively notified that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the classs to which he has been appointed.

(4) Notifications. Whenever an eligible's name is remov-

ed from a register for reasons cited in subsections (1) and (2) of this section, the commissioner shall notify the eligible of this action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board upon appeal.

(5) Whenever an eligible notifies the Department of Personnel in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate register without further notification to the person.

Section 7. Re-employment List. Any employee with status who has been laid off in accordance with 101 KAR 1:120, Section 2, shall be entitled to have his name placed on a re-employment list for the *job* class [of position] from which laid off, provided he so requests in writing. [The order in which such names are arranged on each re-employment list shall be determined by the commissioner, who shall give consideration to qualifications, performance appraisals, conduct, and seniority in service.] The name of an employee with status, who has been dismissed for reasons found to be insufficient by the board after hearing the appeal, may be placed on the re-employment list at the discretion of the board. Eligibility to remain on the re-employment list shall expire one (1) year from the effective date of the layoff or separation.

Section 8. Promotion Register. After each competitive promotional examination held in accordance with 101 KAR 1:110, Section 1, the commissioner shall prepare a list of persons with passing grades arranged in the order of ratings received, starting with the highest.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

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

RELATES TO: KRS 18A.030, 18A.075, 18A.110, 18A.165
PURSUANT TO: KRS 13.082, 18A.030, 18A.075, 18A.110
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS 18A.030 requires the Commissioner of Personnel to prepare and recommend to the Personnel Board rules which provide for the manner of completing appointments and promotions, including multiple and simultaneous certifications. KRS 18A.110 requires the commissioner to prepare and submit to the board rules which provide for establishment of eligible lists for appointment, and for consideration for appointment of persons whose scores are included in the *five (5)* [three (3)] highest scores on the exam. This rule is necessary to comply with these statutory requirements.

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

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

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

Section 4. Selective Certification. (1) The appointing authority may specify in writing requirements of particular experience, education, or skill when he deems such requirements necessary for a position. If, after investigation of the duties and responsibilities of the position, the commissioner finds the particular experience, education, or skill essential for successful performance he may certify in order of rank on the register the names of those persons who possess those qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than *five (5)* [three (3)] such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(2) The appointing authority may specify in writing exceptional requirements of particular [physical] characteristics when he deems such requirements necessary for a position. If, after investigation of the duties and

responsibilities of the position, the commissioner finds the exceptional requirement of the characteristic essential for successful performance, he may certify in order of rank on the register the names of those persons who possess the qualifications specified. If, in certifying the names of such eligibles, the commissioner finds there are fewer than *five (5)* [three (3)] such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

(3) In filling a position in a unit serving a limited area, the appointing authority may request in writing the certification of eligibles who are residents of the county or area served by that unit. Upon receipt of such a request, the commissioner may certify the names of the highest available eligibles who are residents of that county or area first. If, in certifying the names of such eligibles for a vacancy in a unit serving a limited area, the commissioner finds there are fewer than *five (5)* [three (3)] such eligibles, he shall complete the certificate by adding, after the names of such eligibles, the names of other eligibles available for the appointment in the order of their respective rank on the register.

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

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

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

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

(b) Who fail to reply within a period of five (5) *working* [calendar] days to the written request of the appointing authority for an interview, or within *seventy-two (72)* [forty-eight (48)] hours to a telegraphic request, or who do not arrange to report for such an interview within a reasonable time, or who fail to appear for an interview which they have arranged with the appointing authority;

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

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

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

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

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

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

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

employee with status must be approved by the Department of Personnel before names from the competitive register can be certified to an appointing authority for consideration.

Section 8. Certification from the Promotion Register. Whenever a vacancy is to be filled from a register established as a result of a competitive examination, the commissioner shall certify the names of eligibles in accordance with Section 2 of this regulation.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:090. Types of appointments.

RELATES TO: KRS *18A.005, 18A.110, 18A.115, 18A.120* [18.110, 18.140, 18.210, 18.250]
PURSUANT TO: KRS 13.082, 18A.030, 18A.075, 18A.110 [18.170, 18.190, 18.210]
NECESSITY AND FUNCTION: KRS *18A.075* [18.170] requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS *18A.030* [18.190] requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of the completing appointments and promotions. KRS *18A.110* [18.210] requires the commissioner to prepare and submit to the board rules which provide for various types of appointments, such as probationary, emergency, provisional, reinstatement, and for such other rules, not inconsistent with KRS Chapter 18A, as may be proper and necessary. This rule is necessary to comply with these statutory requirements.

Section 1. Filling of Vacancies. All vacancies in the classified service which are not filled by transfer, promotion, or demotion, shall be filled by probationary appointment, re-employment, reinstatement, temporary appointment, emergency appointment or provisional appointment.

Section 2. Probationary Appointment. The appointment to a permanent position in the classified service through certification in accordance with 101 KAR 1:080 from an open competitive register shall constitute probationary appointment.

Section 3. Provisional Appointment. When a vacancy is to be filled in a position of a class for which there are less than three (3) eligibles available for certification, the appointing authority, with the prior approval of the commissioner, may make a provisional appointment to fill the position. A provisional appointee must be certified by the commissioner as meeting at least the minimum qualifications established for the class of position. No such provisional appointment shall be continued longer than six (6) months nor shall successive provisional appointments of the same person be made to the same position.

Section 4. Emergency Appointment. The appointment of an employee without regard to the examination requirements of these rules to any position by reason of a governmental emergency shall constitute an emergency appointment. An emergency appointment may not exceed thirty (30) working days in duration and is non-renewable. Emergency appointments shall have the prior consent of the commissioner.

Section 5. Temporary Appointments. The appointment of a person to a temporary position shall constitute a temporary appointment. Such appointments shall be subject to the prior approval of the commissioner. Each appointee must be approved by the commissioner as meeting at least the minimum qualifications established for the class. Such appointment shall be for a specified period of time not to exceed six (6) months and shall not be renewable.

Section 6. Re-employment. An employee with status who has been laid off by reasons of lack of funds or work, curtailment of program, abolishment of position or organization unit, or material change in duties or organization, and through no fault of his own, may request that his name be placed on a re-employment list for the class in accordance with 101 KAR 1:070, Section 7. The name of an employee with status, who has been dismissed for reasons found to be insufficient by the board after hearing the appeal, may be placed on the re-employment list at the discretion of the board. In either case, eligibility to remain on the re-employment list shall expire one (1) year from the effective date of the layoff or separation. The appointment of a person from such list shall constitute re-employment. A person so re-employed shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100.

Section 7. Reinstatement. (1) An employee with permanent status who has resigned or been laid off through no fault of his own may be reinstated to his former class, or to any class for which he is qualified having the same or lower pay grade that is currently assigned to the employee's former class, within five (5) years from the effective date of his separation. Such reinstatement shall be made only with the prior approval of the commissioner and shall be subject to the successful completion of a probationary period in accordance with 101 KAR 1:100. The commissioner's approval of a reinstatement shall include a finding that the candidate meets the current qualifications for the class. If the reinstatement is to a different class series the applicant must pass the appropriate examination prior to reinstatement. *Minimum requirements may be waived by the commissioner if the applicant has previously gained merit status in the job class to which he is seeking reinstatement.* [Age and education requirements may be waived by the commissioner upon recommendation of the appointing authority for reinstatement.]

(2) An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be political, religious, or ethnic reasons, or reasons due to race, sex, age (between forty (40) and seventy (70), or handicap, shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.

(3) An employee with status who has been dismissed for reasons found by the board after hearing the employee's appeal to be without just cause shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his separation.

Section 8. Seasonal Appointment. The appointment of a person to a position which recurs on a seasonal basis may be made of any applicant meeting the established minimum qualifications. Such appointments shall be subject to the prior approval of the commissioner and shall be made only after the seasonal recurring needs have been established by the appointing authority and shall not exceed eleven (11) months.

Section 9. Unclassified Service. Appointing *authorities* [officers] may fill positions in the unclassified service in the manner in which positions in the classified service are filled.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
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DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:100. Probationary period.

RELATES TO: KRS *18A.005, 18A.110, 18A.120* [18.110, 18.210, 18.250]
PURSUANT TO: KRS 13.082, *18A.030, 18A.075, 18A.110* [18.170, 18.190, 18.210]
NECESSITY AND FUNCTION: KRS *18A.075* [18.170] requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS *18A.030* [18.190] requires the Commissioner of Personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS *18A.110* [18.210] requires the commissioner to prepare and submit to the board rules which provide for a period of probation not to exceed one (1) year before appointment or promotion may be made complete, and during which the probationer may be dismissed or *reverted* [demoted]. This rule is necessary to comply with these statutory requirements.

Section 1. Nature, Duration, and Purpose. The first six (6) months of service in a position to which an employee has been probationally appointed, promoted, re-employed, or reinstated under the provisions of these rules shall constitute a probationary period. An exception being that when the board finds, after an appeal, that the separation of an employee was taken by the appointing authority for political, religious, or ethnic reason, or reasons due to race, sex, age (between forty (40) and seventy (70)) or handicap and orders the employee reinstated, a new probationary period will not be required. The commissioner, with the approval of the board, may fix a longer length for the probationary period providing it applies to all positions of a class or classes, but in no case shall the probationary period exceed a twelve (12) month period. Provisional service in a class immediately prior to probationary appointment to the class shall be credited toward the probationary period. The probationary period shall be an essential part of the examination process and shall be utilized for the most effective adjustment of a new employee and for the elimination of any employee whose performance does not meet the required standard of performance. In computing probationary period service for full-time employees, only those months in which the employee works more than half of the work days and earns service credit shall be counted. In computing probationary period service for part-time employees, only those months in which the employee works more than half of his normally scheduled working hours shall be counted.

Section 2. Conditions Preliminary to Attaining Merit Status. An employee shall attain status in the classified service unless the appointing authority separates the employee during the probationary period.

Section 3. Separation During the Probationary Period. (1) If at any time during the probationary period the appointing authority determines that the services of the employee have been unsatisfactory, an employee may be separated from his position without the right of appeal or hearing. The appointing authority shall notify the employee in writing at least ten (10) working days prior to the effective date of separation, and such notification shall be dated and shall include the effective date of the separation, and the reasons for separation and shall be delivered to the employee personally on a date within the probationary period or shall be postmarked on a date within the probationary period. The reasons for the separation shall be submitted in writing to the commissioner after which they shall be filed *in the employee's permanent file* [for permanent record]. After the probationer has been separated, his name may be replaced on the eligible list by the commissioner if he determines such action to be in the best interest of the service, but he shall not [again] be certified *again* from that list to the agency from which separated unless the agency requests such certification.

(2) When an employee has been promoted but fails to successfully complete the probationary period, he will revert to a position of his former class. *The appointing authority shall notify* [Notice that] the employee *in writing that he* has not succesfully completed the probationary period and the reasons therefor. *The notice* shall be delivered to the employee personally on a date within the probationary period or shall be postmarked on a date within the probationary period; in such cases, the employee shall not have the right to appeal. If there is no vacancy in a position of the former class, the rules pertaining to lay-off shall apply. When an employee is serving a probationary period due to a promotion, and the employee had status in his former position, and the appointing authority dismisses the employee for cause, other than failure to satisfactorily complete the probationary period, reversion to a position of the employee's former class is not necessary; however, in such cases, the employee shall have the right to appeal his dismissal in accordance with 101 KAR 1:130. Such dismissals shall be done in accordance with 101 KAR 1:120, Section 3.

(3) A promoted employee may request and, if approved by the appointing authority, be reverted to a position of his former class during the probationary period.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
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DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:110. Promotion, transfer, demotion and detail to special duty.

RELATES TO: KRS 18A.005, 18A.030, 18A.095, 18A.110, 18A.115
PURSUANT TO: KRS 13.082, 18A.030, 18A.075, 18A.110, 18A.210
NECESSITY AND FUNCTION: KRS 18A.075 requires the personnel board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS 18A.030 requires the commissioner of personnel to prepare and recommend to the board rules which provide for the manner of completing appointments and promotions. KRS 18A.110 requires the commissioner to prepare and submit to the board rules which provide for promotions and transfers; and for discharge and reduction in rank. This rule is necessary to comply with these statutory requirements.

Section 1. Promotion. (1) Vacancies in the classified service shall be filled by promotion whenever practicable and in the best interest of the service. Promotions shall be based upon merit and shall be made in accordance with the procedures established in these rules.

(2) A promotion is the filling of a vacancy by the advancement of an employee with status from a position having a lower minimum salary. Promotions may be made on either a competitive or non-competitive basis at the discretion of the commissioner after consultation with the appointing authority. An employee who is promoted shall be required to serve a probationary period as provided in 101 KAR 1:100. Serving a probationary period upon promotion shall not affect the employee's status in the lower class of position. Appropriate consideration will be given to the qualifications, performance appraisals, conduct, and seniority of applicants for promotion.

(3) To fill a vacancy by competitive promotion, the commissioner [of personnel] shall examine all qualified, applying, status employees. The commissioner shall prepare a register in the same manner as for open competitive appointments. 101 KAR 1:080 shall govern the selection and appointment.

(4) When an appointing authority nominates a status employee for a non-competitive promotion, the commissioner [of personnel] may test the nominee. If he finds the nominee qualified, the commissioner may authorize the promotion.

(5) Any employee promoted from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists, he shall be considered for employment in any vacant position for which he is qualified pursuant to re-employment procedures and KRS 18A.130 and 18A.135 *and 101 KAR 1:080.*

(6) An employee's promotion to a different department must be approved by the new department and the commissioner. In those instances where the heads of the new and present departments are not in agreement, the commissioner shall make the final determination.

Section 2. Transfer. (1) The movement of an employee from one position to another of the same grade having the same salary ranges and the same level of responsibility within the classified service shall be deemed a transfer. A transfer may be an inter-agency or intra-agency action. If the employee requests a transfer in writing, such transfer will be deemed to have been made on a voluntary basis and from which there shall be no appeal. If *the transfer is to a different county and* the employe has not requested the transfer in writing, such transfer will be deemed to have been made on an involuntary basis, and the employee shall *be notified in writing by the appointing authority and* have the right to appeal such transfer in accordance with 101 KAR 1:130. The employee must meet the minimum requirements of the job class to which transferred *unless the employee is presently working in or has previously gained merit status in the job class.*

(2) No employee, certified to a vacancy in a local area on a strictly local area basis in accordance with the provisions of 101 KAR 1:080, Section 4(3), shall be transferred from that position until the probationary period has been completed.

(3) No probationary employee may be transferred between agencies nor between geographical locations to a position having the same salary range and level of responsibility, unless approved by the commissioner [of personnel].

(4) No employee may transfer to a different department without prior approval both of the commissioner of personnel and of the personnel officer or head of his present department.

[(5)An employee's promotion to a different department must be approved in writing by the personnel officer or head of his present department, or by the commissioner of personnel. If the promotion is approved by his present department, the department must file it with the department of personnel.]

(5) [(6)] If the transfer is *to a different county and is* on an involuntary basis, the employee shall be notified of his transfer in writing at least thirty (30) calendar days prior to the effective date of such transfer. Following notification of a transfer, an employee must report for work at his new work station on the effective date of the transfer. If the involuntary transfer is to a new work station in a different county, the appointing authority shall pay the employee's travel expenses following transfer for up to thirty (30) calendar days following the effective date of the transfer and shall pay the employee's moving expenses, if any. The notice shall include the reason for the transfer, the employee's obligation to report to his new work station, the appointing authority's obligation to pay travel and moving expenses, if applicable, and the employees right of appeal under 101 KAR 1:130. Agencies shall establish a reasonable basis for selecting an employee for transfer.

(6) [(7)] Nothing in this section shall preclude the temporary assignment of an employee to a different work station for a period of up to sixty (60) calendar days, provided that such employees are reimbursed for their travel expenses in accordance with regulatory provisions *and the appointing authority notifies the employee in writing prior to the effective date of the action.*

Section 3. Demotion. (1) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range and less discretion or responsibility.

(2) An employee with status may be demoted only for cause, after the employee has been presented with the reasons for such demotion in writing, and has been allowed at least five (5) working days to reply thereto in writing, or,

upon request, to appear personally with counsel and reply to the appointing authority or his deputy. A copy of the statement of reasons and the reply shall be filed with the commissioner. An employee with status may appeal his demotion in accordance with 101 KAR 1:130.

(3) If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Voluntary demotions may be intra-agency, or inter-agency; involuntary demotions shall be intra-agency only. If the action is intra-agency, approval of the appointing authority and the commissioner is required; if inter-agency the prior approval of both appointing authorities and the commissioner is required. There shall be no appeal from demotions made on a voluntary basis.

Section 4. Detail to Special Duty. When the services of a permanent employee are needed in a position within the department other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with prior approval of the commissioner [of personnel]. For detail to special duty the commissioner [of personnel] may waive the minimum requirements when requested by the appointing authority in writing.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:120. Separations and disciplinary actions.

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

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

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

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

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

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

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

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

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

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

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

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

Section 6. Retirement. If an employee with status is

retired, he is considered as separated without prejudice and does not have the right of appeal.

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

Section 8. Disciplinary Fines. An appointing authority may impose as a disciplinary measure, a fine of not more than ten (10) days pay to be computed on the basis of the employee's current salary. Disciplinary fines may not exceed ten (10) days pay for each occurrence [, and may not exceed a total of thirty (30) days pay in any twelve (12) month period. The twelve (12) month period begins with the first day of the disciplinary fine]. The employee shall be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. In the case of an employee with status, such reasons shall be specific as to the statutory and/or rule violation, the time, place, and persons by name involved in the alleged violation, and a specific description of the alleged unlawful activity. An employee with status may appeal the action in accordance with the provisions of 101 KAR 1:130. For purposes of 101 KAR 1:130, the effective date of a disciplinary fine shall be deemed to be the date the employee receives the notification required by this section.

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

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:130. Appeals.

RELATES TO: KRS 18A.075, 18A.095, 18A.100
PURSUANT TO: KRS 13.082, 18A.075, 18A.095, 18A.110
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS 18A.095 provides that any classified employee who is dismissed, demoted, suspended or otherwise penalized after completing his probationary period may appeal to the Personnel Board within thirty (30) days of the action taken against him. This rule is necessary to assure a uniform and effective procedure for scheduling, hearing, and acting upon such appeals.

Section 1. General Provisions. Any employee, applicant for employment, or eligible on a register, who believes that he has been unjustly discriminated against, may appeal to the board for a hearing subject to the procedural rules of the board.

Section 2. Appeal From Examination Rejection. (1) Any applicant whose application for admission to an open-competitive examination has been rejected and who has been notified of such rejection and the reasons therefor may appeal to the board for reconsideration of his qualifications and for admission to the examination.

(2) Applicants may be conditionally admitted to an examination by the commissioner pending a consideration of an appeal. Admission to a written examination under such circumstances, however, shall not constitute the assurance of a passing grade in training and experience.

Section 3. Appeal From Examination Rating. (1) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly.

(2) Except for correction of clerical errors, a rating in any part of an examination shall not be changed unless it has been found by the board that a mistake has been made, except as provided in 101 KAR 1:070, Section 3. A correction in the rating shall not affect a certification or appointment that may already have been made from the register.

Section 4. Appeal From Removal From Register. An eligible whose name has been removed from a register for any of the reasons specified in 101 KAR 1:070, Section 6(1) and (2), may appeal to the board for reconsideration.

Section 5. Appeal Procedure for Applicants or Eligibles. The appeal to the board by applicants or eligibles under Sections 1, 2, 3, 4, must be filed in writing with the executive director not later than fifteen (15) calendar days after the notification of the action in question was mailed. The applicant or eligible shall have the right to appear before the board and to be heard.

Section 6. Appeal From Dismissals, Demotion, Suspension, or Penalization. (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may appeal to the board.

(2) An employee may appeal a transfer which he considers to be a penalization in accordance with 101 KAR 1:110, Section 2.

Section 7. Appeal Procedure for Employees. (1) Any employee with status who is dismissed, demoted, suspended, or otherwise penalized may, within thirty (30) days after the effective date of such dismissal, demotion, suspension, or penalization, appeal to the board through the executive director. Such appeal shall be in writing and shall set forth the basis for the appeal. The appeal must be filed in the office of the executive director within the aforementioned thirty-day (30) period. When the thirtieth day of the filing period falls on a day when the executive director's office is closed during normal working hours, the appeal may be filed on the next regular working day. The executive director shall promptly transmit copies of the appeal to the board and to the appointing authority.

(2) The board shall designate an appropriate time and place to conduct the hearing. Such hearing shall be held within sixty (60) calendar days after receipt of the appeal. The appellant and the appointing authority shall be notified in writing at least five (5) working days in advance of the time and place designated for the hearing. The board shall, within ninety (90) days after an appeal is filed, issue a final order for the disposition thereof.

(3) At the hearing, both the appellant and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts. At the hearing of such appeals, technical rules of evidence shall not apply.

(4) If the board finds that the action complained of was taken by the appointing authority for any political, religious, or ethnic reason, or due to sex, race, age (between forty (40) and seventy (70)), or handicap, the employee shall be reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, and without penalization, or shall otherwise be made whole.

(5) If the board finds that the action complained of was taken by the appointing authority without just cause, the board shall order the employee reinstated to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole. In all other cases, if the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify or rescind the disciplinary action.

(6) When any employee is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

Section 8. Hearing of Appeals. (1) Evidentiary hearings in appeals filed pursuant to KRS 18A.095 and this regulation may be conducted by the full board or quorum thereof, or by individual members of the board, by its executive director or by a hearing examiner of the board.

(2) The board may designate one (1) or more hearing examiners to assist the board in appeal proceedings. All such hearing examiners shall be attorneys authorized to practice law in Kentucky and shall be selected solely on their knowledge, ability and experience in the trial of administrative and/or judicial proceedings.

(3) The chairman of the board or a majority of the board may designate a member of the board, the executive director or a hearing examiner to conduct any evidentiary hearing as hearing officer or may request the executive director to establish a calendar designating members of the board, the executive director and/or hearing examiners to conduct evidentiary hearings as hearing officers. A stenographic record or other mechanical recording shall be made of the evidence presented at such hearing. In all such cases, upon the conclusion of the hearing, the hearing officer shall submit to the board the stenographic or mechanical record of the evidence presented, his findings of fact, and dispositive recommendations in the case before him, and the executive director shall transmit by certified mail unless such transmission is waived in writing, to both parties a copy of the findings of fact and dispositive recommendations. Any mechanical recording device and procedures utilized by the board must be similar to that used by the Administrative Office of the Courts at the District Court level. The board upon review of the findings of fact, stenographic or mechanical recording of the evidence presented, and dispositive recommendations of the hearing officer, who shall be present during such review, and after consideration of such written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall make a final determination of the appeal by either:

(a) Adopting as submitted the findings and recommendations of the hearing officer;

(b) Altering before adoption, in any manner deemed proper, either or both the findings and recommendations of the hearing officer;

(c) If felt necessary by a majority of the board, remanding the case or any part thereof for rehearing by the same hearing officer, with such hearing officer to prepare and submit to the parties and the board such additional findings of fact and dispositive recommendations as he feels are necessary upon the conclusion of the rehearing. A stenographic or mechanical recording shall be taken of this additional testimony and the hearing officer shall submit to the board a stenographic or mechanical recording of the evidence presented. The board shall then consider the findings of fact, the stenographic or mechanical recording of the evidence presented, and dispositive recommendations from the original hearing and any additional rehearings ordered, and shall, upon request of any member of the board, instruct the executive director to prepare a complete or partial record. The board, upon consideration of these items and such additional written or oral arguments or exceptions as the parties have presented as a matter of right or may present with leave or upon request of the board, shall render its final decision in the case.

(4) Any appeal heard by less than the full board shall be subject to review by the full board upon petition for such review by either party to the appeal. Petition for review by the full board shall be filed with the board within thirty (30) days of the recommended order issued by a member, the executive director, or a hearing examiner.

(5) At any time after a hearing but prior to a final order of the Personnel Board, either party may request a copy of the stenographic or mechanical recording of the evidence presented at the hearing. Such request shall be in writing to the board. Any party requesting such record shall bear the expense of preparing the copy of the record. Payment for the stenographic or mechanical recording copy shall be tendered by certified check or money order prior to the preparation of said copy, and, in the case of an appointing authority, may be tendered by interaccount voucher.

(6) In all appeals pending before the personnel board, the taking of depositions for proof, either prior to or subsequent to the hearing, shall not be permitted except

where the deponent is a licensed physician or a non-resident of the State of Kentucky, [or where the taking of said deposition for purposes of proof is agreed to by the opposing party,] or where other extenuating circumstances of such magnitude exist that the hearing officer by order authorizes the taking of such deposition. All hearings of appeals shall be held in Frankfort, Kentucky, unless otherwise designated by the board for good cause. The duly appointed hearing officer shall have the power to issue all intermediate orders concerning said appeal, prior to the final decision of the board. Upon request of the hearing officer or the board, *all* orders shall be issued by the executive director acting as secretary to the board.

DEE MAYNARD, Commissioner
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:140. Service regulations.

RELATES TO: KRS 18A.030, 18A.075, 18A.110
PURSUANT TO: KRS 13.082, 18A.030, 18A.075, 18A.110
NECESSITY AND FUNCTION: KRS 18A.075 requires the Personnel Board to adopt comprehensive rules consistent with KRS Chapter 18A. KRS 18A.030 and 18A.110 require the Commissioner of Personnel to prepare and submit to the board rules which provide for annual leave, sick leave, special leaves of absence, and for other conditions of employment. This rule is necessary to comply with these statutory requirements.

Section 1. Attendance; Hours of Work. The number of hours full-time employees in state offices in Frankfort are required to work shall be uniform for all positions unless specified otherwise by the appointing authority or the statutes. The normal work day shall be from 8:00 a.m. to 4:30 p.m., local time, Monday through Friday. Employees in other than Frankfort state office buildings shall be subject to such hours of work as set by the appointing authority.

Section 2. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary and emergency employees, shall *accumulate* [be allowed] annual leave with pay at the following rate:

Years of Service	Annual Leave Days
0—5 years	1 leave day per month; 12 per year
5—10 years	1¼ leave days per month; 15 per year
10—15 years	1½ leave days per month; 18 per year
15 years and over	1¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. In computing years of total service for the purpose of *earning* [allowing] annual leave, only those months for which an employee earned annual leave shall be *counted* [used]. In those cases where an employee is changed from part-time to full-time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18.145, or 18A.990. Employees serving on a part-time basis who work at least 100 hours a month shall be allowed annual leave with pay at the following rate:

Years of Service	*Annual Leave Days*
0—5 years	*1 leave day per month; 12 per year*
5—10 years	*1¼ leave days per month; 15 per year*
10—15 years	*1½ leave days per month; 18 per year*
15 years and over	*1¾ leave days per month; 21 per year*

[Years of Service	Annual Leave Hours
0—5 years	4 leave hours per month; 48 per year
5—10 years	5 leave hours per month; 60 per year
10—15 years	6 leave hours per month; 72 per year
15 years and over	7 leave hours per month; 84 per year]

In computing years of total service for the purpose of allowing annual leave for part-time employees, only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full-time to part-time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing years of total service. Employees serving on a part-time basis who work less than 100 hours a month or on a per diem basis shall not be entitled to annual leave.

(2) Annual leave for full-time employees may be accumulated and carried forward from one calendar year to the next not to exceed the following maximum amounts:

Years of Service	Maximum Amount
0—5 years	Thirty (30) work days
5—10 years	Thirty-seven (37) work days
10—15 years	Forty-five (45) work days
15—20 years	Fifty-two (52) work days
Over 20 years	Sixty (60) work days

Annual leave for part-time employees who work at least 100 hours a month may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Years of Service	*Maximum Amount*
0-5 years	*Thirty (30) work days*
5-10 years	*Thirty-seven (37) work days*
10-15 years	*Forty-five (45) work days*
15-20 years	*Fifty-two (52) work days*
Over 20 years	*Sixty (60) work days*

[Years of Service	Maximum Amount
0—5 years	120 hours
5—10 years	148 hours
10—15 years	180 hours
15—20 years	208 hours
Over 20 years	240 hours]

However, leave in excess of the above maximum amounts may *not* be carried forward *from one (1) calendar year to the next calendar year after June 30, 1984* [for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an employee to take accumulated annual leave in a timely manner]. Years of service for the purpose of determining the maximum amount of annual leave which may be accumulated and carried forward shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence *due to* [on account of] sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. *An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.*

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave *unless he has requested to retain up to ten (10) days of accumulated annual leave.*

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 2(2) *of this regulation* [above], when separated by proper resignation [, layoff,] or retirement [or when granted leave without pay in excess of thirty (30) working days]. *In the case of layoff, the employee shall be paid in a lump sum for all accumulated leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency unless he is appointed at a lower salary; in this case the employee has the option to be paid for accumulated annual leave at the higher rate.* The effective date of the separation shall be the last work day [and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation]. A [supplemental] pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts as set forth in Section 2(2) *of this regulation* [above].

(11) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave [not to exceed the maximum amounts as set forth in Section 2(2) above].

(12) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or one-half (½) hours.

Section 3. Sick Leave. (1) Each employee in the state service, except an emergency [, part-time,] or per-diem employee, shall *accumulate* [be allowed] sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the work of the work days in a month to qualify for sick leave with pay. Employees serving on a part-time basis who work at least 100 hours a month shall *accumulate sick leave with pay at the rate of one (1) working day for each month of service* [be allowed four (4) hours sick leave for each month of service]. Employees serving on a part-time basis who work less than 100 hours a month or on a per-diem basis shall not be entitled to sick leave.

(2) Full-time employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. In those cases where an employee is changed from part-time to full-time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Part-time employees who work at least 100 hours a month completing ten (10) years of total service with the state shall be credited with *ten (10) additional sick leave days* [forty (40) additional hours of sick leave] upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for part-time employees who work at least 100 hours a month for the purpose of crediting *ten (10) additional sick leave days* [forty (40) additional hours of sick leave], only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full-time to part-time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing years of total service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from the violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when an employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness [or injury], *injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his/her duties*;

[(c) Is disabled by pregnancy and/or confinement;]

(c) [(d)] Is required to care for a sick or injured member of his immediate family for a reasonable period of time. *The appointing authority may require a doctor's statement supporting the need for care*;

(d) [(e)] Would jeopardize the health of others at his du-

ty post, because of exposure to a contagious disease;

(e) [(f)] Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association. Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority shall return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority shall return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.

(7) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy [and confinement], and the total continuous leave does not exceed *one (1)* [two (2)] year[s]. *The appointing authority may require periodic doctor's statements during the year attesting to the continued inability to perform his/her duties.* When the employee has given notice of his ability to resume his duties, the appointing authority shall return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit; if there is no such position available, the rules pertaining to lay-off apply. An employee who is unable to return to work at the end of *one (1)* [two (2)] year[s] of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be terminated by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.

(8) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half (½) hours.

(9) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(10) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. [The employee's amount of accumulated sick leave shall be listed in the remarks section of the advice effecting the separation.] Former employees who are reinstated or re-employed *shall* [may] have [up to ten (10) days of their accumulated and] unused sick leave balances revived upon appointment and placed to their credit [upon request of the appointing authority and approval of the commissioner. Any additional balance may be revived after sixty (60) days of work upon similar request].

(11) In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(12) Application for sick leave. An employee shall file a written application for sick leave with *or without* pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(13) Supporting evidence:

(a) An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties or whose health might jeopardize others, and who, on request, fails to produce a satisfactory medical certificate.

Section 4. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of time or pay for that amount of time necessary to comply with subpoenaes by any court, federal, state, or political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff in court action. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 5. Compensatory Leave. (1) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Compensatory leave may be accumulated or taken off in one-half (½) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 200 hours.

(2) An employee shall accumulate compensatory leave for hours worked in excess of his normal prescribed hours of duty only when such work is expressly authorized by the appointing authority.

(3) Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work. *Notice must be in writing specifying the number of hours to be taken.*

(4) An employee who is transferred or otherwise changed from the jurisdiction of one (1) agency to another shall retain his compensatory leave in the receiving agency.

(5) Upon separation from state service, employees shall be paid *in a lump sum* for all unused accumulated compensatory leave at their regular hourly rate of pay.

(6) Former employees who are reinstated, re-employed, or probationarly appointed and who were *not paid* [credited] for unused compensatory leave upon separation shall have their compensatory leave balance revived and placed to their credit upon re-entry into state service.

(7) When an employee has accumulated the maximum amount of compensatory leave, the appointing authority shall pay the employee for fifty (50) hours of his accumulated compensatory leave at his regular hourly rate of pay and reduce the employee's compensatory leave balance accordingly or the appointing authority shall direct the employee to take accumulated compensatory leave time off from work.

(8) Employees who were previously covered by the application of the state wage and hour law and who would be

covered by the state wage and hour law if that law was still applicable to state employees shall accumulate compensatory leave or be paid overtime in accordance with the following provisions:

(a) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] whose prescribed hours of duty are normally less than forty (40) per week and who has not accumulated the maximum amount of compensatory leave shall receive compensatory leave for the hours worked in excess of his normal prescribed hours of duty until the total hours worked in that week reaches forty (40).

(b) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] shall be paid at one and one-half (1½) times his regular hourly rate of pay for all hours worked in excess of forty (40) per week, except that an employee who has not accumulated the maximum amount of compensatory leave may request in writing that he accumulate compensatory leave on an hour-for-hour basis for all hours worked in excess of forty (40) per week in lieu of the overtime payment. Compensatory leave earned and used during the same workweek does not constitute "hours worked" for computing overtime pay.

(c) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees who* [After a "covered" employee] has accumulated at least 151 hours of compensatory leave but before *accumulating* [the employee has accumulated] 200 hours [of compensatory leave, the employee] may request in writing that he be paid for fifty (50) hours [of compensatory leave] at his regular hourly rate of pay. [If the employee is so paid, his accumulated compensatory leave balance shall be reduced accordingly.]

[(d) A "covered" employee who has had his compensatory leave balance reduced in accordance with paragraph (c) of this subsection shall be eligible to accumulate compensatory leave in accordance with this section.]

(d) [(e)] *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] shall accumulate compensatory leave or be paid for overtime for hours worked in excess of his normal prescribed hours of duty only when such work is [expressly] authorized by the appointing authority and when such payment has received the approval of the Commissioner [of Personnel] and the Secretary of the Finance and Administration Cabinet in accordance with 101 KAR 1:055*E*.

Section 6. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from his civil duties upon request therefor, to serve under orders on training duty without loss of his regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

(1) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

(2) When an employee has given notice of his availability to resume his duties and the notice is within ninety (90) days after he is relieved from military duty or from hospitalization or treatment continuing after discharge for a period of not more than one (1) year, the appointing authority shall return the employee to his former position or to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(a) If the employee is physically qualified to perform the duties of his former position, he shall be restored to such position if it exists and is not held by an employee with greater seniority, otherwise to a position of like seniority, status and pay.

(b) If the employee is not qualified to perform the duties of his former position by reason of disability sustained during such military service, he shall be placed in another position, the duties of which he is qualified to perform and which will provide him like seniority, status, and pay or the nearest approximation consistent with the circumstances of his case.

Section 7. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, ample time, up to a maximum of four (4) hours, for the purpose of voting. Such absence shall not be charged against leave. Employees who do not request time off to vote or who are not scheduled to work during voting hours shall not be entitled to compensatory leave in lieu of time off to vote.

Section 8. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, *vocational* or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service [; or for purposes other than above that are deemed to be in the best interests of the state].

(3) An appointing authority, with approval of the commissioner, shall on request grant an employee [entering active military duty] a leave of absence without pay for a period *not to exceed one (1) year for purposes other than specified in this regulation that are deemed in the best interest of the state* [of such duty].

(4) An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days in a calendar year pending an investigation into allegations of employee misconduct, provided that, if such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all copies of correspondence will be purged from agency files. *The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken, including those cases where the employee voluntarily resigns in the interim.*

Section 9. Absence Without Leave. An employee who is

absent from duty without approval shall report the reason therefore to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action.

Section 10. Performance Appraisal. Quality and quantity of work shall be considered in determining salary advancements, in promotions, in determining the order of layoff, in re-employment, and as a means of identifying employees who should be promoted, demoted, or dismissed. Ratings of the employee's work performance shall correspond to five (5) levels of performance as defined below:

Outstanding—The employee exceeds performance standards for objectives with such consistency or to such a substantial degree that performance on the job is outstanding.

Above Standard—The employee consistently meets all performance standards for objectives and frequently exceeds one (1) or more of the standards on several objectives such that performance is above that required and expected of the normal employee.

Satisfactory—The employee consistently meets the performance standards for objectives identified for the position.

Below Standard—Performance on the job is below the standard expected of a satisfactory employee. The employee consistently does not meet one (1) or more of the performance standards for the objectives.

Not Satisfactory—There are serious deficiencies in the employee's performance on the job. The employee consistently fails to meet all the performance measures for some objectives or fails to meet one (1) or more of them to such a degree that performance is far below the standard expected of a normal employee.

Any status employee who believes he has been unfairly rated shall have the right to have his rating reviewed through a procedure developed by the Commissioner which shall contain the following components:

(1) A written request by the employee shall be submitted to the second line supervisor within three (3) working days of the receipt of the rating and the immediate and second line supervisor must then review the employee's comments and documentation, and determine whether the rating should be changed and respond in writing within three (3) working days from the receipt of the request; and

(2) If the employee is not satisfied with the results in the first step, he/she shall have the right to request in writing to the appointing authority that within three (3) working days a review committee be established. This committee shall consist of three (3) members, one (1) chosen by the employee, one (1) chosen by the supervisor, and one (1) by the appointing authority who is approved by the employee and the supervisor. *After the full* [The] review committee *has been designated, it* must then review the rating and documentation and determine if the rating is valid and respond in writing within ten (10) working days [of the receipt of the request]. If the procedure indicated in this section is not followed, then the employee may appeal this lack of correct review procedure to the Personnel Board; this right of appeal is in addition to any other right of appeal the employee may have.

Section 11. Records and Reports. (1) Personnel action forms: The commissioner shall prescribe personnel action forms which appointing authorities shall use to report such personnel actions and status changes as he may require. The commissioner shall inform the appointing authorities which personnel actions and status changes must be reported to him.

(2) Leave records: *The commissioner* [Each appointing authority] shall [install and] maintain a leave record showing for each employee:

(a) Annual leave earned, used and unused;

(b) Sick leave earned, used and unused; [and]

(c) Compensatory leave earned, used and unused; and

(d) [(c)] Special leave or any other leave with or without pay. Such record shall be documentary evidence to support and justify authorized leave of absence with pay. [Each appointing authority shall notify his employees of their annual and sick leave balances as of January 1; a summary of which shall be sent to the department by February 1.]

(3) Official roster: The commissioner shall prepare and maintain a record of all employees showing for each employee his name, address, title of position, salary rate, changes in status, transfer, sick leave, [and] annual leave *and compensatory leave.*

Section 12. Confidentiality of Records. All records of the department and the board shall be public records and open to public inspection as provided in KRS 61.870 to 61.884.

Section 13. Dual Employment. No employee holding a full-time position with the Commonwealth may hold another state position except upon recommendation of the appointing authority and the written approval of the commissioner [of Personnel]. A copy of such written approval and a statement of the reasons therefor shall be transmitted to the Governor and the Director of the Legislative Research Commission. A complete list of all employees holding more than one (1) state position shall be furnished to the Legislative Research Commission quarterly by the commissioner.

Section 14. Minimum Hiring Age. The minimum age for hiring of state employees shall conform to federal and state labor laws, rules and regulations.

Section 15. Maximum Hiring Age. (1) The maximum hiring age for permanent employment subject to these rules is seventy (70).

(2) Agencies may request that individuals over seventy (70) be tested and/or employed. The request must be justified in writing by the appointing authority, stating the reasons why it serves the public interest, and must have the prior approval of the commissioner [of Personnel]. Applicants so approved shall be certified only to those agencies requesting such waivers.

Section 16. Retirement. (1) The normal retirement age for employees subject to these rules shall be seventy (70).

(2) Employees over seventy (70) may be allowed to continue employment from year to year with prior approval of the Commissioner of Personnel when it serves the public interest. Such requests must be justified in writing by the appointing authority.

Section 17. Restoration From Military Leave. (1) State appointing authorities shall comply with the provisions of KRS 61.371, 61.373, 61.375, 61.377, 61.379.

(2) The Department of Personnel shall require proper compliance with these statutes as they pertain to state employees.

(3) The appointing authorities for employees in county, city, or political subdivisions thereof, are responsible for compliance with these statutes, in keeping with normal personnel practices and procedures of each.

(4) Appeals may be filed by an employee or previous employee pursuant to 101 KAR 1:130. The governmental agency from which the appeal is filed shall bear the expense of the hearing of the appeal.

(5) A former employee seeking restoration, who has been rejected or otherwise penalized, must file an appeal within thirty (30) days, after notification of such rejection or penalization by an appointing authority.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: LIBBY WALTHALL, Chairman
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL
(Proposed Amendment)

101 KAR 1:200. Rules for unclassified service.

RELATES TO: KRS 18A.155
PURSUANT TO: KRS 13.082, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed rules for the unclassified service persons in positions enumerated in KRS 18A.155(1)(f), (g), (h), (i), (j), (o), (t), and (u). KRS 18A.155 further provides that these rules shall be approved by the Governor and promulgated according to KRS Chapters 12 and 13. In practice, the rules which apply to Merit System employees in the following specific areas have also been applied to the aforementioned categories of employees in the unclassified service.

Section 1. Annual leave. (1) Each full-time employee in the state service, except seasonal, temporary, and emergency employees, shall *accumulate* [be allowed] annual leave with pay at the following rate:

Years of Service	Annual Leave Days
0—5 years	1 leave day per month; 12 per year
5—10 years	1¼ leave days per month; 15 per year
10—15 years	1½ leave days per month; 18 per year
15 years and over	1¾ leave days per month; 21 per year

An employee must have worked more than half of the work days in a month to qualify for annual leave. In computing years of total service for the purpose of *earning* [allowing] annual leave, only those months for which an employee earned annual leave shall be *counted* [used]. In those cases where an employee is changed from part-time to full-time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

Employees serving on a part-time basis who work more than 100 hours a month shall be allowed annual leave with pay at the following rate:

Years of Service	*Annual Leave Days*
0—5 years	*1 leave day per month; 12 per year*
5—10 years	*1¼ leave days per month; 15 per year*
10—15 years	*1½ leave days per month; 18 per year*
15 years and over	*1¾ leave days per month; 21 per year*

[Years of Service	Annual Leave Hours
0-5 years	4 leave hours per month; 48 per year
5-10 years	5 leave hours per month; 60 per year
10-15 years	6 leave hours per month; 72 per year
15 years and over	7 leave hours per month; 84 per year]

In computing years of total service for the purpose of allowing annual leave for part-time employees, only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full-time to part-time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing years of total service. Employees serving on a part-time basis who work less than 100 hours a month or on a per diem basis shall not be entitled to annual leave.

(2) Annual leave for full-time employees may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Years of Service	Maximum Amount
0—5 years	Thirty (30) work days
5—10 years	Thirty-seven (37) work days
10—15 years	Forty-five (45) work days
15—20 years	Fifty-two (52) work days
Over 20 years	Sixty (60) work days

Annual leave for part-time employees who work at least 100 hours a month may be accumulated and carried forward from one (1) calendar year to the next not to exceed the following maximum amounts:

Years of Service	*Maximum Amount*
0-5 years	*Thirty (30) work days*
5-10 years	*Thirty-seven (37) work days*
10-15 years	*Forty-five (45) work days*
15-20 years	*Fifty-two (52) work days*
Over 20 years	*Sixty (60) work days*

[Years of Service	Maximum Amount
0-5 years	120 hours
5-10 years	148 hours
10-15 years	180 hours
15-20 years	208 hours
Over 20 years	240 hours]

However, leave in excess of the above maximum amounts may *not* be carried forward *from one (1) calendar year to the next calendar year after June 30, 1984* [for a period of six (6) months if the appointing authority justifies in writing the reasons which made it impossible to allow an

employee to take accumulated annual leave in a timely manner]. Years of service for the purpose of determining the maximum amount of annual leave which may be accumulated and carried forward shall be computed as provided in subsection (1) of this section. Annual leave shall not be granted in excess of that earned prior to the starting date of leave.

(3) Absence *due to* [on account of] sickness, injury, or disability in excess of that hereinafter authorized for such purposes may, at the request of the employee and within the discretion of the appointing authority, be charged against annual leave.

(4) Accumulated annual leave shall be granted by the appointing authority in accordance with operating requirements and, insofar as practicable, with the request of employees. *An employee who makes a timely request for annual leave shall be granted annual leave by the appointing authority, during the calendar year, up to at least the amount of time he earned that year.*

(5) Employees are charged with annual leave for absence only on days upon which they would otherwise work and receive pay.

(6) Annual leave shall accrue only when an employee is working or on authorized leave with pay. Annual leave shall not accrue when an employee is on educational leave with pay.

(7) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated annual leave in the receiving agency.

(8) Before an employee may be placed on leave of absence without pay in excess of thirty (30) working days, he must have used or have been paid for any accumulated annual leave *unless he has requested to retain up to ten (10) days of accumulated annual leave.*

(9) Employees shall be paid in a lump sum for accumulated annual leave, not to exceed the maximum amounts as set forth in Section 1(2) *of this regulation* [above], when separated by proper resignation *or* [, layoff,] retirement [or when granted leave without pay in excess of thirty (30) working days]. *In the case of layoff, the employee shall be paid in a lump sum for all accumulated annual leave. An employee in the unclassified service who reverts to the classified service or an employee who resigns one day and is employed the next day shall retain his accumulated leave in the receiving agency unless he is appointed at a lower salary; in this case the employee has the option to be paid for accumulated annual leave at the higher rate.* The effective date of the separation shall be the last work day [and the employee's amount of accumulated annual leave shall be listed in the remarks section of the advice effecting the separation]. A [supplemental] pay voucher shall be submitted on accumulated annual leave.

(10) An employee who has been dismissed for cause or who has failed to give proper notice of resignation may, at the discretion of the appointing authority, be paid in a lump sum for accumulated annual leave not to exceed the maximum amounts as set forth in Section 1(2) *of this regulation* [above].

(11) Upon the death of an employee, his estate shall be entitled to receive pay for the unused portion of the employee's accumulated annual leave [not to exceed the maximum amounts as set forth in Section 1(2) above].

(12) Absence for a fraction or part of a day that is charged to annual leave shall be charged in hours or one-half (½) hours.

Section 2. Sick Leave. (1) Each employee in the state service, except an emergency [, part-time,] or per-diem employee, shall *accumulate* [be allowed] sick leave with pay at the rate of one (1) working day for each month of service. An employee must have worked more than half of the work days in a month to qualify for sick leave with pay. Employees serving on a part-time basis who work more than 100 hours a month shall *accumulate sick leave with pay at the rate of one (1) working day for each month of service* [be allowed four (4) hours sick leave for each month of service]. Employees serving on a part-time basis who work less than 100 hours a month or on a per-diem basis shall not be entitled to sick leave.

(2) Full-time employees completing ten (10) years of total service with the state shall be credited with ten (10) additional days of sick leave upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for the purpose of crediting ten (10) additional days of sick leave, only those months for which an employee earned sick leave shall be used. In those cases where an employee is changed from part-time to full-time, those months in which the employee worked at least 100 hours as a part-time employee shall be counted in computing years of total service. Part-time employees who work at least 100 hours a month completing ten (10) years of total service with the state shall be credited with *ten (10) additional sick leave days* [forty (40) additional hours of sick leave] upon the first day of the month following the completion of ten (10) years of service. In computing years of total service for part-time employees who work at least 100 hours a month for the purpose of crediting *ten (10) additional sick leave days* [forty (40) additional hours of sick leave], only those months in which the employee worked at least 100 hours shall be used. In those cases where an employee is changed from full-time to part-time, those months for which the employee earned annual leave as a full-time employee shall be counted in computing years of total service. The total service must be verified before the leave is credited to the employee's record. Former employees who have been rehired and who had been previously dismissed for cause from state service shall receive credit for service prior to the dismissal, except where such dismissal resulted from a violation of KRS 18A.140, 18A.145, or 18A.990.

(3) Unused sick leave may be accumulated with no maximum on accumulation.

(4) Sick leave shall accrue only when an employee is working or on authorized leave with pay. Sick leave shall not accrue when an employee is on educational leave with pay.

(5) An appointing authority shall grant accrued sick leave with pay when the employee:

(a) Receives medical, dental or optical examination or treatment;

(b) Is disabled by sickness, *injury or pregnancy. The appointing authority may require a doctor's statement attesting to the inability to perform his/her duties* [or injury];

[(c) Is disabled by pregnancy and/or confinement;]

(c) [(d)] Is required to care for a sick or injured member of his immediate family for a reasonable period of time. *The appointing authority may require a doctor's statement supporting the need for care;*

(d) [(e)] Would jeopardize the health of others at his duty post, because of exposure to a contagious disease;

(e) [(f)] Has lost by death a parent, child, brother or sister, or the spouse of any of them, or any persons related by blood or affinity with a similarly close association.

Leave under this paragraph is limited to three (3) days or a reasonable extension at the discretion of the appointing authority.

(6) At the termination of sick leave with pay not exceeding six (6) months, the appointing authority may return the employee to his former position. At the termination of sick leave with pay exceeding six (6) months, the appointing authority may return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit.

(7) An appointing authority shall grant sick leave without pay for so long as an employee is disabled by sickness, or illness, or pregnancy [and confinement,] and the total continuous leave does not exceed *one (1) year* [two (2) years]. *The appointing authority may require periodic doctor's statements during the year attesting to the continued inability to perform his/her duties.* When the employee has given notice of his ability to resume his duties, the appointing authority may return the employee to a position for which he is qualified, and which resembles his former position as closely as circumstances permit. An employee who is unable to return to work at the end of *one (1)* [two (2)] year[s] of sick leave without pay, after being requested to return to work at least ten (10) days prior to the expiration of such sick leave, shall be terminated by the appointing authority. An employee granted sick leave without pay may, upon request, retain up to ten (10) days of accumulated sick leave.

(8) Absence for a fraction or part of a day that is chargeable to sick leave shall be charged in hours or one-half (½) hours.

(9) An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his accumulated sick leave in the receiving agency.

(10) Employees shall be credited for accumulated sick leave when separated by proper resignation, layoff, retirement, or when granted leave without pay in excess of thirty (30) working days. [The employee's amount of accumulated sick leave shall be listed in the remarks section of the advice effecting the separation.] Former employees who are reinstated or re-employed *shall* [may] have [up to ten (10) days of their accumulated and] unused sick leave balances revived upon appointment and placed to their credit [upon request of the appointing authority and approval of the commissioner. Any additional balance may be revived after sixty (60) days of work upon similar request].

(11) In cases of absence due to illness or injury for which Workmen's Compensation benefits are received for lost time, sick leave may be utilized to the extent of the difference between such benefits and the employee's regular salary.

(12) Application for sick leave. An employee shall file a written application for sick leave with *or without* pay within a reasonable time. Except in cases of emergency illness, an employee shall request advance approval for sick leave for medical, dental, or optical examination, and for sick leave without pay. In all cases of illness, an employee is obligated to notify his immediate supervisor or other designated person. Failure to do so in a reasonable period of time may be cause for denial of sick leave for the period of absence.

(13) Supporting evidence:

(a) An appointing authority may require an employee to supply supporting evidence in order to receive sick leave. A supervisor's or employee's certificate may be accepted, but a medical certificate may be required, signed by a licensed practitioner and certifying to the incapacity, examination, or treatment. An appointing authority shall grant sick leave when the application is supported by acceptable evidence.

(b) An appointing authority may place on sick leave an employee whose health might be jeopardized by job duties or whose health might jeopardize others and who, on request, fails to produce a satisfactory medical certificate.

Section 3. Court Leave. An employee shall be entitled to leave of absence from duties, without loss of time or pay for that amount of time necessary to comply with subpoenaes by any court, federal, state, or political subdivision thereof, to serve as a juror or a witness except in cases where the employee himself or a member of his family is a party plaintiff in court action. This leave shall include necessary travel time. If relieved from duty as a juror or witness during his normal working hours, the employee shall return to work.

Section 4. Compensatory Leave. (1) An employee who is authorized to work in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Compensatory leave may be accumulated or taken off in one-half (½) hour increments. The maximum amount of compensatory leave that may be accumulated shall be 200 hours.

(2) An employee shall accumulate compensatory leave for hours worked in excess of his normal prescribed hours of duty only when such work is [expressly] authorized by the appointing authority.

(3) Accumulated compensatory time shall be granted by the appointing authority in accordance with agency needs and requirements and, insofar as practicable, in accordance with the employee's request. To maintain a manageable level of accumulated compensatory time and for the specific purpose of reducing the employee's compensatory time balance, an appointing authority may direct an employee to take accumulated compensatory time off from work. *Notice must be in writing specifying the number of hours to be taken.*

(4) An employee who is transferred or otherwise changed from the jurisdiction of one (1) agency to another shall retain his compensatory leave in the receiving agency.

(5) Upon separation from state service, employees shall be paid *in a lump sum* for all unused accumulated compensatory leave at their regular hourly rate of pay.

(6) Former employees who are reinstated, re-employed, or probationarily appointed and who were *not paid* [credited] for unused compensatory leave upon separation shall have their compensatory leave balance revived and placed to their credit upon re-entry into state service.

(7) Employees who were previously covered by the application of the state wage and hour law and who would be covered by the state wage and hour law if that law was still applicable to state employees shall accumulate compensatory leave or be paid overtime in accordance with the following provisions:

(a) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] whose prescribed hours of duty are normally less than forty (40) per week and who has not accumulated the maximum amount of compensatory leave shall receive compensatory leave for the hours worked in excess of his normal prescribed hours of duty until the total hours worked in that week reaches forty (40).

(b) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] shall be paid at one and one-half (1½) times his regular hourly rate of pay for all hours worked in excess of forty (40) per week, except that an employee who has not accumulated the maximum amount of compensatory leave may request in writing that he accumulate compensatory leave on an hour-for-hour basis for all hours worked in excess of forty (40) per week in lieu of the overtime payment. Compensatory leave earned and used during the same workweek does not constitute "hours worked" for computing overtime pay.

(c) *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees who* [After a "covered" employee] has accumulated at least 151 hours of compensatory leave but before *accumulating* [the employee has accumulated] 200 hours [of compensatory leave, the employee] may request in writing that he be paid for fifty (50) hours [of compensatory leave] at his regular hourly rate of pay. [If the employee is so paid, his accumulated compensatory leave balance shall be reduced accordingly.]

(d) *When an employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [When a "covered" employee] has accumulated the maximum amount of compensatory leave, the appointing authority shall pay the employee for fifty (50) hours of his accumulated compensatory leave at his regular hourly rate of pay and reduce the employee's compensatory leave balance accordingly or the appointing authority shall direct the employee to take accumulated compensatory leave time off from work.

[(e) A "covered" employee who has had his compensatory leave balance reduced in accordance with paragraph (c) of this subsection shall be eligible to accumulate compensatory leave in accordance with this section.]

(e) [(f)] *An employee in a classification that would be covered by the state wage and hour law if that law was still applicable to state employees* [A "covered" employee] shall accumulate compensatory leave or be paid for overtime for hours worked in excess of his normal prescribed hours of duty only when such work is expressly authorized by the appointing authority and when such payment has received the approval of the commissioner [of Personnel] and the Secretary of the Finance and Administration Cabinet in accordance with 101 KAR 1:055*E*.

Section 5. Military Leave. Any employee who is an active member of the United States Army Reserve, the United States Air Force Reserve, the United States Naval Reserve, the United States Marine Corps Reserve, the United States Coast Guard Reserve, the United States Public Health Service Reserve, or the Kentucky National Guard shall be relieved from civil duties upon request therefor, to serve under orders on training duty without loss of regular compensation for a period not to exceed ten (10) working days in any one (1) calendar year, and any such absence shall not be charged to leave. Absence in excess of this amount will be charged as annual leave or leave without pay. The appointing authority may require a copy of the orders requiring the attendance of an employee before granting military leave.

(1) An appointing authority shall grant an employee entering military duty a leave of absence without pay for a period of such duty not to exceed six (6) years. All accumulated annual and compensatory leave may be paid in a lump sum, at the request of the employee, upon receiving this leave.

(2) When an employee has given notice of his availability to resume his duties and the notice is within ninety (90) days after he is relieved from military duty or from hospitalization or treatment continuing after discharge for a period of not more than one (1) year, the appointing authority shall return the employee to his former position or to a position for which he is qualified and which resembles his former position as closely as circumstances permit.

(a) If the employee is physically qualified to perform the duties of his former position, he shall be restored to such position if it exists and is not held by an employee with greater seniority, otherwise to a position of like seniority, status or pay.

(b) If the employee is not qualified to perform the duties of his former position by reason of disability sustained during such military service, he shall be placed in another position, the duties of which he is qualified to perform and which will provide him like seniority, status and pay or the nearest approximation consistent with the circumstances of his case.

Section 6. Voting Leave. All employees who are eligible and registered to vote shall be allowed, upon prior request, ample time, up to a maximum of four (4) hours, for the purpose of voting. Such absence shall not be charged against leave. Employees who do not request time off to vote or who are not scheduled to work during voting hours shall not be entitled to compensatory leave in lieu of time off to vote.

Section 7. Special Leave of Absence. (1) In addition to leaves as above provided, an appointing authority may grant leave without pay for a period or periods not to exceed thirty (30) working days in any calendar year.

(2) An appointing authority, with approval of the commissioner, may grant leave of absence for a period not to exceed twenty-four (24) months for the following purposes, with or without pay: for assignment to and attendance at college, university, *vocational* or business school for the purpose of training in subjects related to the work of the employee and which will benefit the state service; or for purposes other than above that are deemed to be in the best interests of the state.

(3) An appointing authority, with approval of the commissioner, *may* [shall on request] grant an employee [entering active military duty] a leave of absence without pay for a period *not to exceed one (1) year for purposes other than specified in this regulation that are deemed in the best interest of the state* [of such duty].

(4) An appointing authority, with approval of the commissioner, may place an employee on leave without pay for a period not to exceed thirty (30) working days in a calendar year pending an investigation into allegations of employee misconduct, provided that, if such investigation reveals no misconduct on behalf of the employee, he shall be made whole for the period of such leave and all copies of correspondence will be purged from agency files. *The appointing authority shall notify the employee in writing of the completion of the investigation and the action taken.*

Section 8. Absence Without Leave. An employee who is absent from duty without approval shall report the reason therefore to his supervisor immediately. Unauthorized and/or unreported absence shall be considered absence

without leave and deduction of pay may be made for each period of such absence. Such absence may constitute grounds for disciplinary action.

Section 9. Performance Appraisal. Quality and quantity of work shall be considered in determining salary advancements, in promotions, and as a means of identifying employees who should be promoted, demoted, or dismissed. Ratings of the employee's work performance shall correspond to five (5) levels of performance as defined below:

Outstanding—The employee exceeds performance standards for objectives with such consistency or to such a substantial degree that performance on the job is outstanding.

Above Standard—The employee consistently meets all performance standards for objectives and frequently exceeds one (1) or more of the standards on several objectives such that performance is above that required and expected of the normal employee.

Satisfactory—The employee consistently meets the performance standards for objectives identified for the position.

Below Standard—Performance on the job is below the standard expected of a satisfactory employee. The employee consistently does not meet one (1) or more of the performance standards for the objectives.

Not Satisfactory—There are serious deficiencies in the employee's performance on the job. The employee consistently fails to meet all the performance measures for some objectives or fails to meet one (1) or more of them to such a degree that performance is far below the standard expected of a normal employee.

Any employee who believes he has been unfairly rated shall have the right to have his rating reviewed through a procedure developed by the Commissioner which shall contain the following components:

(1) A written request by the employee shall be submitted to the second line supervisor within three (3) working days of the receipt of the rating and the immediate and second line supervisor must then review the employee's comments and documentation, and determine whether the rating should be changed and respond in writing within three (3) working days from the receipt of the request; and

(2) If the employee is not satisfied with the results in the first step, he/she shall have the right to request in writing to the appointing authority that within three (3) working days a review committee be established. This committee shall consist of three (3) members, one (1) chosen by the employee, one (1) chosen by the supervisor, and one (1) by the appointing authority who is approved by the employee and the supervisor. The review committee must then review the rating and documentation and determine if the rating is valid and respond in writing within ten (10) working days of the receipt of the request. If the procedure indicated above is not followed, then the employee may appeal this lack of correct review procedure to the Personnel Board; this right of appeal is in addition to any other right of appeal the employee may have.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: JOHN Y. BROWN, JR., Governor
RECEIVED BY LRC: September 13, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems
(Proposed Amendment)

105 KAR 1:010. Contributions and interest rates.

RELATES TO: KRS 16.505 to 16.652, 61.510 to 61.702, 78.510 to 78.852
PURSUANT TO: KRS 13.082, 16.576, 16.640, 61.559, 61.645, 78.780
NECESSITY AND FUNCTION: KRS 16.645, 61.565 and 78.545, require the board to determine the employer contribution rate based on an actuarial valuation. KRS 61.552 requires the board to adopt a rate of interest payable on a recontribution of refund. KRS 16.560, 61.575 and 78.640 provide that the board may determine the rate of interest payable on the members' contribution account. KRS 61.670 provides that the board shall adopt such actuarial tables as are necessary for the administration of the system. This regulation sets the employer contribution rates, and rate of interest on a recontribution of refund and member contribution account and establishes the actuarial tables for computation of retirement allowances for members of the Kentucky Employes Retirement System (KERS), County Employes Retirement System (CERS) and State Police Retirement System (SPRS).

Section 1. The employer contribution rate payable by a participating agency applicable to creditable compensation earned on or after July 1, 1983, shall be as follows:

KRS 61.565 State Police Retirement System	18½%
KRS 61.656 Kentucky Employes Retirement System	7¼%
KRS 61.565 County Employes Retirement System	6¼%
KRS 61.592 Kentucky Employes Retirement System	18¼%
KRS 61.592 County Employes Retirement System	14%

Section 2. The interest rate on a recontribution of refund as provided under KRS 61.552 shall be as follows:

(1) For time elapsed from date of refund through June 30, 1982, six (6) percent compounded annually.

(2) For time elapsed from July 1, 1982 (or date of refund if after July 1, 1982) seven and one-half (7½) percent compounded annually. The interest rate on recontribution of refund made by an employee who has been reinstated by order of the Personnel Board shall be at the rate of zero (0) percent, if the refund is recontributed within a reasonable period of time.

Section 3. Interest creditable on a member's accumulated contributions in accordance with KRS 16.560, 61.575, and 78.640 shall be at the rate of six (6) percent.

Section 4. Reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to normal retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, below, except:

(1) A KERS hazardous duty member who is age fifty (50) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age fifty-five (55), if the employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE A

Years Required to Complete 30 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(2) A SPRS or CERS hazardous duty member who is age fifty (50) or older and would attain twenty-five (25) years of service (for SPRS, fifteen (15) of which would be current service) prior to age fifty-five (55), if his employment had continued shall have his retirement benefit computed based on the appropriate factor as follows:

TABLE B

Years Required to Complete 25 Years Service	Percentage Payable
1	94.5%
2	89.0%
3	83.5%
4	78.0%
5	72.5%

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service (fifteen (15) years of which would be current service) prior to age sixty-five (65) if employment were continued shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on SPRS, CERS hazardous or KERS hazardous early retirement eligibility, and would have attained thirty (30) or more years of service (fifteen (15) of which would be current service) on or before reaching his sixty-fifth (65th) birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table D based on said member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE E

Years Required to Complete 25 Years Service	Percentage Payable
0	100.0%
1	95.0%
2	90.0%
3	85.0%
4	80.0%
5	75.0%
6	71.0%
7	67.0%
8	63.0%
9	59.0%
10	55.0%

(5) A KERS hazardous member who dies prior to age fifty (50) and would have attained thirty (30) or more years of service (fifteen (15) or which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table C based on the number of years required to complete thirty (30) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time of death.

(6) A SPRS or CERS hazardous member who dies prior to age fifty (50) and would have attained twenty-five (25) or more years of service (for SPRS, fifteen (15) of which would be current service) on or before reaching his fifty-fifth (55th) birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty-five (25) years of service and then multiply this result by the percentage payable as determined from Table F based on said member's age at the time death.

TABLE F

Years Prior to Age 50	Percentage Payable
1	97.0%
2	94.0%
3	91.0%
4	88.0%
5	85.0%
6	82.0%
7	79.0%
8	76.0%
9	73.0%
10	70.0%

TABLE G

Early Age	Normal Retirement Age 65	55
64	95.0%	
63	90.0%	
62	85.0%	
61	80.0%	
60	75.0%	
59	71.0%	
58	67.0%	
57	63.0%	
56	59.0%	
55	55.0%	
54	51.3%	94.5%
53	47.9%	89.0%
52	44.9%	83.5%
51	42.1%	78.0%
50	39.5%	72.5%
49	37.1%	68.8%
48	34.9%	65.2%
47	33.0%	61.7%
46	31.3%	58.2%
45	29.9%	54.7%
44	28.7%	51.3%
43	27.6%	47.9%
42	26.7%	44.9%
41	25.8%	42.1%
40	25.1%	39.5%
39	24.4%	37.1%
38	23.8%	34.9%
37	23.2%	33.0%
36	22.5%	31.3%
35	21.9%	29.9%
34	21.2%	28.7%
33	20.6%	27.6%
32	20.0%	26.7%
31	19.5%	25.8%
30	19.0%	25.1%
29	18.5%	24.4%
28	18.0%	23.8%
27	17.5%	23.2%
26	17.0%	22.5%
25	16.5%	21.9%

The member's exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(7) Benefits paid in the event of death prior to retirement pursuant to subsections (1) through (6) of this section shall be reduced, as required by KRS 61.640 and as determined in "Contingent Annuity Factors," "Integrated Survivor Factors" and "Ten Year Certain Factors" incorporated herein by reference.

[Section 5. Conversion factors to be applied to determine immediate annuity which could be purchased by $1,000 of contributions and interest after doubling as provided in KRS 16.576 and 61.559, effective April 1, 1982.]

[TABLE H

	Age	Male	Female
Non-Hazardous	65	$ 9.92141	$ 8.57730
	66	$10.19723	$ 8.77301
	67	$10.49134	$ 8.98625
	68	$10.80397	$ 9.21964
	69	$11.13655	$ 9.47497
	70	$11.48855	$ 9.75310
	71	$11.85855	$10.05393
	72	$12.24723	$10.37652
	73	$12.65979	$10.72087
	74	$13.10404	$11.08806
	75	$13.58700	$11.47901
	76	$14.11350	$11.89596
	77	$14.68390	$12.34116
	78	$15.29153	$12.81648
	79	$15.93155	$13.32415
	80	$16.60395	$13.86536
Hazardous	50	$ 7.46966	$ 6.90106
	51	$ 7.56685	$ 6.96348
	52	$ 7.67007	$ 7.03073
	53	$ 7.77991	$ 7.10321
	54	$ 7.89699	$ 7.18139
	55	$ 8.02206	$ 7.26577
	56	$ 8.15598	$ 7.35689
	57	$ 8.29982	$ 7.45528
	58	$ 8.45481	$ 7.56147
	59	$ 8.62204	$ 7.67598
	60	$ 8.80177	$ 7.79939
	61	$ 8.99462	$ 7.93237
	62	$ 9.20156	$ 8.07563
	63	$ 9.42411	$ 8.23009
	64	$ 9.66376	$ 8.39690
	65	$ 9.92141	$ 8.57730
	66	$10.19723	$ 8.77301
	67	$10.49134	$ 8.98625
	68	$10.80397	$ 9.21964
	69	$11.13655	$ 9.47497
	70	$11.48855	$ 9.75310
	71	$11.85855	$10.05393
	72	$12.24723	$10.37652
	73	$12.65979	$10.72087
	74	$13.10404	$11.08806
	75	$13.58700	$11.47901
	76	$14.11350	$11.89596
	77	$14.68390	$12.34116
	78	$15.29153	$12.81648
	79	$15.93155	$13.32415
	80	$16.60395	$13.86536]

JOHN D. ROBEY, Chairman
ADOPTED:August 18, 1983
RECEIVED BY LRC: August 24, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: General Manager, Kentucky Retirement Systems, 226 West Second Street, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Economic Development
(Proposed Amendment)

306 KAR 1:020. Application process.

RELATES TO: KRS 154.660
PURSUANT TO: KRS 13.082, 278.280(2)
NECESSITY AND FUNCTION: KRS 154.650 et seq. establishes and directs the Enterprise Zone Authority of Kentucky to organize and regulate the implementation of the Enterprise Zone Act. This regulation sets forth the procedures by which an application is made and the application process used by the authority in the administration of this program. *This regulation also establishes a procedure to alter the zone's boundary.*

Section 1. Application Process. (1) Prior to application, the city, county or urban-county government must, by official act of the appropriate local legislative body, designate an area within its jurisdiction as an economically depressed area. In the event an area is designated which crosses the jurisdictional boundary of a city or county, there must be submitted to the authority an intergovernmental agreement which sets forth the commitment by the jurisdictions to work jointly to achieve the results set forth in the jointly executed plan. The local government may designate more than one (1) such area.

(2) The authority shall devise application forms and shall make them available to anyone desiring same. All first year applications must be received by the authority on or before May 1, 1983 at which time the period in which the authority must make a decision begins to run. Applications for subsequent years shall be received by the authority on or before September 1 of the year submitted. The authority is to act promptly on the applications and may request additional information from the individual applicants. Applications shall be mailed to and information is available from the Enterprise Zone Authority, 2200 Capital Plaza Tower, Frankfort, Kentucky 40601.

(3) The staff of the authority shall review each application as submitted by the different applicants and request such additional information as they deem necessary. After said screening the staff shall submit the applications to the authority at which time the members of the authority shall review same. Subsequent to said review the authority may require oral presentations to be made by some or all of the applicants as they deem proper.

(4) Failure of an applicant to receive a designation does not preclude application in the following years.

(5) At any time before or after an application has been approved, a community may apply to the Kentucky Enterprise Zone Authority for an alteration to the boundaries previously submitted or approved. Such requests for alterations of enterprise zone boundaries should reflect a need which now exists due to the prospects of economic activity in the change area which would create a significant number of new jobs and attract considerable amounts of private sector investment.

W. DALE SMITH, Commissioner
EDWARD L. HOLLOWAY, Chairman
ADOPTED: September 15, 1983
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: September 15, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Sara Bell, Community Development Specialist, Commerce Cabinet, 2200 Capital Plaza Tower, Frankfort, Kentucky 40601.

COMMERCE CABINET
Department of Economic Development
(Proposed Amendment)

306 KAR 1:030. Eligibility requirements.

RELATES TO: KRS 154.655
PURSUANT TO: KRS 13.082, 278.280(2)
NECESSITY AND FUNCTION: KRS 154.650 et seq. establishes and directs the Enterprise Zone Authority of Kentucky to organize and regulate the implementation of the Enterprise Zone Act. This regulation sets forth the eligibility requirements used by the authority in determining the ability of the applicant to meet the requirements and the criteria which will be acceptable to the authority as supportive of the applicant's eligibility.

Section 1. Eligibility Requirements. An area meets the requirements of pervasive poverty, unemployment and economic distress if:

(1) The average rate of unemployment in such area for the most recent eighteen (18) month period, for which 1980 decennial United States Census is available or other statistical data computed using approved Bureau of Labor Statistics methodology, was at least one and one-half (1½) times the average national rate of unemployment for such eighteen (18) month period.

(2) In addition to the unemployment statistics, an area must meet one (1) of the following additional requirements to be eligible:

(a) At least seventy percent (70%) of the residents (households) living in the area have income below eighty percent (80%) of the median income of the residents (families) of the city, county or urban county government requesting designation as based on 1980 decennial United States Census or which is the product of a study or survey done by a source which is acceptable to the authority; or

(b) The population of all census tracts or equivalent census statistical area, i.e., block numbering areas or enumeration districts, in the area decreased by ten percent (10%) or more between 1970 and 1980 as determined by the 1970 and 1980 censuses respectively, and the city, county or urban county government requesting designation can establish to the satisfaction of the authority that either: chronic abandonment or demolition of commercial or residential structures exist in the area, or substantial tax arrearages of commercial or residential structures exist in the area. Acceptable data for "chronic abandonment" could include tax arrearages information from the offices of the county sheriff or property valuation administrator, or demolition permits if available. A measure of chronic abandonment, demolition of or substantial tax arrearages of commercial or residential structures could be established if the area has a higher rate of tax arrearages by dollar value or parcels, than the city or county as a whole.

(3) An applicant which chooses to generate statistics or use those of others to support eligibility requirements shall provide the authority with the detailed statistics, source methodology and certification by the person or persons responsible for preparation approving the explanation and interpretation of the findings.

(4) A community applying to the Kentucky Enterprise Zone Authority for an alteration to the boundaries of an enterprise zone must certify that the area in question is contiguous to the present zone boundaries and that the changed zone area still meets the minimum eligibility criteria set forth in the Act. A community should submit an application for boundary alterations under the same guidelines as the original application, showing new zone

boundaries, and new eligibility criteria. Boundary changes do not go into effect until after written approval has been received from the Kentucky Enterprise Zone Authority.

W. DALE SMITH, Commissioner
EDWARD L. HOLLOWAY, Chairman
ADOPTED: September 15, 1983
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: September 15, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Sara Bell, Community Development Specialist, Commerce Cabinet, 2200 Capital Plaza Tower, Frankfort, Kentucky 40601.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Division of Water
(Proposed Amendment)

401 KAR 5:045. Biochemically degradable wastes; treatment.

RELATES TO: KRS [Chapter] 224.*020, 224.033(1),(5),(15),(19),(21),(23), 224.060*
PURSUANT TO: KRS 13.082, 224.033(17), *224.045(6)*
NECESSITY AND FUNCTION: This regulation is necessary to implement KRS 224.020, *224.033(1),(5),(15),(19),(21),(23), and 224.060.* It requires a minimum of secondary treatment for *all* [publicly owned] facilities [and those facilities which are regulated under KRS 278.010] which receive *biochemically degradable* [biodegradable] wastes, [a minimum of best practicable control technology or best available technology economically achievable for other facilities which receive biodegradable waste,] and additional treatment in certain situations. The regulation requires that such treatment facilities receiving such wastes reapply to the *cabinet* [department] *150 days prior to the expiration of the current permit* [prior to January 1, 1977] for a permit to continue operating.

Section 1. Definitions. *The following definitions and conditions apply to terms used in Section 3 and Section 4:* [The definitions found in Section 1 of 401 KAR 5:005 shall apply to this regulation.]

(1) "Grab sample" means a single instantaneous portion of the effluent.

(2) "Composite sample" means:

(a) Not less than four (4) effluent portions collected at regular intervals over a period of eight (8) hours and combined in proportion to flow;

(b) Not less than four (4) combined equal volume effluent portions collected over a period of eight (8) hours at intervals proportional to flow;

(c) An effluent portion collected continuously over a period of twenty-four (24) hours at a rate proportional to the flow; or

(d) An effluent portion consisting of a minimum of four (4) combined equal volume grab samples taken approximately two (2) hours apart.

(3) "Arithmetic mean for thirty (30) consecutive days" means the average of a minimum of three (3) samples collected in separate calendar weeks during a period of thirty (30) consecutive days with a minimum of twenty (20) days occurring between the first and last sample days.

(4) "Arithmetic mean for seven (7) consecutive days" means the average of a minimum of two (2) samples taken on separate days in a seven (7) day period.

(5) The samples for determining values of biochemical oxygen demand and suspended solids shall be composite samples. The samples for determining the values of fecal coliform bacteria and pH shall be grab samples and taken at the applicable frequency as noted in subsections (3) and (4) of this section.

(6) "Day" means a twenty-four (24) hour period.

(7) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

Section 2. Applicability. [(1)] All [publicly owned] facilities discharging into waters of the Commonwealth which receive an influent which is biochemically degradable[,] shall provide a minimum of secondary treatment to that influent prior to its discharge. If other constituents are prsent, additional treatment may be required.

[(2) All other facilities discharging into waters of the Commonwealth which receive an influent which is biodegradable shall provide that degree of treatment prescribed in 401 KAR 5:035, Section 2, to that influent prior to its discharge. If other constituents are present, additional treatment may be required.]

Section 3. "Secondary treatment" is that *degree* [level] of *treatment which results in an effluent quality which meets the following minimum requirements:* [effluent quality attainable in terms of the parameters; biochemical oxygen demand, BOD, suspended solids, fecal coliform bacteria and pH.]

(1) Biochemical oxygen demand, five (5) day[s]*:*

(a) The arithmetic mean of the values for [BOD in] effluent samples collected during a period of thirty (30) consecutive days shall not exceed thirty (30) milligrams per liter.

(b) The arithmetic mean of the values for [BOD in] effluent samples collected during a period of seven (7) consecutive days shall not exceed forty-five (45) milligrams per liter.

[(c) The arithmetic mean of values for BOD in effluent samples collected during a period of thirty (30) consecutive days shall not exceed fifteen (15) percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.]

(2) Suspended solids. *These requirements shall be achieved except as provided for in Subsection (3) of this section:*

(a) The arithmetic mean of the values for suspended solids in effluent samples collected during a period of thirty (30) consecutive days shall not exceed thirty (30) milligrams per liter.

(b) The arithmetic mean of the values for suspended solids in effluent samples collected during a period of seven (7) consecutive days shall not exceed forty-five (45) milligrams per liter.

[(c) The arithmetic mean of the values for suspended solids in effluent samples collected during a period of thirty (30) consecutive days shall not exceed fifteen (15) percent of the arithmetic mean of the values for influent samples collected at approximately the same times during the same period.]

(3) Suspended solids requirements for waste stabilization ponds which are employed as the sole process for secondary treatment and have a maximum facility design capacity of 2,000,000,000 gallons per day or less and where operation and maintenance data indicate that the re-

quirements of subsection (2)(a) and (b) of this section cannot be achieved shall be equal to that which is achievable with best waste stabilization pond technology. Best waste stabilization pond technology is defined as the effluent concentration achieved ninety (90) percent of the time within the Commonwealth of Kentucky or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality established for biochemical oxygen demand in subsection (1) of this section. This suspended solids value will be determined by the cabinet.

[(3) Fecal coliform bacteria.]

[(a) The geometric mean of the value for fecal coliform in effluent samples collected during a period of thirty (30) consecutive days shall not exceed 200 per 100 milliliters.]

[(b) the geometric mean of the values for fecal coliform in effluent samples collected during a period of seven (7) consecutive days shall not exceed 400 per 100 milliliters.]

[(4) pH. The effluent values for pH shall not be less than a pH of 6.0 nor greater than 9.0.]

Section 4. Additional requirements for all facilities discharging into the waters of the Commonwealth which receive an influent which is biochemically degradable is that degree of treatment which results in an effluent quality which meets the following minimum requirements:

(1) Fecal coliform bacteria:

(a) The geometric mean of the value for fecal coliform bacteria in samples collected during a period of thirty (30) consecutive days shall not exceed 200 colonies per 100 milliliters.

(b) The geometric mean of the values for fecal coliform bacteria in samples collected during a period of seven (7) consecutive days shall not exceed 400 colonies per 100 milliliters.

(c) For operational purposes paragraphs (a) and (b) of this subsection need only be met during the recreational season of May 1 through October 31. In other months the values stipulated in 401 KAR 5:031, Section 7(2)(a), shall be met:

(2) pH: The values for pH shall not be less than six (6) units nor more than nine (9) units.

Section *5.* [4.] Treatment in excess of that required under Section 2 of this regulation for influents which are biochemcially degradable shall be required for a continuous facility discharge where:

(1) The *cabinet* [department] determines that the receiving waters will not satisfy applicable water quality standards as a result of a facility discharge *or discharges from multiple facilities.*

(2) The *cabinet* [department] determines that a facility lacks the sophistication of process to consistently produce the required effluent quality.

[(3) The department determines that the receiving waters will exceed four (4) milligrams per liter of ammonia nitrogen as a result of the facility's discharge.]

Section *6.* [5.] (1) Any person responsible for an existing facility as described in Section 2 of this regulation which receives biochemically degradable influent [,] *shall 150 days prior to the expiration of the current permit* [prior to January 1, 1977,] make application to the *cabinet* [department] for a permit to continue to discharge to the waters of the Commonwealth.

(2) If the *cabinet* [division] determines, from available information or information requested from the applicant, that an existing facility does not or may not produce an effluent with parameter measurements equal to or less than that specified in Sections 3 and 4 of this regulation, it shall require the applicant to submit plans and specifications or other data showing how the facility *will* [shall] be brought into compliance.

(3) If the facility's effluent parameters are equal to or less than that required in Sections 3 and 4 of this regulation, an operating permit shall be issued to the applicant.

(4) If the facility's effluent does not satisfy the requirements of Sections 3 and 4 of this regulation, the *cabinet* [department] may issue the applicant a permit to upgrade the facility, *provided:*

(a) No such permit shall be issued unless the *cabinet* [department] has received and approved a compliance schedule to bring a facility into compliance at the earliest possible date.

(b) A compliance schedule shall contain a commitment from the applicant to achieve increments of progress to be completed on *specified* [certain] dates.

(c) At a minimum, the increments shall include a date for submitting any additional plans and specifications required for construction, a date for commencement of construction and a date for completion of construction.

(d) Upon request from the *cabinet* [department], the applicant shall provide the *cabinet* [department] with periodic reports regarding progress towards compliance schedule increments.

(5) Failure to meet the dates set forth in a compliance schedule shall constitute a violation of KRS 224.060 unless an alternate date has been negotiated by the person responsible for a facility and has been approved in writing by the *cabinet* [division].

JACKIE SWIGART, Secretary

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RECEIVED BY LRC: September 15, 1983 at 2 p.m.

See public hearings scheduled on page 391.

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

401 KAR 53:005. General provisions.

RELATES TO: KRS Chapter 224

PURSUANT TO: KRS 13.082, 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the [Department for] Natural Resources and Environmental Protection *Cabinet* to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.

Section 1. Purpose and Intention. (1) The purpose of the primary ambient air quality standards is to define levels of air quality which the department judges are necessary, with an adequate margin of safety, to protect the public health. Secondary ambient air quality standards define levels of air quality which the department judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.

(2) In the establishment of these standards, it is the intention of the department to prohibit further significant and avoidable deterioration of air quality in areas where air quality presently exists which is numerically equal to or less than the standards expressed herein.
(3) Except as provided in 401 KAR 51:010, no person shall violate, or interfere with the attainment or maintenance of, ambient air quality standards as specified in 401 KAR 53:010.

Section 2. Applicability. (1) The primary and secondary ambient air quality standards stated in 401 KAR 53:010 shall apply at any single point location.
(2) The secondary standard for odor shall be applicable only when the department receives a complaint with respect to odors from a source.

Section 3. Definitions. As used in this chapter, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.
(1) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.
(2) "Reference method" means a method of sampling and analyzing for an air pollutant as specified by Appendices A through G of 40 CFR 50, filed by reference in 401 KAR 50:015.
(3) "Equivalent method" means any method of sampling and analyzing of an air pollutant which can be demonstrated to the department's and the U. S. EPA's satisfaction to have a consistent relationship to the reference method.
(4) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures.
(5) "Annual mean" means an average determined on the basis of any consecutive twelve (12) month interval.
(6) "Three (3) hour average" means an average determined on the basis of any consecutive three (3) hour interval.
(7) "Eight (8) hour average" means an average determined on the basis of any consecutive eight (8) hour interval.
(8) "Twelve (12) hour average" means an average determined on the basis of any consecutive twelve (12) hour interval.
(9) "One (1) week average" means an average determined on the basis of any consecutive seven (7) day interval.
(10) "One (1) month average" means an average determined on the basis of any consecutive thirty (30) day interval.
(11) [(10)] "Maximum" means an ambient air quality standard which shall not be exceeded more than once per year providing that the averages exceeding the standard do not contain any common hourly data points.
(12) [(11)] "Odor" means the property of an air contaminant that can be detected by the sense of smell.
(13) [(12)] "Standard condition" means a reference temperature of twenty-five (25) degrees Celsius and a reference pressure of 760 millimeters of mercury.
(14) [(13)] "Year" means any consecutive twelve (12) month period.

JACKIE SWIGART, Secretary
ADOPTED: September 15, 1983
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See public hearings scheduled on page 391.

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

401 KAR 53:010. Ambient air quality standards.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the [Department for] Natural Resources and Environmental Protection *Cabinet* to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.

Section 1. Ambient Air Quality Standards. The primary and secondary ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, [hydrocarbons,] nitrogen dioxide, lead, hydrogen sulfide, gaseous fluorides, total fluorides, and odors are specified in Appendix A of this regulation. Measurements will be by methods specified in Section 2.

Section 2. Methods of Measurement. For those air contaminants for which there are state ambient air quality standards that are the same as the national ambient air quality standards, measurements shall be made according to reference methods, or their equivalent methods. For other air contaminants for which there are state ambient air quality standards, measurements shall be made according to methods as prescribed by the department. The frequency of measurements for all air contaminants shall be prescribed by the department.

Section 3. Within sixty (60) days of promulgation or revision of any ambient air quality standard by the U.S. EPA, the department shall initiate proceedings to promulgate or review this regulation in conformance with the federal ambient air quality standards.

JACKIE SWIGART, Secretary
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(See Appendix A on following page)

APPENDIX A TO 401 KAR 53:010
AMBIENT AIR QUALITY STANDARDS

The following air contaminant concentrations shall apply at any single point location:

CONTAMINANT	PRIMARY STANDARD	SECONDARY STANDARD
Sulfur Oxides (Sulfur Dioxide) - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	80 (0.03 ppm)	---
Maximum Twenty-Four-Hour Average	365 (0.14 ppm)†	---
Maximum Three-Hour Average	—	1300 (0.50 ppm)†
Particulate Matter - $\mu g/m^3$		
Annual Geometric Mean, not to exceed	75	60‡
Maximum Twenty-Four-Hour Average	260†	150†
Carbon Monoxide - mg/m^3		
Maximum Eight-Hour Average	10 (9 ppm)†	Same as primary
Maximum One-Hour Average	40 (35 ppm)†	Same as primary
Ozone - $\mu g/m^3$		
Maximum Average	235 (0.12 ppm)⊕	Same as primary
[Hydrocarbons - $\mu g/m^3$◇ (measured as CH_4 and corrected for Methane)]		
[Maximum Three-Hour Morning Average (6-9 A.M.)]	[160 (0.24 ppm)†]	[Same as primary]
Nitrogen Dioxide - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	100 (0.05 ppm)	Same as primary
Lead - $\mu g/m^3$		
Maximum Arithmetic Mean averaged over a calendar quarter	1.5	Same as primary
Hydrogen Sulfide - $\mu g/m^3$		
Maximum One-Hour Average	—	14 (0.01 ppm)†
Gaseous Fluorides - (expressed as HF) - $\mu g/m^3$		
Annual Arithmetic Mean, not to exceed	400 (0.5 ppm)	--- [0.50(0.60ppb)†]
Maximum One-Month Average	—	0.82(1.00ppb)† [0.80(0.97ppb)†]
Maximum One-Week Average	—	1.64(2.00ppb)† [2.86(3.50ppb)†]
Maximum Twenty-Four-Hour Average	800 (1.0 ppm)†	2.86 (3.50 ppb)†
Maximum Twelve-Hour Average	—	3.68 (4.50 ppb)†
Total Fluorides - ppm Dry weight basis (as fluoride ion) in and on forage for consumption by grazing ruminants		
The following concentrations are not to be exceeded:		
Average concentration of monthly samples over growing season (not to exceed 6 consecutive months)	—	40 ppm (w/w)
Two-Month Average	—	60 ppm (w/w)
One-Month Average	—	80 ppm (w/w)
Odors		At any time when 1 volume unit of ambient air is mixed with 7 volume units of odorless air, the mixture must have no detectable odor.

Footnotes:

† This average is not to be exceeded more than once per year.

‡ This secondary annual standard is to be used as a guide in assessing implementation plans to achieve the twenty-four (24) hour standard.

⊕ The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm (235 $\mu g/m^3$) is equal to or less than 1, as determined by Appendix H of 40 CFR 50.

[◇ This standard is to be used as a guide in devising implementation plans to achieve photochemical oxidant standards.]

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

401 KAR 59:260. New blast furnace casthouses.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new blast furnace casthouses.

Section 1. Applicability. The provisions of this regulation shall apply to blast furnace casthouses commenced on or after the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Blast furnace casthouses" means the building or buildings which houses the following operations:

(a) Pouring of hot metal from a blast furnace from an opening at the bottom of the furnace through a runner into a torpedo car; and

(b) Pouring of the slag from a blast furnace from an opening at the bottom of the furnace into runner(s).

(2) "Blast furnace" means a furnace producing pig iron by introducing iron-bearing materials, coke, and flux materials into a vessel and introducing heated combustion air to form a reducing gas which is passed counter current to the descending raw materials.

(3) "Classification date" means the effective date of this regulation.

(4) "Control device" means the air pollution control equipment used to remove particulate matter generated in the blast furnace casthouses from the effluent gas stream.

Section 3. Standard for Particulate Matter. No owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall cause to be discharged into the atmosphere from the blast furnace casthouse any gases which:

(1) Contain particulate matter in excess of 0.010 gr/dscf as tested during pouring of hot metal and slag, if such gases exit from a control device; or

(2) Exhibit an average opacity in excess of twenty (20) percent.

Section 4. Test Methods and Procedures. Reference methods in Appendix A of 40 CFR 60, except as provided in subsection (5) of this section or in 401 KAR 50:045, *and as supplemented by the procedures in subsection (6) of this section,* shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(1) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(2) Reference Method 1 for sample and velocity traverses;

(3) Reference Method 2 for velocity and volumetric flow rate;

(4) Reference Method 3 for gas analysis; and

(5) Reference Method 9 for the determination of opacity, except for averaging time and number of observations. For the purpose of determining compliance with Section 3(2), a series of consecutive observations taken at fifteen (15) second intervals shall be made during the entire period of time that hot metal is being poured. Determination of compliance shall be based on a comparison of the standards in Section 3(2) with the highest average opacity occurring over any six (6) consecutive minutes during the period of observation.

(6) For the purpose of determining opacity from a blast furnace casthouse pursuant to Section 3(2) of this regulation, the following procedures shall be used to supplement Method 9:

(a) In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

(b) In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

(c) If emissions are being emitted from the roof monitor and other points on the building, the reader may read whichever plume is most opaque at the time of the reading and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance.

Section 5. Variances. The department may grant a variance from the control requirements of this regulation. Requests for such a variance shall be supported by adequate technical and economic documentation, provided that any alternative strategy shall result in at least an equivalent overall reduction in particulate emissions from the source as would be required by this regulation.

JACKIE SWIGART, Secretary
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NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Air Pollution
(Proposed Amendment)

401 KAR 61:015. Existing indirect heat exchangers.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection

Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing indirect heat exchangers.

Section 1. Applicability. The provisions of this regulation shall apply to each affected facility commenced before the applicable classification date defined below.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 and 401 KAR 50:025.

(1) "Affected facility" means an indirect heat exchanger having a heat input capacity of more than one (1) million BTU per hour.

(2) "Indirect heat exchanger" means any piece of equipment, apparatus, or contrivance used for the combustion of fuel in which the energy produced is transferred to its point of usage through a medium that does not come in contact with or add to the products of combustion.

(3) "Classification date" means:

(a) August 17, 1971, for affected facilities with a capacity of more than 250 million BTU per hour heat input;

(b) April 9, 1972, for affected facilities with a capacity of 250 million BTU per hour heat input or less.

Section 3. Method for Determining Allowable Emission Rates. (1) Except as provided in subsection (3) of this section, the total rated heat input capacity of all affected facilities, commenced before the applicable classification date within a source shall be used as specified in Sections 4 and 5 to determine the allowable emission in terms of pounds of effluent per million BTU heat input.

(2) At such time as any affected facility is assigned an allowable emission rate by the department, at no time thereafter shall that rate be changed due to inclusion or shutdown of any affected facility at the source.

(3) (a) A source may petition the department to establish an allowable emission rate which may be apportioned without regard to individual affected facility heat input provided that the conditions specified in paragraphs (b), (c), (d), and (e) of this subsection are met. Such allowable emission rate shall be determined according to the following equation:

$$F = (AB + DE)/C$$

Where:

A = the allowable emission rate (in pounds per milion BTU input), as determined according to 401 KAR 59:015, Section 3(1);

B = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced on or after the applicable classification date within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

C = the total rated heat input (in millions of BTU per hour) of all affected facilities within a source, including those for which an application to construct, modify, or reconstruct has been submitted to the department;

D = the total emission rate (in pounds per million BTU input) as determined according to subsection (1) of this section;

E = the total rated heat input (in millions of BTU per hour) of all affected facilities commenced before the applicable classification date;

F = the alternate allowable emission rate (in pounds per actual million BTU input).

(b) At no time shall the owner or operator of the source allow the total emissions (in pounds per hour) from all affected facilities within the source divided by the total actual heat input (in millions of BTU per hour) of all affected facilities within the source to exceed the alternate allowable emission rate as determined by paragraph (a) of this subsection.

(c) At no time shall the owner or operator of any source subject to federal new source performance standards allow the emissions from any affected facility commenced on or after the applicable classification date to exceed the allowable emission rate determined by use of that affected facility's rated heat input (instead of the heat input as determined by subsection (1) of this section) as specified in 401 KAR 59:015, Sections 4 and 5.

(d) The owner or operator of the source must demonstrate compliance with this subsection by conducting a performance test according to 401 KAR 50:045 on each affected facility under such conditions as may be specified by the department.

(e) Upon petition, the department will establish an alternate emission rate in accordance with this subsection if the owner or operator demonstrates to the department's satisfaction that the source will maintain compliance with this subsection on a continual basis.

Section 4. Standard for Particulate Matter. Except as provided for in Section 3(3), no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility:

(1) Particulate matter in excess of that specified in Appendix A of this regulation;

(2) Emissions which exhibit greater than twenty (20) percent opacity in regions classified as Priority I with respect to particulate matter, except:

(a) That, for cyclone or pulverized fired indirect heat exchangers, a maximum of *twenty-seven (27)* [forty (40)] percent opacity shall be permissible for not more than *one (1) six (6)* [two (2) consecutive] minute[s] *period* in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of forty (40) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty (60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of forty (40) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(3) Emissions which exhibit greater than forty (40) percent opacity in regions classified as Priority II or III with respect to particulate matter except:

(a) That, for cyclone or pulverized fired indirect heat exchangers, a maximum of *forty-seven (47)* [sixty (60)] percent opacity shall be permissible for not more than *one (1) six (6)* [two (2) consecutive] minute[s] *period* in any sixty (60) consecutive minutes;

(b) That, for stoker fired indirect heat exchangers, a maximum of sixty (60) percent opacity shall be permissible for not more than six (6) consecutive minutes in any sixty

(60) consecutive minutes during cleaning the fire box or blowing soot and, for indirect heat exchangers with stationary grates, a maximum of sixty (60) percent opacity shall be permissible during cleaning of the grates for not more than three (3) consecutive minutes in any sixty (60) consecutive minutes for each section of grates that are cleaned;

(c) For emissions from an indirect heat exchanger during building a new fire for the period required to bring the boiler up to operating conditions provided the method used is that recommended by the manufacturer and the time does not exceed the manufacturer's recommendations.

(4) The emission limitations contained in other subsections of this section shall not apply to any affected facility (with more than 250 million BTU per hour heat input capacity which was in being or under construction before August 17, 1971, or any affected facility with 250 million BTU per hour capacity or less which was in being or under construction prior to April 9, 1972) if that affected facility was in compliance prior to April 9, 1972, with, or has a valid permit to operate within the provisions of the previous Kentucky Air Pollution Control Commission Regulation No. 7 entitled "Prevention and Control of Emissions of Particulate Matter from Combustion of Fuel in Indirect Heat Exchangers." These affected facilities shall comply with the emission limitations in that regulation except that replacement of the particulate emissions control device associated with the affected facility shall subject it to the standard contained in this section.

Section 5. Standard for Sulfur Dioxide. (1) Except as provided for in Section 3(3) and subsection (5) of this section, no owner or operator of an affected facility subject to the provisions of this regulation shall cause to be discharged into the atmosphere from that affected facility, any gases which contain sulfur dioxide in excess of that specified in Appendix B of this regulation.

(2) When different fuels are burned simultaneously in any combination, the applicable standard shall be determined by proration using the following formula:

Allowable Sulfur Dioxide Emission,

$$\text{lb/MM BTU} = \frac{y\,(a) + z\,(b)}{y + z}$$

Where:

y is the percent of total heat input derived from liquid or gaseous fuel;

z is the percent of total heat input derived from solid fuel;

a is the allowable sulfur dioxide emission in pounds per million BTU heat input derived from liquid or gaseous fuel; and

b is the allowable sulfur dioxide emissions in pounds per million BTU heat input derived from solid fuel.

(3) Compliance shall be based on the total heat input from all fuels burned, including gaseous fuels.

(4) In counties classified as VA with respect to sulfur dioxide, for sources having a total heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), no owner or operator shall allow the annual average sulfur dioxide emission rate from all existing and new affected facilities combined at the source to exceed 0.60 pounds per million BTU.

(5) In counties classified as 1A with respect to sulfur dioxide, at sources having a total rated heat input greater than fifteen hundred million BTU per hour (1500 MM BTU/hr.) as determined by Section 3(1), the department shall allow one (1) affected facility, as specified on the operating permit, to emit sulfur dioxide at a rate not to exceed a twenty-four (24) hour average of 8.0 pounds per million BTU, during those periods of time when the affected facility is being operated for the purpose of generating high sulfur dioxide content flue gases for use in any experimental sulfur dioxide removal system.

Section 6. Monitoring of Operations. (1) The sulfur content of solid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(2) The sulfur content of liquid fuels, as burned, shall be determined in accordance with the methods specified by the department.

(3) The rate of fuel burned for each fuel shall be measured daily or at shorter intervals and recorded. The heating value and ash content of fuels shall be ascertained at least once per week and recorded. Where the indirect heat exchanger is used to generate electricity, the average electrical output and the minimum and maximum hourly generation rate shall be measured and recorded daily.

(4) The owner or operator of any indirect heat exchanger of more than 250 million BTU per hour heat input subject to the provisions of this regulation shall maintain a file of all measurements required by this regulation and summarized monthly. The record of any such measurement(s) and summary shall be retained for at least two (2) years following the date of such measurements and summaries.

(5) The department may require for any indirect heat exchanger of less than 250 million BTU per hour heat input any or all the fuel monitoring required by this section.

(6) For an indirect heat exchanger that does not use a flue gas desulfurization device, a continuous monitoring system as specified in 401 KAR 61:005 for measuring sulfur dioxide emissions is not required if the owner or operator monitors such emissions by fuel sampling and analysis pursuant to Section 7(6) of 401 KAR 59:015.

Section 7. Test Methods and Procedures. (1) Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Sections 4 and 5 shall be conducted according to the following methods (filed by reference in 401 KAR 50:015):

(a) Reference Method 1 for the selection of sampling site and sample traverses;

(b) Reference Method 3 for gas analysis to be used when applying Reference Methods 5, 6 and 7;

(c) Reference Method 5 for the concentration of particulate matter and the associated moisture content;

(d) Reference Method 6 for the concentration of sulfur dioxide; and

(e) Reference Method 7 for the concentration of nitrogen oxides.

(2) For Reference Method 5, Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sampling volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling times or volumes, when necessitated by process variables or other factors, may be approved by the department. The probe and filter holder heating systems in the sampling train shall be set to provide a gas temperature no greater than 160°C (320°F).

(3) For Reference Methods 6 and 7, the sampling site shall be the same as that selected for Reference Method 5. The sampling point in the duct shall be at the centroid of the cross section or at a point no closer to the walls than one (1) m (3.28 ft.). For Reference Method 6, the sample shall be extracted at a rate proportional to the gas velocity at the sampling point.

(4) For Reference Method 6, the minimum sampling time shall be twenty (20) minutes and the minimum sampling volume shall be 0.02 dscm (0.71 dscf) for each sample. The arithmetic mean of two (2) samples shall constitute one (1) run. Samples shall be taken at approximately thirty (30) minute intervals.

(5) For Reference Method 7, each run shall consist of at least four (4) grab samples taken at approximately fifteen (15) minute intervals. The arithmetic mean of the samples shall constitute the run value.

(6) For each run using the methods specified by subsection (1)(c), (d), and (e) of this section, the emissions expressed in g/million cal (lb/million BTU) shall be determined by the following equation:

$$E = CF \frac{20.9}{20.9 - \%O_2}$$

Where:

E = pollutant emission, g/million cal (lb/million BTU).

C = pollutant concentration, g/dscm (lb/dscf) determined by Reference Method 5, 6 or 7.

F = a factor as determined in 401 KAR 59:015, Section 7.

$\%O_2$ = oxygen content by volume (expressed as percent), dry basis.

Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures for Reference Method 3 as applicable. The sample shall be obtained as follows:

(a) For determination of sulfur dioxide and nitrogen oxides emissions, the oxygen sample shall be obtained simultaneously at the same point for Reference Method 6 and 7 determinations, respectively. For Reference Method 7, the oxygen sample shall be obtained using the grab sampling and analysis procedures for Reference Method 3.

(b) For determination of particulate emissions, the oxygen sample shall be obtained simultaneously by traversing the duct at the same sampling location used for each run of Reference Method 5 under subsection (2) of this section. Reference Method 1 shall be used for selection of the number of traverse points except that no more than twelve (12) sample points are required.

(7) When combinations of fossil fuels are fired, the heat input, expressed in cal/hr (BTU/hr), shall be determined during each testing period by multiplying the gross calorific value of each fuel fired by the rate of each fuel burned. Gross calorific value shall be determined in accordance with ASTM methods D2015-66(72) (solid fuels), D240-64(73) (liquid fuels), or D1826-64(70) (gaseous fuels), as applicable (ASTM designations filed by reference in 401 KAR 50:015). The rate of fuels burned during each testing period shall be determined by suitable methods and shall be confirmed by a material balance over the steam generation system.

Section 8. Compliance Timetable. (1) Affected facilities located in areas designated as attainment for sulfur dioxide and/or particulate matter shall be in compliance as of June 6, 1979.

(2) (a) In Class IA counties, the owner or operator of any affected facility in any source whose total rated capacity is sixteen thousand million BTU per hour (16,000 MM BTU/hr) or more shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than May 1, 1978;
2. Award contracts for complying coal by January 1, 1979;
3. Initiate use of such complying coal on or before December 1, 1979;
4. Demonstrate compliance by performance tests on or before October 1, 1981.

(b) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than fifteen hundred million BTU per hour (1,500 MM BTU/hr) but less than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a final control plan for achieving compliance with this regulation no later than May 1, 1979;
2. Award contracts for complying coal by August 1, 1979;
3. Initiate use of such complying coal on or before January 1, 1980;
4. Demonstrate compliance by performance tests on or before March 1, 1980.

(c) In Class IVA counties designated as non-attainment for sulfur dioxide, the owner or operator of any affected facility in any source with a total rated capacity of greater than twenty-one thousand million BTU per hour (21,000 MM BTU/hr) shall be required to complete the following:

1. Submit a control plan for flue gas desulfurization and initiate construction of a coal washing plant on or before June 1, 1978;
2. Issue invitations for bids for construction and installation of flue gas desulfurization equipment on or before October 1, 1978;
3. Award contract for construction and installation of flue gas desulfurization equipment on or before March 1, 1979;
4. Initiate construction of flue gas desulfurization equipment on or before December 1, 1979;
5. Complete construction of coal washing plant on or before December 1, 1980;
6. Complete construction of flue gas desulfurization equipment on or before June 1, 1982;
7. Demonstrate compliance by performance tests on or before September 1, 1982.

JACKIE SWIGART, Secretary

ADOPTED: September 15, 1983

RECEIVED BY LRC: September 15, 1983 at 2 p.m.

See public hearings scheduled on page 391.

(See Appendices A and B on the following pages)

APPENDIX A TO 401 KAR 61:015
ALLOWABLE PARTICULATE EMISSION RATES

For sources having a Total Heat Input Capacity (as determined by Section 3(1) of:	The standard (in pounds per million BTU actual heat input) is (based upon the Priority classification with respect to particulates of the Region in which the source is located):		
(MM BTU/Hr.)	Priority I	Priority II	Priority III
10 or less	0.56	0.75	0.80
50	0.38	0.52	0.57
100	0.33	0.44	0.49
250	0.26	0.35	0.40
500	0.22	0.30	0.34
1000	0.19	0.26	0.30
2500	0.15	0.21	0.24
5000	0.13	0.18	0.21
7500	0.12	0.16	0.19
10000 or more	0.11	0.15	0.18

Interpolation of allowable emissions for intermediate heat input values not specified above may be accomplished by use of the equations shown below for the appropriate heat input range specified. In all equations X = millions of BTU per hour heat input as determined by Section 3(1), and Y = allowable particulate emissions in pounds per million BTU actual heat input.

Region Classification with respect to Particulate Matter	Range (MM BTU/Hr)	Allowable (Pounds/MM BTU)
Priority I	10 to 10,000	$Y = 0.9634\ X^{-0.2356}$
Priority II	10 to 10,000	$Y = 1.2825\ X^{-0.2330}$
Priority III	10 to 10,000	$Y = 1.3152\ X^{-0.2159}$

APPENDIX B
TO
401 KAR 61:015

All standards are twenty-four (24) hour averages

For sources having a total heat input (as determined by Section 3(1)) of: (MM BTU/Hr.)	The standard (in pounds per million BTU actual heat input) is (based upon the classification with respect to sulfur dioxide of the county in which the source is located):															
	CLASS I		CLASS IA		CLASS II		CLASS III		CLASS IV		CLASS IVA		CLASS V		CLASS VA	
	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel	Liquid/ Gaseous Fuel	Solid Fuel
10 or less	3.0	5.0	3.0	5.0	4.0	6.0	4.6	7.0	5.4	8.0	5.4	8.0	6.0	9.0	6.0	9.0
50	1.5	2.4	1.5	3.9	2.4	3.3 [3.7]	3.2	4.8	4.3	6.4	4.3	6.4	4.9	7.3	4.9	7.3
100	1.2	1.8	1.2	3.6	2.0	2.5 [3.0]	2.7	4.1	4.0	5.9	4.0	5.9	4.5	6.7	4.5	6.7
150	1.0	1.5	1.0	3.3	1.8	2.2 [2.7]	2.5	3.7	3.7	5.6	3.7	5.6	4.3	6.4	4.3	6.4
200	0.9	1.3	0.9	3.2	1.6	2.0 [2.5]	2.3	3.5	3.6	5.4	3.6	5.4	4.1	6.2	4.1	6.2
250-1500	0.8	1.2	0.8	3.1	1.5	1.8 [2.3]	2.2	3.3	3.5	5.2	3.5	5.2	4.0	6.0	4.0	6.0
greater than 1,500 but less than 21,000	0.8	1.2	0.8	1.2	1.5	1.8 [2.3]	2.2	3.3	3.5	5.2	2.3	3.5	4.0	6.0	1.1	1.1
21,000 or more	0.8	1.2	0.8	1.2	1.5	1.8 [2.3]	2.2	3.3	3.5	5.2	2.1	3.1	4.0	6.0	1.1	1.1

Interpolation of allowable emissions for rated capacity values between 10 and 250 million BTU heat input may be accomplished by use of the equations shown below for the appropriate fuel specified. In all equations Y = allowable sulfur dioxide emission in pounds per million BTU actual heat input, X = millions of BTU per hour heat input capacity rating as determined by Section 3(1).

COUNTY CLASS	FUEL	ALLOWABLE (POUNDS/MM BTU)
I	Liquid/Gaseous	$Y = 7.7223 X^{-0.4106}$
	Solid	$Y = 13.8781 X^{-0.4434}$
IA	Liquid/Gaseous	$Y = 7.7223 X^{-0.4106}$
	Solid	$Y = 7.0382 X^{-0.1485}$
II	Liquid/Gaseous	$Y = 8.0681 X^{-0.3047}$
	Solid	$Y = \frac{14.1967 X^{-0.3740}}{[11.9134 X^{-0.2979}]}$
III	Liquid/Gaseous	$Y = 7.7966 X^{-0.2291}$
	Solid	$Y = 11.9872 X^{-0.2336}$
IV	Liquid/Gaseous	$Y = 7.3639 X^{-0.1347}$
	Solid	$Y = 10.8875 X^{-0.1338}$
IVA	Liquid/Gaseous	$Y = 7.3639 X^{-0.1347}$
	Solid	$Y = 10.8875 X^{-0.1338}$
V	Liquid/Gaseous	$Y = 8.0189 X^{-0.1260}$
	Solid	$Y = 12.0284 X^{-0.1260}$
VA	Liquid/Gaseous	$Y = 8.0189 X^{-0.1260}$
	Solid	$Y = 12.0284 X^{-0.1260}$

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

401 KAR 61:080. Steel plants using existing basic oxygen process furnaces.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for control of emissions from steel plants using existing basic oxygen process furnaces.

Section 1. Applicability. Provisions of this regulation are applicable to the following affected facilities commenced before the classification date defined below: basic oxygen process furnaces, associated metallurgical equipment, and dust-handling equipment.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Basic oxygen process furnaces (BOPF)" means any furnace producing steel by charging scrap steel, hot metal and flux materials into a vessel and introducing a high volume of an oxygen-rich gas.

(2) "Dust-handling equipment" means any equipment used to handle particulate matter collected by a control device for a BOPF and/or associated equipment subject to this regulation.

(3) "Control device" means the air pollution control equipment used to remove from the effluent gas stream, particulate matter generated by a BOPF and/or associated equipment.

(4) "Steel production cycle" means the operations required to produce each batch of steel and includes the following major functions: scrap preheating, scrap charging, hot metal charging, oxygen blowing, dumping slag and tapping.

(5) "Charge" means the addition of steel scrap, molten iron and other materials into a BOPF.

(6) "Tap" means the pouring of molten steel from a BOPF.

(7) "Shop" means the building or bay which houses one (1) or more BOPFs and associated metallurgical equipment.

(8) "Classification date" means June 11, 1973.

(9) "Associated metallurgical equipment" means process equipment located in the shop used in conjunction with external desulfurization of molten iron, hot metal transfer, and transfer of slag and kish.

Section 3. Standard for Particulate Matter. (1) [On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed,] No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere [from a basic oxygen process furnace and/or associated metallurgical equipment located in the same shop] any gases which [:]

[(a) Exit from a control device and exhibit opacity of twenty (20) percent or more. The owner or operator may elect to substitute an alternative opacity standard, in lieu of the above opacity standard prescribed in this subsection, provided that the following mass emissions standards are not exceeded:]

[1.] *exceed* a maximum particulate concentration of 0.030 gr/dscf from the control device associated with the BOPF as measured only during the main oxygen blowing period. [; and]

(2) [2.] *No owner or operator shall cause to be discharged into the atmosphere any gases which exceed* a maximum particulate concentration of 0.010 gr/dscf from a control device associated with any other BOPF shop metallurgical equipment as measured only during operation of such equipment. [; or]

(3) No owner or operator shall cause to be discharged into the atmosphere any gases which exit from a control device and exhibit an opacity of twenty (20) percent or more.

(4) [(b)] *No owner or operator shall cause to be discharged into the atmosphere any gases which* exit from a shop, due to operations of a BOPF and/or associated metallurgical equipment, and exhibit opacity of twenty (20) percent or more for more than eleven (11) times as observed at fifteen (15) second intervals over a period of any sixty (60) consecutive minutes. Reference Method 9 of Appendix A to 40 CFR 60, filed by reference in 401 KAR 50:015 *and supplemented by the procedures in Section 5(4) of this regulation*, shall be used for determining opacity in this *subsection* [paragraph], except for averaging time and number of observations.

(5) [(2)] [On and after the date on which the performance test required to be conducted by 401 KAR 61:005 is completed,] No owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere from dust-handling equipment any gases which exhibit ten (10) percent opacity or greater.

Section 4. Monitoring of Operations. The owner or operator of an affected facility shall maintain a single time-measuring instrument which shall be used in recording daily the time and duration of each steel production cycle, and the time and duration of any diversion of exhaust gases from the main stack servicing the BOPF.

Section 5. Test Methods and Procedures. (1) Reference methods in Appendix A of 40 CFR 60, except as provided under 401 KAR 50:045, shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(a) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(b) Reference Method 1 for sample and velocity traverses;

(c) Reference Method 2 for velocity and volumetric flow rate;

(d) Reference Method 3 for gas analysis; and

(e) Reference Method 9 for opacity determination for emissions discharged through a control device and from dust-handling equipment. For the purpose of this regulation, opacity observation taken at fifteen (15) second intervals immediately before and after a diversion of exhaust gases from the stack may be considered to be consecutive for the purpose of computing an average opacity for a six (6) minute period. Observations taken during a diversion shall not be used in determining compliance with the opacity standard.

(2) For Reference Method 5, the sampling for each run shall continue for an integral number of cycles with total

duration of at least sixty (60) minutes. The sampling rate shall be at least 0.9 dscm/hr (0.53 dscf/min) except that shorter sampling times when necessitated by process variables or other factors may be approved by the department. For the purpose of testing the control device associated with the BOPF a cycle shall start at the beginning of the primary oxygen blow and shall terminate at the end of the primary oxygen blow.

(3) Sampling of flue gases during each steel production cycle shall be discontinued whenever all flue gases are diverted from the stack and shall be resumed after each diversion period.

(4) For the purpose of determining opacity from a blast furnace casthouse pursuant to Section 3(4) of this regulation, the following procedures shall be used to supplement Method 9:

(a) In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

(b) In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

(c) If emissions are being emitted from the roof monitor and other points on the building, the reader may read whichever plume is most opaque at the time of the reading and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance.

Section 6. Compliance Timetable. The owner or operator of an affected facility shall demonstrate compliance with Section 3(1) on or before December 31, 1982. Compliance with all other provisions of this regulation shall have been demonstrated on or before June 6, 1979.

Section 7. Alternate Emission Limitations. The owner or operator of an affected facility subject to this regulation may propose an alternate plan pursuant to the requirements of 401 KAR 51:055 to meet the emissions limitations required by this regulation.

JACKIE SWIGART, Secretary
ADOPTED: September 15, 1983
RECEIVED BY LRC: September 15, 1983 at 2 p.m.
See public hearings scheduled on page 391.

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

401 KAR 61:170. Existing blast furnace casthouses.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 13.082, 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing blast furnace casthouses which are located in, or impact upon, an area designated non-attainment for particulate matter under 401 KAR 51:010.

Section 1. Applicability. The provisions of this regulation shall apply to blast furnace casthouses commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Blast furnace casthouses" means the building or buildings which houses the following operations:

(a) Pouring of hot metal from a blast furnace from an opening at the bottom of the furnace through a runner into a torpedo car; and

(b) Pouring of the slag from a blast furnace from an opening at the bottom of the furnace into runner(s).

(2) "Blast furnace" means a furnace producing pig iron by introducing iron-bearing materials, coke, and flux materials into a vessel and introducing heated combustion air to form a reducing gas which is passed counter current to the descending raw materials.

(3) "Classification date" means the effective date of this regulation.

(4) "Control device" means the air pollution control equipment used to remove particulate matter generated in the blast furnace casthouses from the effluent gas stream.

Section 3. Standard for Particulate Matter. No owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall cause to be discharged into the atmosphere from the blast furnace casthouse any gases which:

(1) Contain particulate matter in excess of 0.010 gr/dscf as tested during pouring of hot metal and slag, if such gases exit from a control device; or

(2) Exhibit an average opacity in excess of twenty (20) percent.

Section 4. Test Methods and Procedures. Reference methods in Appendix A of 40 CFR 60, except as provided in subsection (5) of this section or in 401 KAR 50:045, *and as supplemented by the procedures in subsection (6) of this section,* shall be used to determine compliance with the standards prescribed under Section 3 as follows:

(1) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(2) Reference Method 1 for sample and velocity traverses;

(3) Reference Method 2 for velocity and volumetric flow rate;

(4) Reference Method 3 for gas analysis; and
(5) Reference Method 9 for the determination of opacity, except for averaging time and number of observations. For the purpose of determining compliance with Section 3(2), a series of consecutive observations taken at fifteen (15) second intervals shall be made during the entire period of time that hot metal is being poured. Determination of compliance shall be based on a comparison of the standards in Section 3(2) with the highest average opacity occurring over any six (6) consecutive minutes during the period of observation.

(6) For the purpose of determining opacity from a blast furnace casthouse pursuant to Section 3(2) of this regulation, the following procedures shall be used to supplement Method 9:

(a) In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the sun.

(b) In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

(c) If emissions are being emitted from the roof monitor and other points on the building, the reader may read whichever plume is most opaque at the time of the reading and note that fact on his observation sheet. If the reader has observed two (2) or more points of emission, all observations recorded during the six (6) minute period from these two (2) or more points of emission shall be used to determine compliance.

Section 5. Compliance Timetable. The owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall demonstrate compliance with Section 3 of this regulation on or before December 31, 1982.

Section 6. Alternate Emission Limitations. The owner or operator of an affected facility subject to this regulation may propose an alternate plan pursuant to the requirements of 401 KAR 51:055 to meet the emissions limitations required by this regulation.

JACKIE SWIGART, Secretary
ADOPTED: September 15, 1983
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See public hearings scheduled on page 391.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:010. Definitions.

RELATES TO: KRS 183.861 to 183.990
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To define certain terms used in the regulations of the Kentucky Airport Zoning Commission.

Section 1. Administrative Terms. (1) "Administrator" means the Administrator of the Kentucky Airport *Zoning* Commission or any individual to whom he has delegated his authority in the matter concerned.
(2) "Commission" means the Kentucky Airport Zoning Commission created pursuant to KRS 183.861 to 183.990.
(3) "Local zoning body" means an independent, joint or regional planning commission or any local government which is a member of a planning unit created pursuant to KRS Chapter 100.

Section 2. Zoning Terms. (1) "Airport" as used in these regulations, means any area of land or water *used in maneuvering for landing and taking off of aircraft* operated or constructed by *any person*, an airport board or other governmental agency located within the Commonwealth which is *available for public use and is* designed for the landing and taking-off of aircraft, and any appurtenant areas used, or intended for use, for airport building, facilities, or rights of way, and all airport buildings and facilities located thereon; including, but not limited to, runways, taxiways, aircraft ramps, terminal and cargo buildings, gates, hangars, shops, service buildings, automobile parking, motels, restaurants, retail and wholesale stores, banks, automobile service facilities and garages, and entrance and service roads used or useful in connection with or as a part of the airport.
(2) "Jurisdictional surface" means that surface extending from the periphery of the *runway* airport reference points as established on the zoning map and extending outward and upward therefrom at a slope and horizontal distance as defined in these regulations.
(3) *"Public use airport" means an airport that is open to the general public without prior request to use the airport.* ["Zoned airspace" means that airspace within the primary approach surface and above the conical surface in which zoning jurisdiction is assumed by these regulations.]
[(4) "Reference point" for each runway means that point as depicted on the airport map at the end of each runway as presently exists or as depicted on the airport master plan or as proposed to be extended in a letter of intent on file with the Federal Aviation Administration, all of which shall have reasonable assurance of completion. The elevation of each reference point shall in all cases be its height above sea level.]
(4) [(5)] "Runway" means the surface of an airport used for landing and taking off of aircraft as depicted on the airport zoning map and airport master plan, *and FAA form 7480-1 Notice of Landing Area Proposal. There are four (4) types of runways:*
(a) "Nonprecision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been ap-

proved or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document.

(b) "Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS), or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated by an FAA approved airport layout plan or any other FAA planning document.

(c) "Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.

(d) "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures, with no straight-in instrument approach procedure and no instrument designation indicated on an FAA approved airport layout plan, or by any planning document submitted to the FAA by competent authority.

[(6) "Obstruction" means any structure, object of natural growth, or use of land which protrudes into the zoned airspace as herein defined or a height of over 200 feet above the ground level or water level of all waters within the Commonwealth of Kentucky.]

(5) [(7)] "Navigable airspace" means air space above the minimum safe altitudes of flight prescribed by the regulations of the federal aviation administration FAR Part 91.79 or department consistent therewith, and includes the air space necessary for normal landing or taking off of aircraft.

[(8) "Primary approach surface" means the area as depicted on Airport Zoning Maps with the horizontal distance beginning at the width of the primary surface and extending outward to a point where the prescribed approach slope intersects the horizontal surface.]

[(9) "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of 4,000 feet.]

[(10) "Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc referred to above is:]

[(a) 5,000 feet for all runways designated as utility or visual;]

[(b) 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two (2) adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.]

(6) Public airport imaginary surfaces. The size of each such imaginary surface is based on the category of each runway according to the type of approach available or planned for that runway. The slope and dimensions of the approach surface applied to each end of a runway are determined by the most precise approach existing or planned for that runway end.

(a) Horizontal surface—a horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is:

1. 5,000 feet for all runways designated as utility or visual;

2. 10,000 feet for all other runways. The radius of the arc specified for each end of a runway will have the same arithmetical value. That value will be the highest determined for either end of the runway. When a 5,000-foot arc is encompassed by tangents connecting two (2) adjacent 10,000-foot arcs, the 5,000-foot arc shall be disregarded on the construction of the perimeter of the horizontal surface.

(b) Concial surface—a surface extending outward and upward from the periphery of the horizontal surface at a scope of 20 to 1 for a horizontal distance of 4,000 feet.

(c) Primary surface—a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; but when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a primary surface is:

1. 250 feet for utility runways having only visual approaches.

2. 500 feet for utility runways having nonprecision instrument approaches.

3. For other than utility runways the width is:

a. 500 feet for visual runways having only visual approaches.

b. 500 feet for nonprecision instrument runways having visibility minimums greater than three-fourths (¾) statute mile.

c. 1,000 feet for a nonprecision instrument runway having a nonprecision instrument approach with visibility minimums as low as three-fourths (¾) of a statute mile, and for precision instrument runways. The width of the primary surface of a runway will be that width prescribed in this section for the most precise approach existing or planned for either end of that runway.

(d) Approach surface—a surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of each runway based upon the type of approach available or planned for that runway end.

1. The inner edge of the approach surface is the same width as the primary surface and it extends uniformly to a width of:

a. 1,250 feet for that end of a utility runway with only visual approaches;

b. 1,500 feet for that end of a runway other than a utility runway with only visual approaches;

c. 2,000 feet for that end of a utility runway with a nonprecision instrument approach;

d. 3,500 feet for that end of a nonprecision instrument runway other than utility, having visibility minimums greater than three-fourths (¾) of a statute mile;

e. 4,000 feet for that end of a nonprecision instrument runway, other than utility, having a nonprecision instrument approach with visibility minimums as low as three-fourth (¾) statute mile; and

f. 16,000 feet for precision instrument runways.

2. The approach surface extends for a horizontal distance of:

a. 5,000 feet at a slope of 20 to 1 for all utility and visual runways;

b. 10,000 feet at a slope of 34 to 1 for all nonprecision instrument runways other than utility; and

c. 10,000 feet at a slope of 50 to 1 with an additional 40,000 feet at a slope of 40 to 1 for all precisions instrument runways.

3. The outer width of an approach surface to an end of a runway will be that width prescribed in this subsection for the most precise approach existing or planned for that runway end.

(e) Transitional surface—these surfaces extend outward and upward at right angles to the runway centerline and the runway centerline extended at a slope of 7 to 1 from the sides of the primary surface and from the sides of the approach surfaces. Transitional surfaces for those portions of the precision approach surface which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at right angles to the runway centerline.

(7) "Aircraft" means a heavier than air fixed wing aircraft or rotocraft that depends principally on its engine(s) for flight through the air.

Section 3. General Definitions. (1) "Person" means any individual, firm, partnership, corporation, company, association, or body politic, and includes any trustee, receiver, assignee or other similar representative thereof.

(2) "Structure" means any object constructed or installed by man, including, but not limited to, buildings, towers, smokestacks, and overhead transmission lines, and objects of natural growth whether temporary or permanent.

(3) "Body politic" means the Commonwealth of Kentucky and its agencies, or any instrumentality of the state government, county or city government.

(4) "Alter a structure" means to increase or decrease the height of a structure or change the visibility of a structure by painting, marking or lighting the structure in a manner different from the painting, marking, and lighting standards set forth in the regulations of the commission.

(5) "Natural flyway" means a valley or other suitable terrain conducive for air navigation by helicopter which ordinarily contains a highway, railway or waterway which leads to a populated, industrial or commercial area.

Section 4. Airport Master Plan. As used in the regulations of the commission, *an approved* "Airport Master Plan" or "airport map" means the basic plan for the layout of a public airport that shows as a minimum:

(1) The present boundaries of the airport and of the offsite area that the owner of a public airport owns or controls for airport purposes, and of their proposed additions;

(2) The location and nature of existing and proposed airport facilities (such as runways, taxiways, aprons, terminal buildings, hangars, and roads) and of their proposed modification and extensions; and,

(3) The location of existing and proposed non-aviation areas, and of their existing improvements.

(4) An owner of an existing or proposed public airport may file a copy of its airport layout plan prepared under Part 151 of the Federal Aviation Regulations that has been approved by the FAA in lieu of an airport master plan or airport map.

Section 5. Definitions Relating to Permits. (1) "Permits" means the *written authorization in accordance with the findings and directions of the commission* [approval of an Application for A Permit] to alter or construct a structure *issued* by the administrator of the commission pursuant to [the regulations of the] commission *regulations.*

(2) "Airport land use permit" means the approval by order of the commission of a request by a public airport to change a use or activity within an airport which is otherwise prohibited by the regulations of the commission.

Section 6. "Aeronautical study" means *a review or analysis* [that study] of the effect of the proposed construction or alteration of a structure upon the operation of air navigation facilities and the safe and efficient utilization of the navigable airspace.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:020. Administrator.

RELATES TO: KRS 183.861 to 183.990
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To create the position of the administrator of the Kentucky Airport Zoning Commission and to define his duties and authority such that the Office of the Kentucky Airport Zoning Commission may be kept open continuously for the transaction of business and to expedite the business of the commission for the convenience of the public.

Section 1. There shall be appointed upon order of the commission, an individual who shall be the administrator of the commission.

Section 2. It shall be the duty of the administrator to maintain a public file in the offices of the *Kentucky* [Department of] Transportation *Cabinet,* Division of *Mass Transportation* [Aeronautics and Airport Zoning] showing airport zoning maps of each public *use* airport within the state and the area around such airport over which it has [assumed] jurisdiction for zoning purposes and to maintain a public file showing any regulations adopted pertaining to land uses [and such shall constitute public notice of same].

Section 3. The administrator shall have the authority and power, subject to the review of the commission, to:

(1) Reject, approve and disapprove applications for permits, as set forth in the regulations of the commission;

(2) Conduct investigations of a violation of the regulations of the commission;

(3) Conduct aeronautical studies of applications for permits;

(4) Direct the preparation of all documents, papers, and evidence necessary to enforcement of the statutes and regulations of the commission pursuant to KRS 183.861, 183.873 and 183.990;

(5) Cause notices to be given of all hearings of the commission that are required by statute or regulation; and

(6) Perform all duties and functions that may hereinafter be delegated to the administrator either by the regulations of the commission or its orders.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:030. Jurisdiction of commission.

RELATES TO: KRS 183.861, 183.865, 183.867, *183.870*
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To define the areas over which the Kentucky Airport Zoning Commission assumes jurisdiction for the purpose of zoning in accordance with the statutes.

Section 1. The commission assumes zoning jurisdiction over that airspace over and around the public *use* airports within the Commonwealth which lies above the *imaginary* [conical] surface *that extends outward and upward at one (1) of the following slopes:*

(1) 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway of each airport specified in Section 6 of this regulation with at least one (1) runway more than 3,200 feet in length.

(2) 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway of each airport specified in Section 6 of this regulation with its longest runway no more than 3,200 feet in actual length [which shall extend outward and upward at a slope of 100 to one (1) from the peripheral of the reference points for each runway, as depicted on the Airport Zoning Map, for a horizontal distance of 20,000 feet, and thereafter at a slope of thirty (30) to one (1) for a horizontal distance of 24,000 feet].

Section 2. The commission assumes zoning jurisdiction over the use of land and structures within public *use* airports within the state.

Section 3. The commission assumes jurisdiction over the use of land and structures around airports notwithstanding the provisions of KRS Chapters 100 and 147.

Section 4. The commission assumes jurisdiction from the ground upward within the limits of the primary approach surface as depicted on Airport Zoning Maps approved by the Kentucky Airport Zoning Commission.

Section 5. The commission assumes jurisdiction over the airspace of the Commonwealth that exceeds 200 feet in height above ground level or fifty (50) feet in height above the surface of open water of the Ohio River, Mississippi River, Kentucky Lake, Lake Barkley, Lake Cumberland, Barren River Lake, Nolin Lake Reservoir, Rough River Lake, Dale Hollow Reservoir (Ky.), Green River Lake, and Taylorsville Lake.

Section 6. The administrator is to prepare a single map indicating airport zoning jurisdiction of all public owned and private owned airports available for public use across the Commonwealth. Said map shall be revised and updated once a year. Map will list each public use airport with runway classification in accordance with 602 KAR 50:010, Section 2(4). Public use zoned airports will also be listed with runway classification in 602 KAR 20:025, Airport safety bulletin.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:040. Airport land uses.

RELATES TO: KRS 183.865
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To regulate the use of land within airports of the Commonwealth within the jurisdiction and function of the commission.

Section 1. Notwithstanding the provisions of any ordinance of a city or county legislative body pursuant to the authority of KRS Chapters 100 or 147, the following uses shall be allowed on the land within an airport: runways; taxiway, aircraft ramps; navigational aids and signals; safety equipment; aircraft terminals; cargo and service buildings; ramps; gates; hangars, aircraft sales, leasing, repair, and storage; automobile parking, garage and service facilities; motels and restaurants.

Section 2. Notwithstanding the provisions of any ordinance of a city or county legislative body pursuant to the authority of KRS Chapters 100 or 147, the commission may allow the following additional uses, which do not constitute a hazard to air navigation: any commercial, industrial or residential use, including but not limited to governmental agencies and operation, banks and financial institutions, retail and wholesale stores, warehouses and storage facilities; manufacturing facilities and operations; offices and service facilities upon the issuance of an airport land use permit by order of the commission.

Section 3. Any activity or structure which lawfully existed before the adoption or amendment of the zoning regulations of the commission, but does not conform to all of the regulations which pertain to the use of land within public airports may continue as a nonconforming use, *provided there is no alteration or change to the activity or structure which extends or enlarges the nonconformity.*

Section 4. (1) A request for an airport land use permit shall be filed with the administrator and it shall state: the

petitioner's name, address, and telephone number; the name of the public airport concerned; a description of the dimensions of any structure proposed to be erected; and a statement or reasons why the proposed use and structure will not constitute a hazard to air navigation.

(2) The petitioner shall annex to the request a copy of the airport zoning map for the airport concerned with the site of the proposed use or structure located thereon.

(3) The petition shall be considered at the next meeting of the commission and *a copy of the commission's order, ruling or award shall be mailed to the petitioner* [The commission shall issue its written order either granting the petition, denying the petition or it may grant the petitions upon conditions that would eliminate any hazard to air navigation].

[(4) A copy of the order shall be mailed to the petitioner.]

[(5) The petitioner may request a hearing within thirty (30) days of an order denying a petition or granting a petition upon conditions.]

[(6) The petitioner who requests a hearing shall be notified of the time and place of the hearing to consider the petition.]

[(7) The hearing shall be conducted in accordance with the regulations of the commission.]

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:050. Airport zoning map.

RELATES TO: KRS 183.867
PURSUANT TO: KRS 13.082, 183.861, 183.867(3)
NECESSITY AND FUNCTION: To outline the procedure for the adoption of the airport zoning regulations related to existing airports under the jurisdiction of the commission, and to provide for the procedures for revising airport zoning maps.

Section 1. Every owner of a public *use* airport in the state *shall* [may] file with the administrator of the Kentucky Airport Zoning Commission a map showing the airport and the area surrounding the airport used for approach and landing purposes or an airport master plan.

Section 2. If an owner of a public *use* airport fails to file a map as provided under Section 1 of this regulation, then the administrator shall cause an appropriate map to be prepared showing the airport and the area surrounding the airport used for approach and landing purposes.

Section 3. The administrator shall thereafter designate *the area of jurisdiction* on such map or airport master plan, prepared or filed under Sections 1 and 2 of this regulation, by reference to the regulations and advisory circulars of the Federal Aviation Administration concerning the area required for the safe maneuvering approach and landing of aircrafts [, and designate the area over which jurisdiction is assumed for zoning purposes pursuant to regulations of the commission].

Section 4. Thereafter the airport zoning map prepared pursuant to Section 3 of this regulation shall be submitted to the commission for its adoption by order of the commission. If the airport zoning map is adopted by order of the commission, the date of its adoption shall be noted on the airport zoning map, and the original shall be kept in the office of the administrator pursuant to KRS 183.867(3) and the regulations of the commission.

Section 5. (1) Every public *use* airport for which an airport zoning map has been adopted by the commission shall inform the administrator of any changes in the boundaries, runways, and taxiways either by filing a revised map or furnishing the administrator with information sufficient to cause a revised map to be prepared.

(2) The administrator shall thereafter designate *the area of jurisdiction* on such revised map prepared or filed under subsection (1) of this section, by reference to the regulations and advisory circulars of the Federal Aviation Administration concerning the area required for the safe maneuvering approach and landing of aircraft [, and designate the area over which jurisdiction is to be assumed for zoning purposes pursuant to regulations of the commission].

(3) The revised map prepared under this section shall constitute the airport zoning map for the public *use* airport upon its adoption by order of the commission and shall supersede any airport zoning map heretofore adopted by the commission.

Section 6. The administrator shall notify any local zoning body, whose jurisdiction is limited by the zoning jurisdiction of the commission, by sending to the local zoning bodies a copy of the airport zoning map adopted by order of the commission.

Section 7. The local zoning bodies may retain jurisdiction of zoning in such areas as to all other matters; however, the local zoning bodies shall not adopt any ordinances or regulations that conflict with the jurisdiction of the commission in such areas as it pertains to the safe and proper use of the airport involved.

Section 8. Every airport zoning map heretofore adopted by the commission shall remain in full force and effect until revised pursuant to the regulations of the commission.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
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SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:060. Construction within *jurisdictional airspace* [conical surface permit].

RELATES TO: KRS 183.861 to 183.890
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To regulate the construction and alteration of structures in the zoned airspace of the state which present an obstruction to safety of air navigation.

Section 1. No person shall construct or alter any structure which constitutes an obstruction as defined by the regulations of the commission, unless the person who intends to construct or alter such a structure obtains a permit from the commission in accordance with the procedures set forth in the regulations of the commission.

Section 2. The commission shall consider the factors set forth in KRS 183.868 *and 183.870* in approving or disapproving an application for a permit under Section 1 of this regulation.

Section 3. Any change or transfer in the care, custody, control or ownership of a structure previously permitted by the commission shall require the original owner to notify the commission in writing of the name and address of the new owner on a form prescribed by the commission, however, the new owner shall comply with all conditions and requirements of the originally issued permit for the transferred structure unless properly amended by the commission.

Section 4. Power lines existing prior to the effective date of this regulation for which no permit has been issued may continue in their present configuration so long as said lines are not subsequently determined to be a hazard to air navigation by the Kentucky Airport Zoning Commission. However, any person proposing to alter or reconstruct any wire, transmission, distribution or other power line subsequent to September 1, 1983 that is 200 feet or more above the ground shall be required to obtain all necessary permits from the commission and comply with all applicable marking and lighting requirements in accordance with the rules and regulations of the commission.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
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TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:070. *Standards for determining obstructions;* navigable airspace outside conical surface construction permit.

RELATES TO: KRS *183.868* [183.870]
PURSUANT TO: KRS 13.082, 183.861, *183.868*
NECESSITY AND FUNCTION: *To establish standards for determining obstructions to air navigation. These standards apply to the use of navigable airspace by aircraft and to existing and planned air navigation facilities, such as an air navigation aid, existing or planned airports on file with the Kentucky Transportation Cabinet, Federal Airways, Instrument Approach or Departure Procedures or approved off-airway routes.* [To regulate the heights of structures in the airspace of the Commonwealth for the benefit of the safety of aircraft and the public.]

Section 1. *Standards for Determining Obstructions. A permanent or temporary object would be an obstruction to air navigation if it is of greater height than any of the following heights or surfaces:*

(1) A height more than 500 feet above ground level at the site of the object.

(2) A height that is more than 200 feet above ground level or above the established airport elevation, whichever is higher, within three (3) nautical miles of the established reference point of an airport, with its longest runway more than 3,200 feet in actual length, and that height increases in the proportion of 100 feet for each additional nautical mile of distance from the airport up to a maximum of 500 feet.

(3) A height within a terminal obstacle clearance area, including an initial approach segment, a departure area, and a circling approach area, which would result in the vertical distance between any point on the object and an established minimum instrument flight altitude within that area or segment to be less than the required obstacle clearance.

(4) A height within an en route obstacle clearance area, including turn and termination areas, of a federal airway or approved off-airway route, that would increase the minimum obstacle clearance altitude.

(5) The surface of a takeoff and landing area of an airport or any imaginary surface established under 602 KAR 50:010, Section 9. [No person shall construct or alter any existing structure above the ground level or the surface of open water in that remaining airspace of the state outside the conical surface that exceeds: 200 feet in height above ground level, or fifty (50) feet in height above the surface of open water of the Ohio River, Mississippi River, Kentucky Lake, Lake Barkley, Lake Cumberland, and 200 feet above all other waters, unless the persons who intend to construct or alter such a structure obtain a permit from the commission in accordance with the procedures set forth in the regulations of the commission.]

Section 2. *The Kentucky Airport Zoning Commission adopts Federal Aviation Regulations Part 77, objects affecting navigable airspace, Title 14, CFR as part of its Administrative Regulations for reference.* [The commission shall consider the factors set forth in KRS 183.870(1) in approving or disapproving an application for the issuance of a permit under Section 1.]

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
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TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:080. Permit application content.

RELATES TO: KRS 183.869, 183.870, 183.871
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To outline the information that is required of an applicant to alter or construct a structure which is necessary for the administrator and commission to make a determination whether a permit should be issued and to delegate the responsibility for preparing the appropriate form to the administrator.

Section 1. Definitions. (1) "The person who intends to construct or alter a structure" and "applicant" means the person who will own or have control over the completed structure.

(2) "Certification by the applicant" means that the certification shall be made by the individual who is the: one who will own or control the structure when completed; or a partner in a partnership; or the president or authorized *officer* [agent] of a corporation, company or association, or authorized *official* [agent] of a body politic; or legally designated representative of a trustee, receiver, or assignee.

Section 2. The administrator shall cause to be prepared a form to be known as the "Application for Permit to Alter or Construct a Structure" which shall require the following information of the applicant:

(1) The name and address and telephone number of the person who intends to construct or alter a structure.

(2) Whether structure is to be temporary or permanent.

(3) Whether the permit is to construct a new structure or alter an existing structure.

(4) The nature of the structure and a complete description of it.

(5) The location of the proposed or existing structure by its latitude and longitude in degrees, minutes, and seconds.

(6) The elevation of the ground level of the proposed or existing structure above sea level.

(7) The nearest city and post office to the site.

(8) The distance and direction from the nearest city, if the site is located outside the corporate limits of a city.

(9) County in which structure is or will be located.

(10) [(9)] Name of the nearest public airport or aircraft landing area.

(11) [(10)] Distance and direction from the boundary of the nearest public airport or aircraft landing area.

(12) [(11)] The date the proposed construction or alteration of a structure is to commence and the date that work will be completed.

(13) [(12)] The over-all height in feet of the completed structure above the ground level or the mean water level.

(14) The over-all height in feet of the overhead transmission line or static wire above ground level or mean water level with span length 1000 feet and over shall be depicted on a blue print profile map.

(15) [(13)] The applicant should state whether the subject structure will be marked in accordance with the applicable provisions of 602 KAR 50:100, Section 1, and whether the subject structure will be lighted in accordance with the provisions of 602 KAR 50:100, Section 1.

(16) [(14)] State whether "Notice of *Proposed* Construction or Alteration" (Form 7460-1) has been filed with the Federal Aviation Administration for airspace clearance and the date of filing.

(17) [(15)] Certification by the applicant that all statements in the application are true, complete and correct to the best of the applicant's knowledge and belief.

(18) [(16)] The signature and title of the applicant authorized to make the application and certification with the date of the signing thereof.

(19) [(17)] The form prepared by the administrator shall also include a space for the use of the commission which indicates whether the application was approved or disapproved, date thereof, and the signature of the chairman.

Section 3. There shall be attached to the "Application for Permit to Alter or Construct a Structure:"

(1) A 7.5 minute quadrangle topographical map prepared by the United States Geological Survey and the Kentucky Geological Survey with the location of the structure which is the subject of the application indicated thereon. (The 7.5 minute quadrangle map may be obtained from the Kentucky Geological Survey, Department of Mines and Minerals, Lexington, Kentucky 40506, *or Kentucky Commerce Cabinet, Map Sales Office, 133 Holmes Street, Frankfort, Kentucky 40601.*)

(2) Copies of Federal Aviation Administration Applications (FAA Form 7460-1) or any orders issued by and received from the Chief *Air Traffic Division, FAA Regional Office* [Traffic Branch, FAA area office].

(3) If the applicant has indicated on the application that the structure will not be marked or lighted in accordance with the regulations of the commission, the applicant shall attach a written request for a determination by the commission that the marking and lighting is not necessary. The applicant shall specifically state the reasons that absence of marking and lighting will not impair the safety of air navigation.

(4) If the structure to be constructed or altered is for the purpose of radio transmitting, then the applicant shall attach a true copy of the application for a license from the Federal Communications Commission.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
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TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:090. Application procedure.

RELATES TO: KRS 183.869, 183.870, 183.871
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: This regulation outlines rules governing procedure that a person must follow in order to obtain a permit to erect or alter a structure, and to define the authority of the Administrator of the Kentucky Airport Zoning Commission to reject or approve applications for permits and provide for the rules of practice for the processing of an application for a permit.

Section 1. (1) Every person who is required by the regulations of this commission to obtain a permit to construct or alter a structure shall send two (2) executed copies of the Form *TD* [DT] 56-50, Application for Permit to

Alter or Construct a Structure, to the Administrator of the Kentucky Airport Zoning Commission, Division of *Mass Transportation* [Aeronautics and Airport Zoning], Frankfort, Kentucky *40622* [40601].

(2) The application must be submitted at least *sixty (60)* [thirty (30)] days prior to the date the proposed construction or alteration is to begin [for structures under 200 feet above ground level; and ninety (90) days prior to date for structures 200 feet or more above ground level. The completed height of the structure above ground level determines the time of filing of the application].

Section 2. (1) Upon receipt of the application, the administrator shall review the application to determine whether all information that is required has been submitted.

(2) If the application is incomplete, the administrator shall reject the application and return the application to the person submitting the application along with a statement of the information that is required by the commission for a complete application.

Section 3. (1) If the application is complete, then the administrator shall conduct an aeronautical study for the purpose of determining whether to recommend to the commission that a permit be issued.

(2) The administrator may approve an application for a permit to alter or construct a structure when he has determined that the structure would be shielded by existing structures of a permanent and substantial character, or by natural terrain or topographic features of equal or greater height and would be located in a congested area of a city or unincorporated area where it is evident beyond a reasonable doubt that the proposed structure so shielded will not adversely affect the safety of air navigation.

(3) Otherwise, the administrator shall submit the application along with his recommendation for approval or disapproval to the commission at its next meeting.

(4) Prior to the submission of the application to the commission, the administrator shall circulate a copy of the application and the conclusions of his aeronautical study to any interested parties including, but not limited to, local airport boards, municipal and county governments' officials, airport owners and operators.

(5) Any interested parties shall be permitted to file with the commission written objections to the approval of the applications. Said objections shall be filed at least ten (10) days prior to the date of the meeting of the commission.

(6) The application normally will be considered at the next meeting of the commission and a copy of the commission's decision shall be mailed to the applicant and other interested parties.

[Section 4. (1) In the event an application for a permit is disapproved by order of the commission, the applicant may petition the commission for a hearing within thirty (30) days of the date action was taken on the application.]

[(2) The petition for a hearing must contain in a full statement of the reasons that the application should be approved, and shall be filed with the Administrator, Kentucky Airport Zoning Commission, Division of Aeronautics and Airport Zoning, Frankfort, Kentucky 40601.]

[Section 5. (1) The administrator shall fix a time and place for a hearing on the applicant's petition for a review of the disapproval of an application by the commission or administrator and shall give notice of the time and place of the hearing by mail, not less than twenty (20) days before the date of the hearing to the petitioner and to any party deemed by the commission to have an interest in the proceedings.]

[(2) The airport board, chief executive of a city and county judge, or any person who owns an airport in the proximity of the site of the proposed construction or alteration of a structure shall be deemed an interested party and shall receive notice of the hearing.]

[Section 6. The hearing before the commission shall be conducted in accordance with the regulation of the commission governing the conduct of hearings.]

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
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TRANSPORTATION CABINET
Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:100. Marking and lighting obstruction standards.

RELATES TO: KRS 183.861 to 183.990
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To describe the standards for the marking and lighting of obstructions as official policy of the Kentucky Airport Zoning Commission in order to provide the most effective means of indicating the presence of obstructions to pilots, in accordance with the commission's responsibility to promote the safety of air commerce.

Section 1. (1) The Advisory Circular No. 70/7460-*1F* [latest revision], Obstruction Marking and Lighting, issued by the Federal Aviation Administration, is hereby adopted and incorporated by reference, except as otherwise provided in the regulations of the commission.

(2) The above mentioned material has been published by Federal Aviation Administration and may be obtained from the Administrator, Kentucky Airport Zoning Commission, Frankfort, Kentucky *40622* [40601].

Section 2. Every person who is issued a permit to alter or construct a structure, or who maintains an obstruction as defined in 602 KAR 50:010, is required to mark and light the structure in accordance with the applicable standards described in Section 1 of this regulation, unless the commission determines that the absence of such marking and lighting will not impair the safety of air navigation.

Section 3. The determination that the absence of marking and lighting of a structure will not impair the safety of air navigation shall not be made by the commission unless the applicant for a permit to alter or construct a structure requests such a determination at the time of filing of an application. Otherwise, the marking and lighting standards

described in Section 1 of this regulation shall be mandatory.

Section 4. Any structure that exceeds 200 feet above ground level is to be obstruction marked and lighted in accordance with the advisory circular listed under Section 1 of this regulation.

Section 5. Any holder of a commission variance permit that requires obstruction marking and lighting, as a condition for the approval of the application, may request a change in the obstruction marking and lighting requirements in order to maintain or improve the existing obstruction marking and lighting system based upon technological advances. Said request shall be in writing and approved by the commission prior to any changes or alterations being made to the previously approved obstruction marking and lighting system.

Section 6. In the event that an existing, standing facility is abandoned, the permit holder shall continue to maintain obstruction marking and lighting (if required by the commission) unless the facility is otherwise physically removed.

CLAIR R. NICHOLS, Chairman
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TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:110. Alteration construction, valid permit period.

RELATES TO: KRS 183.861 to 183.990
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: The commission finds it is necessary for the public interest that construction or alteration of a structure should commence within a reasonable period after the issuance of a permit; therefore, the function of this regulation is to limit the [valid] period *in which to commence construction* [of a permit].

Section 1. A permit to construct or alter a structure issued by the commission or administrator shall be valid for a period of eighteen (18) months from its date of issuance. If said construction or alteration is not commenced within said eighteen (18) months period, said permit shall be void and no work shall be performed without the issuance of a new permit.

Section 2. All holders of an approved KAZC permit will be required to complete and return a construction/alteration project status report as soon as the structure reaches its greatest height. This report can be filed with the administrator any time during the eighteen (18) months valid permit period.

Section 3. All commission permit holders shall send written notification to the administrator within thirty (30) days after the removal of a tall structure that was issued a variance permit from the commission. In the event a commission permit holder should sell or transfer his facility, the existing commission permit shall transfer to the new owner provided the requirements of 602 KAR 50:060, Section 3, are met.

CLAIR R. NICHOLS, Chairman
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TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:115. Enforcement procedures; violations.

RELATES TO: KRS 183.861 to 183.990
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: The Kentucky Airport Zoning Commission finds it necessary to establish administrative enforcement procedures whereby a person in violation of the statutes, [and] regulations, *orders or permits* of the commission may be given notice of the violation or show cause to the commission why he is not in violation as a means to minimize litigation.

Section 1. The commission delegates responsibility to *determine apparent violations of* [enforce] its statutes, regulations, [and] orders *and permits* to *its* [the] administrator. The administrator shall investigate violations of the statutes, regulations, [and] *orders and permits* and mail *a notice* [an order] to the person who owns or controls *the* [a] structure, *land, etc.,* in violation thereof.

Section 2. The *notice* [order] shall state the location, type of structure and the reasons the structure is in violation of the statutes, [and] regulations, *orders or permits* of the commission. The person shall be *requested to correct the violation* [ordered to remove the structure from the zone airspace or navigable airspace] within thirty (30) days of the *notice* [order] or show cause to the commission why *compliance should not be enforced.* [the subject structure should not be removed. The order shall state the penalty in KRS 183.990(3).]

Section 3. The person to whom the *notice* [order] is directed pursuant to this regulation may show cause why *enforcement should be withheld* [the structure should not be removed] by filing a written petition for a hearing before the commission. The petition may be in the form of a letter. The petition shall be filed in person or by mail with the Administrator, Kentucky Airport Zoning Commission, Frankfort, Kentucky *40622* [40601]. The petitioner shall state, *if applicable,* facts sufficient to show:

(1) The structure is not an obstruction in the zoned airspace of this state; or

(2) The structure is in the zoned airspace of this state, but it is not a hazard to the safety of air navigation; and

(3) Any other facts the petitioner deems relevant that

would relieve him from the terms of the order, including a request for an extension of time to remove the structure.

(4) If the administrator does not receive a petition from a person to whom a notice has been mailed and finds that violation continued during the period allowed in the notice, then the administrator shall refer the matter to the commission for its action in order to determine the appropriate penalties and action for the said violation.

Section 4. If the administrator does not receive a petition from a person to whom *a notice* [an order] has been mailed and finds that the structure has not been removed during the period allowed in the *notice* [order], then the administrator shall refer the matter to the commission for its action.

Section 5. The administrator shall set the petition for a hearing *to be* [pursuant to 602 KAR 50:090, Section 5. The hearing shall be] conducted pursuant to 602 KAR 50:120.

Section 6. *The commission may order an injunctive action be instituted in circuit court for the enforcement of applicable statutes, rules, regulations, and orders issued pursuant to this regulation.* [The commission may state one (1) of the following conclusions in its final order:]

[(1) The structure is not in the zoned airspace of this state.]

[(2) The structure is in the zoned airspace of this state, but it is not a hazard to air navigation.]

[(3) The structure is in the zoned airspace of this state, and it is a hazard to the safety of air navigation. The person who owns or controls the structure shall be ordered to remove it from the zoned airspace within a reasonable time stated in the order.]

[Section 7. The commission may order an injunctive action be instituted in circuit court for the enforcement of applicable statutes, rules, regulations, and orders issued pursuant to this regulation.]

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Kentucky Airport Zoning Commission
(Proposed Amendment)

602 KAR 50:120. Hearing procedures.

RELATES TO: KRS 183.871
PURSUANT TO: KRS 13.082, 183.861
NECESSITY AND FUNCTION: To provide for general procedures for the conduct of all hearings on any petition to the commission [for a hearing regarding any regulations adopted or orders issued].

Section 1. *Request for a hearing shall be accomplished as follows:* [Every hearing before the commission shall be conducted in a summary manner or as otherwise directed by the chairman. Opportunity will be given to the petitioner and all interested persons to produce witnesses and to present either in person or by counsel the points of issue. Such hearings shall be conducted in such manner as to ascertain the substantial rights of the petitioner and interested parties.]

(1) With the exception of those actions taken under 602 KAR 50:115, any person aggrieved by any action taken by the commission with respect to any application for a permit, request for adoption of airport zoning map, any regulations adopted or any other orders or rulings issued pursuant to these regulations may petition the commission in writing for a hearing.

(2) The petition, which may be in the form of a letter, shall identify the action taken by the commission for which a hearing is sought and it shall state specifically the grounds for the request in addition to a statement of the relief desired.

(3) Any such petition shall be filed within thirty (30) days of when the commission has formalized its action by the signature of the appropriate document whether by its administrator or its chairman.

(4) Once a petition for a hearing is received, the administrator shall notify all other interested parties of the receipt of the petition for a hearing which may include the applicant, local zoning body, local air board, airport owner and other identifiable person or persons who exhibit an interest in the commission's decision.

(5) The administrator shall within thirty (30) days of the receipt of the petition establish a time and place for the hearing to be conducted and shall notify all interested parties of the time and place of the hearing.

(6) Hearings shall be scheduled to be held within sixty (60) days of the receipt of the petition unless there are exceptional circumstances which would create an undue hardship upon one (1) or more of the parties. Notice of hearing shall be given by mailing a copy of the order establishing the hearing at least twenty (20) days prior to the date set for the hearing.

(7) If the commission deems it in the best interest of the public whether or not requested by the parties, it may require that the hearing specified herein be conducted prior to taking any action on the regulation, application, permit, zoning map, etc. Any action rendered by the commission as a result of a hearing conducted under this subsection shall constitute a final agency action from which an appeal may be taken.

Section 2. *The rules and procedures that follow shall be observed during the hearing process:* [Thereafter the commission shall consider all relevant evidence and other relevant factors that are set forth in the statutes and regulations of the commission related to the matter concerned. The commission shall then vote on the matter, and issue its written order based on the decision of a majority of the members present.]

(1) The hearing shall be conducted in a formal matter.

(2) A transcript or stenographic record of the hearing shall be taken. The reporter shall furnish an original and one (1) copy of the transcript to the commission. Unless otherwise agreed, the cost of transcribing the evidence and of furnishing an original and one (1) copy to the commission shall be borne by the petitioner.

(3) Opportunity will be given to the petitioner, the applicant and all other interested persons to produce witnesses, present evidence or raise other points of issue.

(4) The burden of proof concerning any action to be taken by the commission as a result of the hearing shall be upon the petitioner.

(5) All parties may be represented by counsel.

(6) The chairman of the commission or his designated representative will preside at the hearing and shall rule on any objection or question that arises. A majority of the commission may overrule or modify any ruling of the chairman.

(7) The administrator or the commission will open the hearing by presenting the petition for the hearing, documents representing the action taken by the commission that prompted the petition for a hearing and conclusions resulting from any aeronautical study conducted.

(8) Unless there are exceptional conditions that would warrant otherwise, the petitioner may make an opening statement outlining its position and any other party who desires the same relief will next be given the opportunity to present an opening statement. Then the adverse party may make an opening statement outlining its position, followed by any other parties seeking the same relief.

(9) After all opening statements, the petitioner will present its evidence and witnesses in support of its claim followed by other parties seeking similar action by the commission. Following the conclusion of the evidence presented by the petitioner and all other parties similarly aligned, the adverse parties are to be afforded the opportunity to present their evidence and witnesses.

(10) Each party shall have the right to cross-examine any witness offered by any other party.

(11) Formal rules of evidence used by the courts shall apply.

(12) The parties may by stipulation enter into the record any agreed facts, and it is desirable that the facts agreed upon be entered by stipulation whenever practical.

(13) Witnesses shall not be permitted to give opinion evidence unless they have first been qualified to show their special familiarity and knowledge with the desired subject.

(14) At the conclusion of all evidence, the parties may offer closing statements to the commission. The order of presentation will be in reverse of the opening statements unless determined otherwise by the chairman of the commission.

(15) The commission may require the filing of briefs in which the time of filing, length of briefs and replies, will be stated at the conclusion of the hearing.

(16) Subsequent to the closing statements, the commission shall consider all relevant, competent, and material evidence and make the necessary findings of facts and conclusions which shall constitute a final decision of the commission. The findings and conclusions of the commission shall be signed by the chairman and a copy sent to each party that appeared at the hearing.

Section 3. Appeals from *any final decision or order* [action or orders] of the commission may thereafter be *made to the Franklin County Circuit Court in accordance with the procedures set forth* [prosecuted under the procedures set out] in KRS 183.620.

CLAIR R. NICHOLS, Chairman
ADOPTED: September 14, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Stephen Reeder, Deputy Secretary for Legal Affairs, 1008 State Office Building, Frankfort, Kentucky 40622.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

603 KAR 5:110. Permits for moving mobile homes.

RELATES TO: KRS 189.270
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: KRS 189.270 authorizes the Department of Vehicle Regulation to issue permits for the movement of house trailers exceeding legal dimensions. This regulation determines requirements necessary in the interest of highway safety.

Section 1. No house trailer of a width greater than eight (8) feet or with a combined length of house trailer and towing vehicle greater than sixty (60) feet, one (1) or both, shall be towed upon any Kentucky highway unless, and until a special written permit has been issued by the Department of Vehicle Regulation.

Section 2. Permits will be issued for single trips, or at the option of owners as set forth in Section 3, an annual permit will be issued to authorize movement of house trailers not exceeding twelve (12) feet in width. Registration and capacity of towing vehicles for house trailers in excess of eight (8) feet wide shall be the same as noted in Section 3. Single trip permits will be issued for a period of not more than ten (10) calendar days.

Section 3. Annual permits for movement of house trailers not exceeding twelve (12) feet in width on specified highways as shown by map on the permit will be issued to dealers and manufacturers located within the Commonwealth of Kentucky and certificated motor carriers who are properly licensed as such by the Department of Vehicle Regulation and to private owner-residents of Kentucky for movements of their personally owned house trailers. No annual permits will be issued for the movement of house trailers in excess of twelve (12) feet in width. Each towing vehicle for house trailers twelve (12) feet wide must be registered in Kentucky for a gross weight of not less than 22,000 pounds, have dual wheels on the rear and be rated at least one and one-half (1½) ton capacity. Towing vehicles for house trailers fourteen (14) feet wide must have a minimum of 185 horsepower, a minimum of two (2) ton capacity, and must be licensed for a gross weight equal to the combined weight of the towing vehicle and the house trailer.

Section 4. The issue cost of annual and single trip permits, as set forth in KRS 189.270, shall apply for each towing vehicle and the cost will not be prorated. Permits will not be issued for units, including towing vehicle and house trailer combined, exceeding *ninety-five (95)* [eighty-five (85)] feet in length and fourteen (14) feet in width. The house trailer itself shall not exceed *eighty (80)* [seventy (70)] feet in length. Single trip permits will specify the highway to be used for a trip.

Section 5. All permits shall be issued by the Permit Section, Division of Motor Carriers, Department of Vehicle Regulation, Frankfort, Kentucky.

Section 6. One (1) lead escort vehicle is required for movement of house trailers twelve (12) feet wide on all two (2) lane highways except on sections of toll roads which may be two (2) lane. Escort vehicles, both front and rear,

may be required on some highways where highway conditions may dictate the need. Red flags twelve (12) inches by twelve (12) inches square must be displayed both sides front bumper of lead escort and both sides of rear of a following escort. Amber flashing lights may be used on both escort and towing vehicles. Red lights are prohibited.

Section 7. All permit forms and requests for trip permits shall specify make of towing vehicle, license number and state of issue, name and address of owner, dates for travel and routes of travel. Requests and permit forms for annual permits shall specify make of towing vehicle, rated capacity, serial number, license number, and whether for hire or private carrier.

Section 8. A duplicate permit to replace an annual permit or to transfer the permit to another vehicle may be obtained from the Permit Section, Division of Motor Carriers, Frankfort, by the payment of a fee of ten dollars ($10).

Section 9. Prior departmental approval must be secured from the Permit Section, Division of Motor Carriers, Frankfort, for any house trailer hauled under an annual permit which deviates from the routes prescribed in the permit issued for the towing vehicle.

Section 10. Permits shall be carried in the towing vehicles and must be presented, upon request, to any law enforcement officer or authorized personnel of the Department of Vehicle Regulation for inspection.

Section 11. Permits are valid during daylight hours only, from Monday through Saturday noon, except for those periods before, during and after the following holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day. In connection with these holidays, travel is not permitted from noon the preceding day until daylight of the next permissible day. If the holiday occurs on Sunday or Monday the restricted period will extend from noon of the preceding Friday to daylight of the following Tuesday. If satisfactory proof of an emergency is furnished the Permit Section, Division of Motor Carriers, Frankfort, Kentucky, the Permit Section may authorize moves during the restricted hours. The term "daylight hours" means the period from one-half (½) hour before sunrise until one-half (½) hour after sunset, but it does not include such period or part thereof when atmospheric conditions render visibility lower than is ordinarily the case during such daylight hours.

Section 12. Single trip permits for moves involving house trailers fourteen (14) feet wide will be issued by the Permit Section, Division of Motor Carriers, Frankfort. The permit fee shall be as described in KRS 189.270.

Section 13. Moves of house trailers fourteen (14) feet wide will be limited to four (4) lane highways and to reasonable distance of two (2) lane highways. The definition of a reasonable distance from a four (4) lane highway to the unit's ultimate destination is defined in the sense that the Department of Vehicle Regulation will in its best judgment designate the shortest and best route to be used. The department shall deny movements on any routes deemed unsuitable for move.

Section 14. Moves *of house trailers fourteen (14) feet wide* cannot be made when the pavement is wet or when wind velocity exceeds twenty-five (25) MPH. *Travel will be permitted during daylight hours, week days only, for movements of fourteen (14) feet wide house trailers with the exception of movement within or through Jefferson County, Fayette County, and the Northern Kentucky counties of Boone, Kenton and Campbell. Movement within these counties will be allowed only between the hours of 9:00 a.m. and 3:00 p.m. and 6:00 p.m. to sundown.* [Moves will be made between the hours of 9:00 a.m. and 3:00 p.m. and from 6:00 p.m. to sundown week days only.] No travel on weekends, holidays or at night.

Section 15.When house trailers fourteen (14) feet wide are moved, one (1) escort will be required in the rear on four (4) lane highways and one (1) escort vehicle, both front and rear, on other highways. Escort vehicles shall have an amber flashing light on the roof. The house trailer shall be equipped with four (4) way amber flashers spaced not less than six (6) feet above the roadway. All running lights must be on while in motion. All axles on the house trailer shall be equipped with brakes.

Section 16. Speed limit on movement of fourteen (14) feet wide house trailers on interstate highways is forty-five (45) MPH. On other highways the speed limit is thirty-five (35) MPH, unless posted minimum speed exceeds this, then this may be increased to the minimum posted speed.

TIMOTHY D. HELSON, Commissioner
ADOPTED: August 19, 1983
APPROVED: JAMES E. RUNKE, Secretary
RECEIVED BY LRC: August 24, 1983 at 8:45 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Timothy D. Helson, Commissioner, Department of Vehicle Regulation, Transportation Cabinet, Frankfort, Kentucky 40622.

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

815 KAR 20:070. Plumbing fixtures.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the kind, type and quality of plumbing fixtures that are to be used in the construction of plumbing systems.

Section 1. Materials. All receptacles used as water closets, urinals, or otherwise for the disposal of human excreta, shall be of vitrified earthenware, hard natural stone, or cast-iron with a light color porcelain enameled on the inside, except as indicated in Section 4.

Section 2. Installation. All plumbing fixtures shall be installed free and open in a manner to afford access for cleaning. Where practical, all pipes from fixtures shall be run to the wall and no trap or pipe shall extend nearer to

the floor than twelve (12) inches except laundry trays or similar fixtures.

Section 3. Water Closet Bowls. Water closet bowls shall be made of one (1) piece and of such form as to hold a sufficient quantity of water when filled to the trap overflow to prevent fouling of its interior surfaces, and it shall be provided with an integral flushing rim so constructed as to flush the entire interior of the bowl.

Section 4. Plastic Water Closet Bowl and Tank. Plastic water closet bowl and tank shall be made with a polypropylene lining inside the one (1) piece bowl and tank. The outer surface of the bowl shall be constructed of PVC material and the filler material between the two (2) surfaces shall be made of polyurethane foam. The bowl shall have a three (3) inch water seal and shall have a two and one-eighth (2 1/8) inch waste opening passage.

Section 5. Frost-Proof Closet. A frost-proof water closet may be installed only in a building that has at least a twelve (12) inch air break between it and any building used for habitation or occupancy. The room shall be tightly enclosed and accessible from the outside only. The soil pipe between the trap and hopper shall be of extra heavy cast-iron, four (4) inches in diameter and shall be light colored porcelain enamel on the inside. The building must have a non-absorbent floor. Each frost-proof water closet shall have a four (4) inch vent.

Section 6. (1) Floor drains and shower drains. A floor drain or a shower drain is considered a plumbing fixture and shall be provided with a strainer.

(2) Shower drain pan construction. Shower drain pans shall be constructed of sheet lead weighing not less than four (4) pounds per square foot, non-plasticized chlorinated polyethylene conforming to ASTM D-412-66, D-1204-54 and D-568-61 not less than 0.040 inches, *non-plasticized polyvinyl chloride (PVC) sheet material conforming to ASTM D-1004, D-2240, D-412 and D-1790 not less than 0.040 inches thick* or other approved material. Shower pans shall be constructed without seams and shall extend to a minimum height of six (6) inches on all vertical walls. Shower pans shall not be required on a concrete floor below the outside grade level.

(3) Fiberglass bathtubs, showers, tub enclosures and shower stalls. Fiberglass bathtubs and tub enclosures shall conform to Commercial Standards CS 221-59. Acrylic-faced bathtubs shall conform to ASTM E-84B or E-162. Fiberglass shower stalls and shower receptors shall conform to Commercial Standards CS 222-59.

(4) Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls. Metamorphosed carbonate aggregate polyester resinous martrix-marbleoid bathtubs, lavatories and shower stalls shall conform to ANSI Z-124-3.

Section 7. Floor Drains, Shower Drains or Urinal Drains in Inaccessible Places. Floor drains, shower drains or urinal drains shall have a cast-iron P trap when installed under concrete floors or in inaccessible places. They shall be either caulk or screw type.

Section 8. Fixture Strainers. All fixtures other than water closets and pedestal urinals shall be provided with a fixed strong, metallic or porcelain strainer. The total outlet area shall not be less than that of the interior area of the trap.

Section 9. Fixture Overflow. The overflow pipe from a fixture shall be optional, but if used, shall be connected to the inlet side of a trap and be so arranged that it may be readily and effectively cleaned.

Section 10. Ventilation of Rooms Containing Fixtures. *Refer to Boca Basic Mechanical Code M-1009.3 and Boca one (1) and two (2) family dwelling code, R-204.* [Plumbing fixtures, except bedroom lavatories, shall not be located in any room which does not contain a window placed in an external wall or is not otherwise provided with adequate ventilation. The minimum size of the external fresh air inlet shall be two and one-fourth (2¼) square feet of opening. Where forced ventilation is used, the minimum change of air shall be six (6) times per hour and the vent must be extended to the outside of the building or a ductless fan may be used, provided:]

[(1) The unit bears the label of the Underwriter's Laboratories, Inc.;]

[(2) The unit is installed so as to operate at all times when the lighting circuit is activated;]

[(3) The unit be installed in either the wall or ceiling;]

[(4) The unit is installed in accordance with the manufacturer's recommendations;]

[(5) The manufacturer make available cartridges that will be replaced on a six (6) month basis; and]

[(6) A unit be provided for each 800 cubic feet of room volume.]

Section 11. Fixture Additions. Any fixture or fixtures added to a plumbing system shall be installed to comply with the other sections of this code, and the discharge from the additional fixture or fixtures shall enter the soil pipe below the lowest vented opening.

Section 12. Defective Fixtures. All newly installed fixtures found defective or old fixtures found to be in an unsanitary condition, shall be repaired, replaced, or removed within thirty (30) days upon written notice from the department.

Section 13. Water Heaters. Water heaters shall be properly connected to the hot and cold water supply and shall be connected to an adequate size flue or chimney, but in no case shall this be connected to a flue serving a coal burning apparatus. The flue or chimney shall extend two (2) feet above the roof and be properly flashed and shall not terminate within six (6) feet of a door or window. No fuel fired water heater shall be placed in any bathroom, toilet room or a room used for sleeping. If a water heater is placed in a closed room or closet the door must be a louver door or provided with proper ventilation to provide combustion air and circulation. (See 815 KAR 20:120, Section 11.)

CHARLES A. COTTON, Commissioner
ADOPTED: September 14, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: September 15, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

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

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. *(1)* The bacteriological and chemical quality of the water supply shall comply with the regulations of the department *and other governing authorities.*

(2) Potable water only shall be accessible to plumbing, fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

Section 2. *Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.* [Distribution. The water supply shall be distributed through a piping system entirely independent of any other piping system.]

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3. Water Service. *(1)* The water service piping to any building shall be not less than three fourths (¾) inch *nominal pipe size* but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

(2) The *underground* water service *pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they can be placed in the same trench provided:* [may be laid in the same trench with the house sewer provided the water piping is benched eighteen (18) inches above the sewer.]

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 4. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Non-potable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system. When a dual water distribution system is used, the non-potable water system shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the non-potable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER—UNSAFE WATER. Each branch, fitting or valve shall be identified by the words "NON-POTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventor.

(6) No private water supply shall be interconnected with any public water supply.

Section *5.* [4.] Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a *sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures* [four (4) gallon flushing capacity for a water closet and at least a two (2) gallon capacity for a urinal]. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section *6.* [5.] Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section *7.* [6.] Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (¾) inch. The hot and cold water piping shall extend three-fourths (¾) inch in size to the first fixture branch. [regardless of the kind of material used. When galvanized iron pipe is used the distribution piping shall be arranged so that] No two (2) one-half (½) inch fixture branches *may be* [are] supplied from any one-half (½) inch pipe.

(2) The following schedule shall be used for sizing the water supply piping to fixtures. [:] *The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half (½) inch nominal pipe size.*

Fixture Branches	*Nominal Pipe Size (Inches)*
Bath tubs	*½*
Combination sink and tray	*½*
Cuspidor	*½*
Drinking fountain	*½*
Dishwasher (domestic)	*½*
Kitchen sink (res.)	*½*
Kitchen sink (com.)	*½ or ¾ as required*
Lavatory	*½*
Laundry tray	*½*
Sinks (service, slop)	*½*
Sinks flushing rim	*¾*
Urinal (flush tank)	*½*
Urinal (direct flush valve)	*½ or ¾ as required*
Water closet (tank type)	*½*
Water closet (flush valve type)	*1*
Hot water boilers	*¾*
Hose bibs	*½*
Wall hydrant	*½*
Domestic clothes washer	*½*
Shower (single head)	*½*

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

(3) Water hammer. In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufacturers' specifications shall be followed as to location and method of installation.

(4) Inadequate water pressure. Whenever water pressure from the source of supply is insufficient, fifteen (15) lbs. or less to provide adequate flow at the fixture outlets, a booster pump and pressure tank or other approved means shall be installed in the building water supply system.

(5) Variable street pressures. When the source of water supply has a fluctuation, the water distribution system shall be designed for the minimum pressure.

Section *8.* [7.] Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM D-3309 with brass, copper or celcon fittings, Quicktite connection using a celcon asetal copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM 3309, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M Copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polythylene, PVC or CPVC be used below ground under any house or building.

Section *(9)* [8.] Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide non-scald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section *10.* [9.] Water Supply Control. *(1)* A main *shut-off* [supply] valve shall be *provided near the curb, in or near the meter box or property line on the water service pipe. In addition, a main supply control valve shall be* placed inside a foundation wall. *The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shut-off valve.* [Each fixture or each group of fixtures shall be valved and each lawn sprinkler opening shall be valved.]

(2) Pressure or gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two (2) family or multi-family dwelling shall have each family unit controlled by an arrangement of shut-off valves which will permit each unit to be shut off without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shut-off valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. All water closets and kitchen sinks shall have individual fixture valves installed.

(6) A group of fixtures shall mean two (2) or more fixtures adjacent to or near each other.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shut-off valve located near the equipment and only serving this equipment.

Section *11.* [10.] Water Supply Protection. All conceal-

ed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section *12.* [11.] Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section *13.* [12.] Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section *14.* [13.] Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section *15.* [14.] Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air-conditioner or heat pump water heater. These heat exchangers that transfer heat to potable water shall be double wall. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into any crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump must be utilized.

Section *16.* [15.] Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the requlations of the department.

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

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

CHARLES A. COTTON, Commissioner
ADOPTED: September 14, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: September 15, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

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

815 KAR 20:180. Special connections.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.310
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation concerns itself with waste other than sanitory wastes.

Section 1. Community Laundry Wastes. Waste from commercial and institutional washing machines and extractors may discharge into an open trench, provided the trench is drained into at least a four (4) inch trap, with a full-size vent. The trench shall be constructed of a material resistant to alkaline waste.

Section 2. Semi-Commercial Laundries (Automatic). Waste from semi-commercial laundries shall discharge into a four (4) inch waste line for washing machines only. The waste line shall have a full-size vent and the base of the stack shall be washed by either a washing machine or starch sink. A four (4) inch trap shall be provided in the waste line to serve not more than two (2) washing machines. Floor drains may be placed in the waste line. If they are the pump type, a stand pipe shall be provided to the height of the machine. Each four (4) inch trap shall constitute four (4) fixture units. In no instance shall such washing machines be permitted to discharge into a trench.

Section 3. Washing Machines, Automatic, Residential (New Buildings). When an automatic washing machine is installed in a new building, it shall have a two (2) inch trap and shall be vented in accordance with other sections of this code. The trap shall be installed twelve (12) inches above the floor with a two (2) inch stand pipe extended to the height of the washer. If a washing machine discharges into a private disposal system, fifty (50) feet additional lateral must be added to the sewage system.

Section 4. Washing Machines, Automatic, Residential (Old Buildings). When an automatic washing machine is

installed in an old building, it may be connected to the house sewer by the use of a four (4) inch cast-iron P-trap, placed on the outside of the building on the opposite side of the wall of the washing machine. The trap shall have a vented cover extending three (3) inches above the grade line. A four (4) inch by two (2) inch tee shall be installed in the inlet side of the trap with a two (2) inch waste pipe extending into the building through the floor to the height of the washing machine. All waste piping shall conform with other sections of this code.

Section 5. Air Conditioning Equipment. *(1)* Air conditioning equipment installed with a water supply and waste shall conform with the other sections of this code. *No evaporative cooler, air washer, air handling or similar air conditioning equipment shall have any drain pipe in connection therewith directly connected to any soil, waste or vent pipe. Such equipment shall be drained by means of indirect waste pipe. The indirect waste shall discharge through an air gap or air break into an open floor sink, floor drain, or other approved type receptor which is properly connected to the drainage system, except that an air gap is required where the indirect waste pipe may be under vacuum.*

(2) The condensate or waste from an air conditioning unit shall be classified as a plumbing fixture only if directly connected to the plumbing system.

Section 6. Garage Sand Trap. A garage sand trap shall be constructed of concrete with a heavy cover or grate. The minimum size shall be two (2) feet by four (4) feet and it shall have sufficient depth so that there is at least a ten (10) inch vertical distance between the bottom of the outlet ell and the bottom of the trap. Sand traps shall be provided with a four (4) inch vent.

Section 7. Inflammable Waste. Liquid waste from buildings using gasoline, benzine, naphtha or other inflammable oils or compounds shall discharge into a separator before it enters a santiary sewer. The waste line receiving such waste must be trapped and vented in accordance with other sections of this code. The separator shall be provided with a three (3) inch vent.

Section 8. Hot Water, Steam Blow-Offs or Exhaust. Hot water or steam or exhaust blow-offs shall discharge into a tank or basin before entering the house drain or sewer. The tank or basin shall have an air-tight cover and be provided with a four (4) inch vent independent of any other venting system.

Section 9. Stable Manure Pits. All liquid waste from barns, stable manure pits and stable yard drains shall discharge through a separator before entering the house sewer.

CHARLES A. COTTON, Commissioner
ADOPTED: September 14, 1983
APPROVED: LEONARD B. MARSHALL, JR. Secretary
RECEIVED BY LRC: September 15, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

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

815 KAR 20:191. Minimum fixture requirements.

RELATES TO: KRS Chapter 318
PURSUANT TO: KRS 13.082, 318.130
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation incorporates many of the provisions which have been in effect for some time with regard to residential and public buildings. The department has revised the old regulation to make it easier to interpret. This regulation includes the requirements of the Department for Natural Resources and Environmental Protection as well as the Department for Human Resources and the Department of Justice. These inclusions simplify the plan process.

Section 1. In buildings accommodating males and females it shall be presumed that the occupants will be equally divided between males and females unless otherwise denoted.

Section 2. All types of buildings shall be provided with toilet rooms on each level or floor; however, where the department determines that separate facilities on each level or floor are unnecessary, toilet rooms on every other level or floor shall be sufficient.

Section 3. Toilet rooms for males and females shall be clearly marked.

Section 4. Toilet Floor Construction Requirements. Toilet room floors in all public buildings and places of employment shall be constructed of non-absorbent materials. When more than one (1) water closet and one (1) lavatory is installed, such a toilet room shall have at least one (1) floor drain and one (1) accessible hose bibb.

Section 5. Theatres, Assembly Halls, Libraries, Museums and Art Galleries. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.

(2) A drinking fountain shall be provided in the stage and auditorium area and a drinking fountain shall be provided on each floor for each 200 persons or fraction thereof.

(3) Separate toilet rooms for males and females shall be provided as indicated in Section 2, as follows:

(a) One (1) water closet for each 100 males or females or fraction thereof; two (2) water closets for 101 to 200 males or females or fraction thereof; three (3) water closets for 201 to 400 males or females or fraction thereof; over 400 add one (1) water closet for each additional 500 males and one (1) for each additional 300 females.

(b) One (1) urinal for up to 200 males; two (2) urinals for 201 to 400; three (3) urinals for 401 to 600; add one (1) urinal for each additional 300 males or fraction thereof.

(c) One (1) lavatory for up to 100 males or females; two (2) lavatories for 101 to 200, three (3) lavatories for 201 to 400; four (4) lavatories for 401 to 750; add one (1) lavatory for each additional 500 or less over 750.

(d) One (1) service sink or slop sink on each floor.

(e) The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not

provided the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(4) In libraries, museums and art galleries separate toilet facilities for males and females shall be provided as indicated in Section 2, as follows:

(a) One (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(b) One (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(c) One (1) urinal for each 200 males or fraction thereof.

(d) One (1) service sink or slop sink on each floor.

(e) A drinking fountain shall be provided for each 100 persons.

(f) The above number of fixtures shall be based upon the actual number of persons that can be accommodated.

(5) Urinals may be substituted for water closets for males, not to exceed one-third (⅓) of the required total number of water closets but in all cases the minimum number of urinals must be installed.

(6) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. School Buildings (Relates also to 702 KAR 4:070 and 702 KAR 4:080). (1) A drinking fountain shall be provided on each floor and/or wing of a building and an additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof. The fountains shall be equipped with a protective cowl and the orifice shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school buildings shall be provided with the following:

(a) Water closets for males shall be installed in the following proportions:

1. One (1) water closet for up to twenty-five (25) pupils.
2. Two (2) water closets for twenty-six (26) to 100 pupils.
3. One (1) water closet for each 100 pupils or fraction thereof in excess of 100.

(b) Urinals for males shall be installed in the following proportions:

1. One (1) urinal for up to twenty-five (25) pupils.
2. Two (2) urinals for twenty-six (26) to fifty (50) pupils.
3. Four (4) urinals for fifty-one (51) to 100 pupils.
4. Six (6) urinals for 101 to 200 pupils.
5. Eight (8) urinals for 201 to 300 pupils.
6. Ten (10) urinals for 301 to 400 pupils.
7. Twelve (12) urinals for 401 to 500 pupils.
8. One (1) urinal for each fifty (50) pupils or fraction thereof in excess of 500.

(c) Water closets for females shall be installed in the following proportions:

1. Two (2) water closets for up to twenty-five (25) pupils.
2. Three (3) water closets for twenty-six (26) to fifty (50) pupils.
3. Six (6) water closets for fifty-one (51) to 100 pupils.
4. Eight (8) water closets for 101 to 200 pupils.
5. Ten (10) water closets for 201 to 300 pupils.
6. Twelve (12) water closets for 301 to 400 pupils.
7. Fourteen (14) water closets for 401 to 500 pupils.
8. One (1) water closet for each forty (40) pupils or fraction thereof in excess of 500.

(d) Lavatories for male and female pupils shall be installed in the following proportions:

1. One (1) lavatory for each twenty-five (25) pupils or fraction thereof.
2. Two (2) lavatories for each fifty (50) pupils or fraction thereof.
3. One (1) lavatory for each fifty (50) pupils or fraction thereof over fifty (50).
4. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin when provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) One (1) service sink or slop sink shall be installed on each floor of a building.

(4) When detached relocatable classrooms are use, sanitary facilities will not be required, provided it is within a distance not to exceed thirty-five (35) feet from the main structure and there are sufficient fixtures in the main structure to serve the entire capacity of the school including the relocatable classrooms.

(5) Water closets for use in the above facilities shall be of the elongated bowl type with a split open front seat.

Section 7. Schools of Higher Education and Similar Educational Facilities. In schools of higher education and similar institutions there shall be installed:

(1) One (1) water closet for each fifty (50) males or one (1) water closet for each twenty-five (25) females or fraction thereof.

(2) One (1) lavatory for each fifty (50) males or females or fraction thereof.

(3) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

(4) Whenever urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than two-thirds (⅔) of the minimum specified.

(5) Water closets for use in above facilities shall be of the elongated bowl type with a split open front seat.

Section 8. Public Garages and Service Stations. Separate toilet rooms with at least a water closet and lavatory for females and a water closet, lavatory and urinal for males shall be provided. Water closets shall be of the elongated bowl type with a split open front seat.

Section 9. Churches. Sanitary facilities shall be provided in churches as follows:

(1) One (1) drinking fountain for each 400 persons or fraction thereof.

(2) One (1) water closet for each 150 females or fraction thereof.

(3) One (1) water closet for each 300 males or fraction thereof.

(4) One (1) urinal for each 150 males or fraction thereof.

(5) One (1) lavatory for each 150 persons or fraction thereof.

Section 10. Transient Facilities (Relates also to 902 KAR 10:010). (1) Hotels and motels with private rooms shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(2) In the public and service areas there shall be:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each fifteen (15) females or fraction thereof.

(c) One (1) lavatory for each twenty-five (25) males or females or fraction thereof.

(d) One (1) urinal for each twenty-five (25) up to 100

males then one (1) for each additional fifty (50) or fraction thereof.

(e) One (1) bathtub or shower, if needed, for each ten (10) males or females or fraction thereof.

(f) One (1) drinking fountain for each seventy-five (75) or fraction thereof on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings there shall be one (1) water closet, one (1) lavatory and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, they shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be:

(a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) or fraction thereof.

(b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) or fraction thereof.

(c) One (1) urinal for each twenty-five (25) up to 100 males, then one (1) for each additional fifty (50) or fraction thereof.

(d) One (1) lavatory for each ten (10) males or females or fraction thereof.

(e) One (1) bathtub or shower for each ten (10) males or females or fraction thereof.

Section 11. Dormitories: School, Labor or Institutional (Relates also to 902 KAR 10:040). In dormitories there shall be installed:

(1) One (1) water closet for up to ten (10) males or one (1) water closet for up to eight (8) females; add one (1) water closet for each additional twenty-five (25) males or fraction thereof and one (1) water closet for each additional twenty (20) females or fraction thereof.

(2) (a) One (1) urinal for each twenty-five (25) males or fraction thereof. Over 150 males add one (1) fixture for each additional fifty (50) males or fraction thereof.

(b) Where urinals are provided for women, the same number shall be provided as for men.

(c) Where urinals are provided, they may be substituted for water closets, not to exceed one-third (⅓) of the required total number of water closets.

(d) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3) (a) One (1) lavatory for one (1) to twelve (12) persons. Add one (1) lavatory for each twenty (20) males and each fifteen (15) females.

(b) Separate dental lavatories should be provided in community toilet rooms. A ratio of one (1) dental lavatory to each fifty (50) persons.

(4) One (1) bathtub or shower for each eight (8) persons. Over 150 persons add one (1) fixture for each twenty (20) persons. For womens' dormitories, there shall be installed additional bathtubs at the ratio of one (1) for each thirty (30) women.

(5) One (1) drinking fountain for each seventy-five (75) persons.

(6) One (1) laundry tray or clothes washer for each fifty (50) persons.

(7) One (1) service sink or slop sink for each 100 persons.

Section 12. Hospitals, Nursing Homes and Institutions (Relates also to 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, 902 KAR 9:010). Sanitary facilities shall be provided on each floor level and shall conform to the following:

(1) Hospitals:

(a) Wards:

1. One (1) water closet for each ten (10) patients.
2. One (1) lavatory for each ten (10) patients.
3. One (1) tub/shower for each fifteen (15) patients.
4. One (1) drinking fountain for each 100 patients.

(b) Individual rooms: One (1) water closet, one (1) lavatory and one (1) tub/shower.

(c) Waiting rooms: One (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal).

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each twenty (20) females or fraction thereof.

(c) One (1) lavatory for each ten (10) persons or fraction thereof.

(d) One (1) urinal for each fifty (50) males.

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof.

(f) One (1) drinking fountain on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal:

(a) Cell:

1. One (1) prison type water closet.
2. One (1) prison type lavatory.

(b) Day rooms and dormitories:

1. One (1) water closet for each eight (8) inmates or fraction thereof.
2. One (1) lavatory for each eight (8) inmates or fraction thereof.
3. One (1) shower for each fifteen (15) inmates or fraction thereof.
4. One (1) urinal may be substituted for each water closet but in no instance shall the water closets be reduced to less than one-half (½) the number required.
5. One (1) drinking fountain per floor.
6. One (1) service sink or slop sink per floor.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) One (1) drinking fountain on each floor.

(e) One (1) service sink or slop sink per floor.

Section 13. Workshops, Factories, Mercantile and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100.

(b) One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100.

(c) One (1) urinal for eleven (11) to fifty (50) employees.

(d) Two (2) urinals for fifty-one (51) to 100 employees.

(e) One (1) lavatory for each twenty-five (25) females or fraction thereof, up to 100.

(f) One (1) water closet for each fifteen (15) females or fraction thereof up to 100.

(g) When in excess of 100 there shall be an additional water closet for each thirty (30) males and each thirty (30) females or fraction thereof; one (1) lavatory for each additional fifty (50) males and females or fraction thereof; one (1) urinal for each 100 males or fraction thereof.

(h) One (1) shower for each fifteen (15) persons exposed to skin contamination from irritating, infectious or poisonous materials.

(i) One (1) drinking fountain on each floor for each fifty (50) employees. In excess of 100 employees there shall be an additional drinking fountain on each floor for each additional seventy-five (75) persons.

(j) One (1) service sink or slop sink per floor.

(k) Individual sinks or wash troughs may be used in lieu of lavatories. Twenty-four (24) inches of sink or trough, when provided with water or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile:

(a) *Sanitary facilities within each store shall be provided for employees, and when more than five (5) persons are employed, separate facilities for each sex must be provided. EXCEPTION: For stores containing no more than 3,000 square feet of total gross floor area, employee facilities are not required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of no more than 500 feet.* [When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.]

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per *100* [fifty (50)] square feet *of total area,* may be installed *within the* individual *shops* [stores] or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet *and if accessible to physically disabled persons.*

(c) *Sanitary facilities shall be provided as stated in this section and shall conform as follows:*

1. One (1) water closet for one (1) to 100 persons.
2. Two (2) water closets for 101 to 200 persons.
3. Three (3) water closets for 201 to 400 persons.
4. One (1) water closet for each 500 males, or 300 females, in excess of 400.
5. One (1) urinal for one (1) to 200 males.
6. Two (2) urinals for 201 to 400 males.
7. Three (3) urinals for 401 to 600 males.
8. One (1) urinal for each 300 males, or fraction thereof, over 600.
9. One (1) lavatory for one (1) to 200 persons.
10. Two (2) lavatories for 201 to 400 persons.
11. Three (3) lavatories for 401 to 700 persons.
12. One (1) lavatory for each 500 persons, or fraction thereof, in excess of 700.
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.
14. One (1) service sink or slop sink per floor.

(3) Office buildings:

(a) *Sanitary facilities within office buildings shall be provided for employees and when more than five (5) persons are employed, separate facilities for each sex must be provided. EXCEPTION: For office buildings containing no more than 3,000 square feet of total gross floor area, employee facilities are not required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of no more then 500 feet.* [When in excess of five (5) persons of different sex are employed, separate facilities must be provided.]

(b) Sanitary facilities shall be provided for customers when the office building or space contains 5,000 square feet or more. In office buildings, the required facilities, based on one (1) person per 100 square feet of total area, may be installed within the individual shops, or in a central toilet room area or areas if the distance from the main entrance of any office does not exceed 500 feet and if accessible to physically disabled persons.

(c) [(b)] Sanitary facilities shall be provided as *stated* [indicated] in *this* section [2] and shall conform as follows:

1. One (1) water closet for one (1) to fifteen (15) persons.
2. Two (2) water closets for sixteen (16) to thirty-five (35) persons.
3. Three (3) water closets for thirty-six (36) to fifty-five (55) persons.
4. Four (4) water closets for fifty-six (56) to eighty (80) persons.
5. Five (5) water closets for eighty-one (81) to 110 persons.
6. Six (6) water closets for 111 to 150 persons.
7. One (1) water closet for each forty (40) additional persons.
8. One (1) lavatory for one (1) to fifteen (15) persons.
9. Two (2) lavatories for sixteen (16) to thirty-five (35) persons.
10. Three (3) lavatories for thirty-six (36) to sixty (60) persons.
11. Four (4) lavatories for sixty-one (61) to ninety (90) persons.
12. Five (5) lavatories for ninety-one (91) to 125 persons.
13. One (1) lavatory for each forty-five (45) additional persons.
14. Whenever urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than seventy (70) percent of the minimum specified.
15. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

Section 14. Swimming Pool Bathhouses (Relates also to 401 KAR 6:030). (1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, each designated for "Males" or "Men" and the other "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather loading, as defined in 401 KAR 6:030, Section 7(5), and shall conform to the following:

(a) One (1) water closet for each seventy-five (75) males or fraction thereof.

(b) One (1) water closet for each fifty (50) females or fraction thereof.

(c) One (1) urinal for each seventy-five (75) males or fraction thereof.

(d) One (1) lavatory for each 100 persons or fraction thereof.

(e) One (1) shower per each fifty (50) persons or fraction thereof.

(f) One (1) drinking fountain per each 200 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of one (1) hour or less shall have one (1) shower for each six (6) swimmers, or one (1) shower for each ten (10) swimmers if the period is two (2) hours.

(4) Satisfactorily designed and located shower facilities,

including warm water and soap, shall be provided for each sex. Showers shall be supplied with water at a temperature of no less than ninety (90) degrees Fahrenheit, and at a flow rate of at least three (3) gallons per minute. Thermostatic, tempering or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathhouse toilet room and shower facilities may be waived when such facilities are conveniently available to pool patrons within 150 feet from the pool.

Section 15. Park Service Buildings or Bathhouses (Relates to 902 KAR 15:020). (1) Exept for self-contained recreational vehicle parks, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures specified.

(2) Except for self-contained recreational vehicle parks, sanitary facilities shall be provided as follows:

(a) One (1) to fifteen (15) vehicle spaces:

1. Males: One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females: One (1) water closet, one (1) lavatory and one (1) shower.

(b) Sixteen (16) to thirty (30) vehicle spaces:

1. Males: One (1) water closet, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females: Two (2) water closets, two (2) lavatories and two (2) showers.

(c) Thirty-one (31) to forty-five (45) vehicle spaces:

1. Males: Two (2) water closets, one (1) urinal, three (3) lavatories and three (3) showers.

2. Females: Two (2) water closets, three (3) lavatories and three (3) showers.

(d) Forty-six (46) to sixty (60) vehicle spaces:

1. Males: Two (2) water closets, two (2) urinals, three (3) lavatories and three (3) showers.

2. Females: Three (3) water closets, three (3) lavatories and three (3) showers.

(e) Sixty-one (61) to eighty (80) vehicle spaces:

1. Males: Three (3) water closets, two (2) urinals, four (4) lavatories and four (4) showers.

2. Females: Four (4) water closets, four (4) lavatories and four (4) showers.

(f) Eighty-one (81) to 100 vehicle spaces:

1. Males: Four (4) water closets, two (2) urinals, five (5) lavatories and five (5) showers.

2. Females: Five (5) water closets, five (5) lavatories and five (5) showers.

(g) When over 100 vehicle spaces are provided there shall be one (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof; one (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and one (1) additional urinal for males per additional 100 vehicle spaces.

Section 16. Residential and Day Camp Sites (Relates to 902 KAR 10:040). (1) Each residential and day camp site shall be provided with sanitary facilities for each sex as specified.

(2) Sanitary facilities shall be provided as listed below, except, however, day camps shall not be required to provide shower facilities.

(a) One (1) to eighteen (18) persons served:

1. Males: One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females: Two (2) water closets, one (1) lavatory and one (1) shower.

(b) Nineteen (19) to thirty-three (33) persons served:

1. Males: Two (2) water closets, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females: Two (2) water closets, two lavatories and two showers.

(c) Thirty-four (34) to forty-eight (48) persons served:

1. Males: Two (2) water closets, two (2) urinals, two (2) lavatories and three (3) showers.

2. Females: Three (3) water closets, two (2) lavatories and three (3) showers.

(d) Forty-nine (49) to sixty-three (63) persons served:

1. Males: Three (3) water closets, two (2) urinals, three (3) lavatories and four (4) showers.

2. Females: Four (4) water closets, three (3) lavatories and four (4) showers.

(e) Sixty-four (64) to seventy-nine (79) persons served:

1. Males: Three (3) water closets, three (3) urinals, three (3) lavatories and five (5) showers.

2. Females: Five (5) water closets, three (3) lavatories and five (5) showers.

(f) Eighty (80) to ninety-five (95) persons served:

1. Males: Four (4) water closets, three (3) urinals, four (4) lavatories and six (6) showers.

2. Females: Six (6) water closets, four (4) lavatories, and six (6) showers.

(g) When over ninety-five (95) persons are served, there shall be provided: One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served; one (1) additional shower for each twenty (20) persons, or fraction thereof, served; one (1) urinal per fifty (50) additional males or fraction thereof.

(h) Water closets may be substituted for urinals when facilities may be used by both sexes.

Section 17. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. (Relates to 902 KAR 10:020 and 902 KAR 45:005).

(1) Food stores:

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per fifty (50) square feet, may be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet.

(c) 1. One (1) water closet for one (1) to 100 persons.

2. Two (2) water closets for 101 to 200 persons.

3. Three (3) water closets for 201 to 400 persons.

4. One (1) water closet for each 500 males or 300 females in excess of 400.

5. One (1) urinal for one (1) to 200 males.

6. Two (2) urinals for 201 to 400 males.

7. Three (3) urinals for 401 to 600 males.

8. One (1) urinal for each 300 males or fraction thereof, over 600.

9. One (1) lavatory for one (1) to 200 persons.

10. Two (2) lavatories for 201 to 400 persons.

11. Three (3) lavatories for 401 to 700 persons.

12. One (1) lavatory for each 500 persons or fraction thereof in excess of 700.

13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.

14. One (1) service sink, *utility sink* or *curbed mop basin* [slop sink] per floor as required.

(2) Restaurants:

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) In new establishments or establishments that are extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees; provided, that carry-out type food service operations shall be exempted from providing toilet facilities for the use of their patrons.

(c) 1. Two (2) water closets for one (1) to 100 persons.
2. Three (3) water closets for 101 to 200 persons.
3. Four (4) water closets for 201 to 300 persons.
4. One (1) water closet for each additional 200 persons or fraction thereof over 300.

(d) 1. One (1) urinal for one (1) to 150 males.
2. One (1) urinal for each additional 150 males or fraction thereof over 150.

(e) 1. One (1) lavatory for one (1) to 200 persons.
2. Two (2) lavatories for 201 to 400 persons.
3. Three (3) lavatories for 401 to 600 persons.
4. One (1) lavatory for each additional 200 persons or fraction thereof over 600.

(f) 1. One (1) drinking fountain for one (1) to 100 persons.
2. Two (2) drinking fountains for 101 to 500 persons or fraction thereof.

(g) When food is consumed indoors on premises, water stations may be substituted for drinking fountains.

(h) One (1) service sink, *utility sink* or *curbed mop basin* [slop sink] on each floor as required.

(i) Lavatories for handwashing shall be provided in the kitchen area, readily accessible to the employees.

Section 18. Temporary Facilities for Construction Projects. Separate sanitary fixtures shall be provided as scheduled below for both males and females:

(1) One (1) water closet per thirty (30) males or fraction thereof.

(2) One (1) urinal per thirty (30) males or fraction thereof.

(3) One (1) lavatory per thirty (30) males or fraction thereof.

(4) One (1) water closet per twenty (20) females or fraction thereof.

(5) One (1) lavatory per twenty (20) females or fraction thereof.

(6) One (1) drinking fountain per 100 persons or fraction thereof.

Section 19. The fixture requirements of this regulation are also compiled in table form which is available from the Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

CHARLES A. COTTON, Commissioner
ADOPTED: September 14, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: September 15, 1983 at 2:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Carl VanCleve, Director, Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

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

902 KAR 20:006. Certificate of need process.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990(1), (2)
PURSUANT TO: KRS 13.082, 216B.040, 216B.075
NECESSITY AND FUNCTION: KRS 216B.040 and KRS 216B.075 authorize the Certificate of Need and Licensure Board to promulgate administrative regulations respecting application and review procedures. This regulation sets forth the application and review procedures and requirements for batching, review of substantial changes in projects and cost escalations and progress reports.

Section 1. Definitions. Except as otherwise provided, for purposes of this regulation, the following definitions shall apply:

(1) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provides services similar to the services of the facility under review; health facilities which, prior to receipt by the agency or the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(2) "Batching" means the formal review in the same review cycle and comparative consideration of all filed applications (other than those given non-substantive review pursuant to KRS 216B.095) pertaining to similar types of services, facilities or equipment affecting the same health service area.

(3) "Board" means the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(4) "Capital expenditure authorized" means the amount of the capital expenditure approved by the board to implement a proposal.

(5) "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 as covered by KRS Chapter 216B.

(6) "Cabinet" means the Cabinet for Human Resources.

(7) "Executive director" means the executive director of the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board.

(8) "Formal review process" means the ninety (90) day certificate of need review conducted by the board.

(9) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(10) "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the governor.

(11) "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a cer-

tificate of need as authorized under KRS 216B.095.

(12) "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(13) "Public information channels" means the office of communications and council affairs in the Cabinet for Human Resources.

Section 2. Criteria. In determining whether to issue or deny a certificate of need, the board and the cabinet shall utilize the following criteria:

(1) Consistency with plans. The proposal should be consistent with the state health plan *validly in effect on August 16, 1983 and available at the principal office of the board.* Consideration should be given to the other applicable appropriately adopted plans developed by local health planning agencies. In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail. The fact that the state health plan does not address the specific type of proposal being reviewed does not constitute grounds for disapproval of the proposal. To determine conformance with this criterion the applicant and the cabinet shall address and the board shall consider the relationship of the proposal to:

(a) The state health plan;

(b) The applicable appropriately adopted plans developed by local health planning agencies.

(2) Need and accessibility. The proposal should meet an identified need in a defined geographic area and be accessible to all residents of the area. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The need that the population served or to be served has for the services proposed to be offered or expanded, and the extent to which all residents of the area, and in particular low income persons, racial and ethnic minorities, women, handicapped persons and other underserved groups are likely to have access to those services.

(b) In the case of a reduction or elimination of a service, including the relocation of a facility or a service, the need that the population presently served has for the service; the extent to which that need will be met adequately by the proposed relocation or by alternative arrangements; and the effect of the reduction, elimination, or relocation of the service on the ability of low income persons, racial and ethnic minorities, women, handicapped persons, and other underserved groups to obtain needed health care.

(c) The contribution of the proposed service in meeting the health related needs of members of medically underserved groups which have traditionally experienced difficulties in obtaining equal access to health services (for example, low income persons, racial and ethnic minorities, women and handicapped persons), particularly those needs identified in the applicable appropriately adopted plans developed by local health planning agencies and the state health plan as deserving of priority. In this regard, the board and the cabinet shall consider:

1. The extent to which medically underserved populations currently use the applicant's services in comparison to the percentage of the population in the applicant's service area which is medically underserved, and the extent to which medically underserved populations will use the proposed services if approved;

2. The past performance of the applicant in meeting its obligation, if any, under any applicable federal regulations requiring provision of uncompensated care, community service, or access by minorities and handicapped persons to programs receiving federal financial assistance (including the existence of any civil rights access complaints against the applicant);

3. The extent to which physicians with admitting privileges at the applicant's facility admit Medicare and Medicaid patients; and

4. The extent to which the applicant offers alternative means, other than through admission by a physician, by which a person will have access to its services (e.g., admission through a clinic or emergency room).

(d) The effect of the means proposed for the delivery of health services on the clinical needs of health professional training programs in the area in which the services are to be provided.

(e) If proposed health services are to be available in a limited number of facilities, the extent to which the health professions schools in the area will have access to the services for training purposes.

(f) Special needs and circumstances of those entities which provide a substantial portion of their services or resources, or both, to individuals not residing in the health service areas in which the entities are located or in adjacent health service areas. These entities may include medical or other health professions schools, multidisciplinary clinics and specialty centers.

(g) The special needs and circumstances of biomedical-behavioral research projects which are designed to meet a national need and for which local conditions offer special advantages.

(3) Interrelationships and linkages. The proposal should serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The relationship of the services to be provided to the existing health care system of the area in which the services are proposed to be provided.

(b) The relationship, including the organizational relationship, of the health services proposed to be provided to ancillary or support services.

(c) In the case of health services or facilities proposed to be provided, the efficiency and appropriateness of the use of existing services and facilities similar to those proposed.

(4) Costs, economic feasibility, and resource availability. The proposal when measured against the cost of alternatives for meeting needs, is judged to be an effective and economical use of resources, not only in terms of capital investment, but also in terms of ongoing requirements for health manpower and operational financing. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider:

(a) The availability of less costly or more effective alternative methods of providing the services to be offered, expanded, reduced, relocated, or eliminated.

(b) The immediate and long-term financial feasibility of the proposal, as well as the probable impact of the proposal on the cost of and charges for providing health services by the person proposing the service.

(c) The availability of resources (including health personnel, management personnel, and funds for capital and operating needs) for the provision of the services proposed to be provided and the availability of alternative uses of these resources for the provision of other health services.

(d) In the case of construction projects:

1. The costs and methods of the proposed construction, including the costs and methods of energy provision; and

2. The probable impact of the construction project reviewed on the costs of providing health services by the persons proposing the construction project and on the costs and charges to the public of providing health services by other persons.

(e) The special circumstances of health care facilities with respect to the need for conserving energy.

(f) The factors which affect the effect of competition on the supply of the health services being reviewed.

(g) Improvements or innovations in the financing and delivery of health services which foster competition, and serve to promote quality assurance and cost effectiveness.

(5) Quality of services. The applicant should be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services. To determine conformance with this criterion the applicant shall address and the board and the cabinet shall consider the quality of care provided by the applicant in the past.

(6) Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization (HMO) or an ambulatory care facility or health care facility controlled directly or indirectly by an HMO, the proposal should be consistent with the special need and circumstances of HMOs. The applicant shall address and the board and the cabinet shall consider only:

(a) The needs of enrolled members and reasonably anticipated new members of the health maintenance organizations for the health services proposed to be provided by the organization; and

(b) The availability of the new health services from non-health maintenance organization providers or other health maintenance organizations in a reasonable and cost effective manner which is consistent with the basic method of operation of the health maintenance organization. In assessing the availability of these health services the board and the cabinet shall consider only whether the services from these providers:

1. Would be available under a contract of at least five (5) years duration;

2. Would be available and conveniently accessible through physicians and other health professionals associated with the health maintenance organization (e.g., whether physicians associated with the health maintenance organization have or will have full staff privileges in a non-health maintenance organization hospital.);

3. Would cost no more than if the services were provided by the health maintenance organization; and

4. Would be available in a manner which is administratively feasible to the health maintenance organization.

Section 3. Required Approvals for HMOs. Notwithstanding the general review criteria established in Section 2, if an HMO or a health facility which is controlled, directly or indirectly, by an HMO applies for a certificate of need, the board shall approve the application if it finds, in accordance with the criterion set out in Section 2(6) that:

(1) Approval of the application is required to meet the needs of the members of the HMO and the new members which the HMO can reasonably be expected to enroll; and

(2) The HMO is unable to provide, through services or facilities which can reasonably be expected to be available to the HMO, its health services in a reasonable and cost-effective manner which is consistent with the basic method of operations of the HMO and which makes these services available on a long-term basis through physicians and other health professionals associated with it.

Section 4. Exemptions. (1) A certificate of need shall not be required for any project which meets the applicable requirements of KRS 216B.065, 216B.070, or Section 14 of the 1982 Act. If a person acquires major medical equipment not located in a health facility without a certificate of need and proposes at any time to use that equipment to serve inpatients of a hospital, the proposed new use must be reviewed unless the equipment will be used to provide services to inpatients of a hospital only on a temporary basis in the case of an emergency, a natural disaster, a major accident, or an equipment failure. For the purposes of this section "temporary basis" means on an occasional and irregular basis or until the applicant's proposal for permanent acquisition or regular use by a hospital is reviewed under the formal or non-substantive review process.

(5) Within fifteen (15) days of receipt of the application the executive director shall acknowledge receipt in writing to the applicant and the respective local health planning systems agency, if any, and shall notify the applicant whether or not the application is complete.

(6) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(7) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant stating that he elects for the application to be processed as originally submitted.

(8) Applications not filed within a year from the date the application was received shall not be retained by the board.

(9) The executive director shall notify the applicant of the date the appliation was filed and the date public notice has been given of the commencement of the review process. Applications must be filed at least six (6) working days prior to the date of public notice in order to be included in such notice.

(10) The executive director shall give written notice to affected persons of the beginning of a review. The notice shall include the schedule for the review and the period within which a public hearing may be requested by affected persons. The review notice to members of the public and third party payors shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(11) The review period shell commence on the date of public notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action. Applications proposing the same or similar types of services, equipment, or facilities affecting the same health service area shall be batched in the review cycles so they can be given comparative review, if applicable. Batching review cycles for formal reviews shall be as follows:

Type of Proposal	Month of public notice, ninety (90) days prior to meeting date	Month of certificate of need board meeting, Third Wednesday of:
(a) *Hospitals: acute and psychiatric when proposed capital expenditure is $1,000,000 or less* [Hospital facilities and services including: general medical, surgical, psychiatric, obstetric and pediatric beds; primary care centers, renal disease facilities, and ambulatory care clinics, ambulatory surgical centers, and rural health clinics].	October *and* [February,] June	January, *and* [, May,] September
(b) Hospitals: acute and psychiatric when proposed capital expenditure is more than $1,000,000.	*February and August*	*May and November*
(c) Primary care centers, renal disease facilities, ambulatory surgical centers, alternative birth centers, chemical dependency treatment services, physical rehabilitation services, mobile diagnostic services and rural health clinics.	*October, February and June*	*January, May and September*
(d) [(b)] Long term care facilities and services including: skilled nursing, intermediate care, personal care, and nursing homes; and [proposals for] home health services, *hospice services, rehabilitation clinics,* and any other type of proposals not listed in paragraph (a), *(b) or (c)* of this subsection.	December, April [,] *and* August	March, July [,] *and* November

(12) Capital expenditures made by or on behalf of hospitals requiring certificates of need for proposals reviewed under subsections (a) and (b) of Section 5(11), except those for replacement of equipment five (5) years old or older, will be subject to the capital expenditure limit as contained in the state health plan.

(13) [(12)] Any person directly affected by the proposal may request a public hearing within thirty (30) days of the date of public notice.

(14) [(13)] The local health planning agency shall notify the executive director of its recommendation for approval or disapproval within sixty (60) days from the date of public notice. The recommendation shall set forth the basis for the recommendation and findings with respect to the criteria. In the event that no recommendation is received from the local health planning agency, the board shall proceed without a recommendation.

(15) [(14)] The executive director of the board shall notify the applicant, the local health planning agency and any party to the proceeding of the board's final action on a certificate of need application.

(a) If the application is approved, the written notification shall include:

1. Verification that criteria for determining need have been met and that the current accessibility of the facility as a whole has been taken into account, if applicable, as specified in the federal certificate of need regulation, except in the following cases:

a. Where the application is approved pursuant to the requirements of Section 2(6). In such case, the written findings shall verify that the conditions for required approvals under Section 3 have been met; or

b. Where the project is a proposed capital expenditure not directly related to the provision of health services or to beds or major medical equipment.

2. Amount of capital expenditure authorized, where applicable.

(b) If the application is disapproved, the written notification shall include:

1. The decision of the board.

2. Notice of appeal rights.

(c) If the board's action on a certificate of need application is inconsistent with a recommendation made by the local health planning agency, the executive director shall submit to the local health planning agency and to the applicant a written detailed statement of the reasons for the inconsistency.

Section 6. Nonsubstantive Review. (1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review. In addition to the projects specified in KRS 216B.095(3)(a-f), nonsubstantive review status will be granted to an application to change the location of a proposed health service, so long as the application to change the location is submitted no later than one (1) year after the issuance of the original certificate of need. If a change of location of a proposed health facility is requested more than one (1) year after the certificate of need was issued, a formal review shall be required.

(2) Procedures. Procedures for nonsubstantive review shall be as follows:

(a) The original certificate of need application and one (1) copy, with a request for nonsubstantive review shall be submitted to the executive director and two (2) copies of the application shall be submitted to the respective local health planning agency, if any.

(b) Within fifteen (15) days of the receipt of the application the executive director shall acknowledge receipt of the application in writing to the applicant and the local health planning agency, if any, and shall notify the applicant whether or not the application is complete.

(c) If the application is not complete, the notice to the applicant shall give the applicant the option of submitting the additional information or of notifying the executive director that he elects for the application to be processed as originally submitted.

(d) All applications shall be deemed filed upon the determination of completeness by the executive director, upon receipt of the requested additional information by the executive director, or upon receipt of a letter from the applicant that he elects for the application to be processed as originally submitted.

(e) Within fifteen (15) days after the application is filed, the executive director functioning as the representative of the cabinet shall determine whether the application meets the criteria for nonsubstantive review and shall notify affected persons of the decision to grant or deny nonsubstan-

tive review status. The notice to members of the public and third party payors shall be provided through public information channels. Notice to all other affected persons shall be by mail.

(f) Within fifteen (15) days of the cabinet's notice to conduct a nonsubstantive review any affected person other than the applicant may request a public hearing before the cabinet on an application granted nonsubstantive review status.

(g) The local health planning agency, if any, shall recommend approval or disapproval of applications granted nonsubstantive review status within thirty (30) days of the date of public notice. In the event that no recommendation is received from the local health planning agency, the cabinet shall proceed without a recommendation.

(h) The cabinet shall approve or disapprove applications for certificates of need within forty-five (45) days from the date of public notice to conduct a nonsubstantive review.

(i) If the applicant's proposed project is denied nonsubstantive review status the application will automatically be placed in the next appropriate batching cycle of the formal review process.

(j) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next appropriate batching cycle of the formal review process or may pursue a judicial appeal. If a formal review is requested, no letter of intent shall be required, but the filing of the request for nonsubstantive review shall be considered compliance with any requirement for a letter of intent.

Section 7. Conditions Relative to a Certificate of Need. (1) No person shall transfer an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility without first obtaining a certificate of need. All other certificates of need may be transferred to the new owner of the facility or service if a change of ownership occurs prior to implementation of the project for which the certificate of need was issued.

(2) A certificate of need issued for establishment of a new health facility or the replacement of an existing facility and is issued only for the location stated on the certificate.

(3) Cost escalations. (a) A certificate of need shall not be required for an escalation of the capital expenditure authorized provided that the scope of the project as approved is not altered and the amount of the escalation does not exceed:

1. Twenty percent (20%) of the capital expenditure authorized or $100,000, whichever is greater, in the case of projects with a capital expenditure of less than $500,000;

2. Twenty percent (20%) of the capital expenditure authorized, in the case of projects with a capital expenditure of $500,000 or greater, but less than $5,000,000;

3. Ten percent (10%) of the amount in excess of $5,000,000, plus $1,000,000, in the case of projects with a capital expenditure of $5,000,000 or greater, but less than $25,000,000;

4. Five percent (5%) of the amount in excess of $25,000,000, plus $3,000,000, in the case of projects with a capital expenditure of $25,000,000 or greater, but less than $50,000,000; or

5. Two percent (2%) of the amount in excess of $50,000,000, plus $4,250,000 in the case of projects with a capital expenditure of $50,000,000 or greater.

(b) The certificate of need holder shall submit, to the executive director, a standardized escalation form approved by the Board which includes the amount of the escalation, the factors pertaining to the escalation, and information to assure that the scope of the project as approved originally by the Board has not changed. The executive director shall review the form submitted and within thirty (30) days of receipt shall notify the certificate of need holder whether the proposed escalation meets the requirements of subsection (a) of this section. Capital expenditures for escalations within the limits prescribed in this section shall not be obligated until the certificate of need holder has received this notice. A certificate of need shall be required for escalations in the capital expenditure authorized which exceeds the limits prescribed in this section or entails a change in the scope of the proposal which was originally approved.

(c) The certificate of need holder shall, prior to obligating any escalation of the capital expenditure authorized, submit to the executive director any additional certificate of need application fee required by the increased capital expenditure pursuant to the requirements of 902 KAR 20:135.

Section 8. Progress Reports. (1) As one of the conditions of a certificate of need, the certificate of need holder shall submit a report of progress every six (6) months or more frequently if required by the board until the project is complete.

(2) All certificate of need holders shall be notified in writing that certificates of need will be revoked by the board if satisfactory evidence towards the implementation of a proposal is not made within the time limits set by this regulation. The applicant shall provide the necessary evidence on forms provided by the executive director. The board may revoke the certificate of need for failure to submit progress reports as required.

(3) Procedures for submission of progress reports:

(a) The executive director shall send notice to the certificate of need holder specifying the date each progress report is due. The first six-month report shall be due six (6) months from the date the certificate was issued.

(b) The applicant shall send one (1) copy of the six-month progress report form to the board and two (2) copies to the local health planning agency, if any.

(4) Criteria for review of progress:

(a) The first six-month progress report shall include the following:

1. On all projects for purchase of equipment only, a copy of the purchase order.

2. For all construction projects, a copy of the deed or the option to acquire the site.

(b) In the event the certificate of need holder wishes to change the location of the project from the site specified on the certificate of need, the certificate of need holder shall note the proposed change of location on the first progress report form and shall submit a certificate of need application for nonsubstantive review.

(c) Within one (1) year after a certificate of need is issued, the second six-month report shall include documentation that:

1. All projects for conversion of beds are complete (ready for licensure);

2. All projects for addition of new services, not involving construction, are complete;

3. Schematic plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources for construction projects. The second six-month report for all construction projects shall also include:

a. Schedule for project completion with projected dates;
b. Evidence of preliminary negotiation with financial agent;
c. Evidence of preliminary negotiation with contractors.
(d) Within eighteen (18) months after a certificate of need has been issued, the third six-month report shall include the following information regarding all construction projects:
1. Copy of deed or lease of land;
2. Evidence that applicant has sufficient capital obligated to complete the project. If the source of capital is to be a financing agreement, the applicant must have evidence that a final enforceable agreement or note has been executed;
3. Documentation that final plans have been submitted to the Department of Housing, Buildings and Construction and the Cabinet for Human Resources;
4. Enforceable contract with construction contractor;
(e) On all projects for purchase of equipment only, evidence that equipment has been installed.
(f) Within two (2) years after a certificate of need has been issued, the fourth six-month report shall verify that all construction projects have the walls and roof up and plumbing roughed in.

Section 9. Effective date of amendments approved by the board on September 7, 1983. The proposed amendments to the batching review cycle in Section 5(11)(a) through (d) of this regulation shall go into effect immediately upon filing with the Legislative Research Commission of an executive order by the governor declaring the emergency nature of these amendments. The proposed amendments to Section 2(1) and Section 5(12) of this regulation shall go into effect upon completion of the regular process of promulgation of regulations.

FRANK W. BURRKE, SR., Chairman
ADOPTED: September 13, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: September 15, 1983 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

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

902 KAR 20:009. Facility specifications; hospitals.

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 licensure requirements for the structural specifications and plant requirements for new construction and alteration and maintenance of hospital facilities. Hospital facilities licensed prior to the effective date of this regulation shall meet the structural 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 with any acquisition, initiation, construction or expansion pursuant to KRS Chapter 216B.
(3) "License" means an authorization issued by the Board for the purpose of operating a hospital facility.
(4) "Licensure agency" means the Division for Licensing and Regulation in the office of the Inspector General, *Cabinet* [Department] for Human Resources.
(5) "Shelled-in-space" means any square footage contained in a proposed construction or renovation project for which there is no defined programmatic or specified functional usage.

Section 2. Preparation and Approval of Plans and Specifications. After receiving a certificate of need from the Board, the following procedures shall be followed:
(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any change in facilities for a hospital, the licensee or applicant shall submit plans to the licensure agency for approval.
(2) All architectural, mechanical and electrical drawings shall bear the seal of an architect registered in the Commonwealth of Kentucky or the seal of a professional engineer registered in the Commonwealth of Kentucky, or both.
(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.
(4) All such plans and specifications must be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.
(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted, together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing, Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications must be approved by the Department of Housing, Buildings and Construction. Appropriate local building permits shall be obtained prior to commencement of construction.

Section 3. Submission of Plans and Specifications for Hospitals. (1) First stage, schematic plans.
(a) Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Drawings shall include typical patient room layouts scaled (one-half (½) inch = one (1) foot) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.
(b) If the project is an addition, or is otherwise related to existing buildings on the site, plans shall show the facilities and general arrangements of those buildings.
(2) Second stage, preliminary plans. Preliminary sketch plans shall include the following:
(a) Architectural.
1. Plans of basement, floors and roof showing space

assignment, sizes, and outline of fixed and movable equipment;
2. All elevators and typical sections;
3. Plot plan showing roads, parking, and sidewalks;
4. Areas and bed capacities by floors.
(b) Mechanical.
1. Single line layout of all duct and piping systems;
2. Riser diagrams for multistory construction;
3. Scale layout of boilers and major associated equipment and central heating, cooling, and ventilating units.
(c) Electrical.
1. Plans showing space assignments, sizes and outlines of fixed equipment such as transformers, main switch and switchboards, and generator sets;
2. Simple riser diagram for multistory building construction, showing arrangement of feeders, subfeeders, bus work, load centers, and branch circuit panels.
(d) Outline specifications.
1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;
2. Description of the air-conditioning, heating, and ventilation systems and their controls; duct and piping systems; and dietary, laundry, sterilizing and other special equipment;
3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.
(3) Third stage, contract documents.
(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:
1. Architectural drawings.
a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;
b. Plan of each basement, floor, and roof;
c. Elevations of each facade;
d. Sections through building;
e. Required scale and full-size details;
f. Schedule of doors, windows, and room finishes;
g. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;
h. Conveying systems. Details of construction, machine and control spaces necessary, size and type of equipment, and utility requirements for the following: dumbwaiters: electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.
2. Structural drawings.
a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members;
b. Dimensions of special openings;
c. Details of all special connections, assemblies, and expansion joints.
3. Mechanical drawings.
a. Heating, steam piping, and air-conditioning systems. Radiators and steam heated equipment such as sterilizers, warmers, and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping and boiler room accessories; air-conditioning systems with required equipment, water and refrigerant piping, and ducts; supply and exhaust ventilation systems with heating/cooling connections and piping; air quantities for all room supply and exhaust ventilating duct openings.
b. Plumbing, drainage, and standpipe systems—Size and elevation of: street sewer, house sewer, house drains, street water main, and water service into the building; location and size of soil, waste, and water service with connections to house drains, clean-outs, fixtures, and equipment; size and location of hot, cold and circulating branches, and risers from the service entrance, and tanks; riser diagram for all plumbing stacks with vents, water risers, and fixture connections; gas, oxygen, and vacuum systems; standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.
4. Electrical drawings.
a. Electric service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;
b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits with schedule of feeder breakers or switches;
c. Light outlets, receptacles, switches, power outlets and circuits;
d. Telephone layout showing service entrance telephone switchboard, strip boxes, telephone outlets and branch conduits;
e. Nurses' call systems with outlets for beds, duty stations, door signal light, annunciators, and wiring diagrams;
f. Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits;
g. All other electrically operated systems and equipment.
(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:
1. Cover or title sheet;
2. Index;
3. Sections describing materials and workmanship in detail for each class of work.
(c) Access to work. Representatives of the appropriate state agencies shall have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 4. Compliance with Building Codes, Ordinances and Regulations. (1) Section 4 may be administered independently from other sections of this regulation.
(2) General. 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 for safety pursuant to 815 KAR 10:020, as amended;
(b) Requirements for plumbing pursuant to 815 KAR 20:010-191, as amended;
(c) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010;

(d) Requirements for elevators pursuant to 803 KAR 4:010;

(e) Requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder.

(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 in accordance with the Life Safety Code before relicensure is granted by the licensing agency.

Section 5. 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 by the sponsor and shall describe 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 contemplated and the estimated patient load as described in the narrative program.

(3) There shall be no shelled-in-space in any new construction or renovations for which specific uses are not outlined in the certificate of need application.

(4) [(3)] Facilities shall be available to the public, staff, and patients who may be physically handicapped with special attention given to ramps, drinking fountain height, mirrors, etc.

Section 6. Nursing Unit. (1) Patient rooms. Each patient room shall meet the following requirements:

(a) Maximum room capacity shall be four (4) patients.

(b) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules shall be 100 square feet in one (1) bed rooms and eighty (80) square feet per bed in multi-bed rooms.

(c) Multi-bed rooms shall be designed to permit no more than two (2) beds side by side parallel to the window wall with not less than a four (4) foot space provided between beds, and at least a three (3) foot space between the side of a bed and the nearest wall, fixed cabinet, or heating/cooling element. A minimum of four (4) feet is required between foot of bed and opposite wall, or foot of the opposite bed in multi-bed rooms. *The patient area in a room to contain one (1) bed shall not exceed 159 square feet exclusive of toilet rooms, closets, lockers, wardrobes or vestibules and such rooms shall not be used as multibed rooms. An exception to the room size requirement may be allowed if architectural considerations necessitate larger rooms provided the facility stipulates in writing that the rooms will not be used as multibed rooms.*

(d) Window. All patient rooms must have windows operable without the use of tools and shall have sills not more than three (3) feet above the floor. Window area shall be at least eight (8) percent of patient room floor area.

(e) Nurses' calling system. See Section 32(7).

(f) Lavatory. In single and two (2) bed rooms with private toilet room, the lavatory may be located in the toilet room. Where two (2) patient rooms share a common toilet, a lavatory shall be provided in each patient room.

(g) Wardrobe or closet for each patient. Minimum clear dimensions shall be eight (8) inches deep by one (1) foot and eight (8) inches wide with full length hanging space, clothes rod and shelf.

(h) Cubicle curtains, or equivalent built-in devices shall be provided to furnish complete privacy for each patient at any one time in multi-bed rooms.

(i) No patient room shall be located more than 120 feet from the nurses' station, the clean workroom, and the soiled workroom. No room shall be used as a patient room where the access is through another patient's room. At least sixty (60) percent of the beds in a nursing unit shall be located in rooms designed for one (1) or two (2) beds.

(2) Service areas in each nursing unit. The size of each service area will depend on the number and types of beds within the unit and shall include:

(a) Nurses' station for charting, doctors' charting, communications, and storage for supplies and nurses' personal effects.

(b) Clean workroom or clean holding area. The clean workroom shall contain a work counter, handwashing and storage facilities. The clean holding room shall be part of a system for storage and distribution of clean and sterile supplies and shall be similar to the clean workroom except that the work counter and handwashing facilities may be omitted.

(c) Soiled workroom or soiled holding room. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle. A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.

(d) Lounge and toilet room(s) for staff including lockers for storage of personal effects readily accessible. (May serve more than one (1) nursing unit.)

(e) Multi-purpose room for conferences, demonstrations and consultation. (May serve more than one (1) nursing unit.)

(f) Room for examination and treatment of patients. It shall have a minimum floor area of 120 square feet with a minimum dimension of ten (10) feet. (May serve more than one (1) nursing unit.) Room may be eliminated if all patient rooms are single-bed rooms. The room shall contain a lavatory or sink equipped for handwashing, work counter, storage facilities, and examination table. The emergency treatment room may be used for this purpose, if it is conveniently located on the same floor as the patient rooms.

(g) Medicine area. Provision shall be made for convenient and prompt 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 used, a medicine preparation room or unit shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit 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. Controlled substances locker must be under double lock. A handwashing facility shall be provided.

(h) Clean linen storage. Enclosed storage space (may be designated area within the clean workroom). If a closed cart system is used, storage may be in an alcove.

(i) Nourishment station. This shall contain a sink equipped for handwashing. Equipment for serving between scheduled meals, refrigerator, storage cabinets, and icemaker-dispenser units to provide patient service and treatment. (May serve more than one (1) nursing unit on the same floor.)

(j) Patients' bathing facilities. At least one (1) shower stall or one (1) bathtub for each twelve (12) patients not individually served. At least one (1) bathing facility on each patient floor shall have space for a wheelchair patient with an assisting attendant. At least one (1) sitz bath shall be provided in post partum units.

(k) Stretcher and wheelchair parking area or alcove. (May serve more than one (1) nursing unit on the same floor.)

(l) Janitor's closet for storage of housekeeping supplies and equipment with a floor receptor or service sink. (May serve more than one (1) nursing unit on the same floor.)

(m) Equipment storage room with sufficient space for equipment such as I.V. stands, inhalators, air mattresses, and walkers. (May serve more than one (1) nursing unit on the same floor.)

(n) Emergency equipment storage. Space for equipment such as crash carts shall be provided and be under direct control of the nursing staff in close proximity to the nurses' station and out of traffic. (May serve more than one (1) nursing unit on the same floor.)

(3) 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, but not more than four (4) beds. (The lavatory may be omitted from the toilet room if one (1) is provided in each patient room.)

(4) Isolation room. Isolation room(s) for the particular use of those prone to infections as well as those suffering from infections shall be provided. Each isolation room shall have:

(a) Only one (1) patient per room;

(b) Separate toilet room with bath or shower and lavatory for the exclusive use of the patient allowing for direct entry from the patient bed area; and

(c) Facilities outside and immediately adjacent to the patient room for maintaining aseptic conditions.

Section 7. Intensive Care Unit. Hospitals which have intensive care units shall meet the following requirements:

(1) Patient rooms. Cardiac intensive care patients shall be placed in single-bed rooms. Medical and surgical intensive care patients may be housed in a single-bed room or in multi-bed rooms. In the latter case, at least one (1) single-bed room shall be provided in each unit. All beds shall be arranged to permit direct visual observation arranged to permit direct visual observation by nursing staff. Each patient room shall meet the following requirements:

(a) Clearance between beds in multi-bed rooms shall not be less than seven (7) feet with a minimum of three (3) feet to the side of beds and at least four (4) feet from the foot of the beds. Single-bed rooms or cubicles shall have a minimum clear area of 120 square feet with a minimum dimension of ten (10) feet.

(b) View panels shall be provided in the doors and walls for nursing staff observation of patients. A means shall be provided to obstruct the view panels when the patient requires visual privacy. Glazing for view panels shall be safety glass, wire glass or clear plastic to reduce the hazard from accidental breakage, except where wire glass is required for fire safety purposes.

(c) An I.V. solution support shall be provided for each patient so that the solution is not suspended directly over the patient.

(d) A lavatory equipped for handwashing shall be provided in each private patient room. In multi-bed rooms there shall be at least one (1) lavatory for each six (6) beds.

(e) Nurses' calling system. See Section 32(7).

(f) Each cardiac intensive care patient shall be provided a toilet facility which is directly accessible from the bed area. The water closet shall have sufficient clearance around it to facilitate its use by patients needing assistance. Portable water closets are permitted within the patient room. If portable units are used, facilities for servicing and storing them shall be conveniently located to the cardiac care unit.

(g) Each room shall have a window or each bed shall have visual access to a window. In the latter case, by use of vision panels in partitions, one (1) window may serve more than one (1) patient. The window sill height shall not exceed three (3) feet above the floor.

(2) Service areas. The size and location of each service area will depend upon the number of beds to be served. One (1) area may serve two (2) or more intensive care units. The following service areas shall be located in or be readily available to each intensive care unit:

(a) Nurses' station. It shall be located to permit direct visual observation of each patient served.

(b) Handwashing facilities. These shall be located convenient to the nurses' station and medicine area.

(c) Charting facilities. These shall be separated from the monitoring service.

(d) Staff's toilet room. This room shall contain a water closet and lavatory equipped for handwashing.

(e) Individual closets or compartments for the safekeeping of coats and personal effects belonging to the nursing staff. They shall be located at or near the nurses' station.

(f) Clean workroom or a system for storage and distribution of clean and sterile supplies. The clean workroom shall contain a work counter, handwashing facility, and storage facilities.

(g) Soiled workroom or soiled holding room. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle and soiled linen receptacles. A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.

(h) Facilities for washing or flushing bedpans. These shall be provided within the unit.

(i) Medicine area. Provision shall be made for convenient and prompt 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 used, a medicine preparation room or unit shall be under the nursing staff's visual control, contain a work counter, refrigerator, and locked storage for biologicals and drugs. It shall contain a minimum floor area of fifty (50) square feet. A medicine dispensing unit 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. Controlled substances must be under double lock and a handwashing facility shall be provided.

(j) Clean linen storage. A separate closet or designated area within the clean workroom shall be provided. If a closed cart system is used, storage may be in an alcove.

(k) Nourishment station. This shall contain a sink equipped for handwashing, equipment for serving between scheduled meals, refrigerator, storage cabinets and icemaker-dispenser units to provide ice for patients' service and treatment.

(l) Emergency equipment storage. Space shall be pro-

vided for a crash cart and similar emergency equipment.

(m) Equipment storage room. Space for necessary equipment such as inhalators shall be provided.

(n) Patients' storage facilities. Individual lockers shall be provided for the storage of patients' clothing and personal effects. These lockers may be located outside the intensive care unit. Lockers shall be of size to permit hanging of full length garments.

(o) Waiting room. A separate waiting room shall be provided for family members and others who may be permitted to visit the intensive care patients. A toilet room, public telephone, and seating accommodations for long waiting periods shall be provided.

Section 8. Obstetrical Suite. (1) General. If an obstetrical suite is included in the narrative program, it shall be located and arranged to preclude unrelated traffic through the suite. The number of delivery rooms, labor rooms, recovery beds, and the sizes of the service areas shall depend upon the estimated obstetrical workload.

(2) Delivery room(s). Each room shall have a minimum clear floor area of 300 square feet exclusive of fixed and movable cabinets and shelves with a minimum dimension of sixteen (16) feet.

(3) Labor room(s). These rooms shall be single-bed or two (2) bed rooms with a minimum clear area of 100 square feet per bed. Labor beds shall be provided at the rate of two (2) for each delivery room. Each labor room shall contain a lavatory equipped for handwashing and have direct access to a toilet room. One (1) toilet room may serve two (2) labor rooms. Labor rooms shall be arranged so that doors are visible from a nurses' work station and shall be directly accessible to facilities for medication, handwashing, carting and storage for supplies and equipment. At least one (1) shower for use by labor room patients shall be provided. Controls shall be located outside of the wet area for use by nursing staff.

(4) Recovery room. It shall contain not less than two (2) beds, charting facilities located to permit staff surveillance of all beds, facilities for medicine dispensing, handwashing facilities, clinical sink with bedpan flushing device, and storage for equipment and supplies. The recovery room may be omitted in hospitals with an annual birth rate of less than 1,500.

(5) Service areas in each obstetrical suite. The services shall include:

(a) Control station located to permit visual surveillance of all traffic which enters the obstetrical suite.

(b) Supervisor's office or station.

(c) Sterilizing facilities with high-speed autoclave(s) conveniently located to serve all delivery rooms.

(d) Drug distribution station for storage and preparation of medication for patients. It shall contain a work counter, storage facilities, and a sink equipped for handwashing. Controlled substances shall be under double lock.

(e) Scrub facilities. Two (2) scrub stations shall be provided near the entrance to each delivery room. However, two (2) scrub stations may serve two (2) delivery rooms if the scrub stations are located adjacent to the entrance to each delivery room.

(f) Soiled workroom for the exclusive use of the obstetrical suite staff or a soiled holding area that is part of a system used for the collection and disposal of soiled materials. The soiled workroom shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle and linen receptacle. A soiled holding room shall be similar to the soiled workroom except that the clinical sink may be omitted.

(g) Clean workroom or a clean supply room. A clean workroom is required when clean materials are assembled within the obstetrical suite prior to use. A clean workroom shall contain a work counter, sink equipped for handwashing, and space for clean and sterile supplies. A clean supply room shall be provided when the facility utilizes a central system for the clean-up, distribution of clean and sterile supplies and central storage.

(h) Anesthesia workroom for cleaning, testing and storage of anesthesia equipment. It shall contain a work counter and sink.

(i) Anesthesia storage facilities.

(j) Medical gas supply with storage space for reserve medical gas cylinders shall be provided.

(k) Equipment storage room(s) for equipment used in the obstetrical suite.

(l) Staff clothing change areas. Appropriate areas shall be provided for male and female personnel (technicians, nurses, aides, and doctors) working within the obstetrical suite. The areas shall contain lockers, showers, toilets, lavatories equipped for handwashing and space for putting on scrub suits and boots. These areas shall be arranged to provide a one (1) way traffic pattern, so that personnel entering from outside the obstetrical suite can shower, change and go directly into the obstetrical suite. Space for removal of scrub suits and boots in change area shall be designed so that personnel using it will avoid physical contact with clean personnel.

(m) Lounge and toilet facilities for obstetrical staff. A nurses' toilet room shall be provided near the labor rooms and recovery room(s).

(n) Janitor's closet. A closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the obstetrical suite.

(o) Stretcher storage area. This area shall be out of direct line of traffic.

Section 9. Newborn Nursery Unit. (1) General. Each nursery shall provide:

(a) Lavatory for handwashing at the rate of one (1) for each eight (8) infants;

(b) Emergency nurses' call system;

(c) Oxygen;

(d) Isolation nursery; and

(e) Glazed observation windows to permit viewing infants from public areas, from workrooms and between adjacent nurseries.

(2) Full-term nursery. Each room shall contain not more than eight (8) bassinets (this may be increased to sixteen (16) if the extra bassinets are of the isolation type) with a minimum area of twenty-four (24) square feet per regular bassinet and forty (40) square feet per isolation type bassinets. No nursery shall open directly into another nursery.

(3) Workroom. Each nursery shall be served by a connecting workroom. It shall contain gowning facilities at the entrance for staff and housekeeping personnel, work space with counter, refrigerator, lavatory or sinks equipped for handwashing, and storage. One (1) workroom may serve a number of full-term nurseries provided that required services are convenient to each.

(4) Examination and treatment room. It shall contain a work counter, storage and lavatory equipped for handwashing.

(5) Premature and special care nursery. A premature

nursery is required only for hospitals with twenty-five (25) or more maternity beds. Each nursery shall have a minimum area of forty (40) square feet per bassinet. The premature nursery shall have its own workroom including lavatory. (A work area within the premature nursery may be used but this area shall be in addition to the required bassinet area.)

(6) Formula room. This room is intended for the sole purpose of preparing the infant formula and shall have no direct access to the nursery or workroom. It may be located elsewhere in the hospital. The following shall be provided unless commercially-prepared formula is used:

(a) Work counter with built-in sink with gooseneck-type spout and knee or foot control;

(b) Lavatory;

(c) Hot plate;

(d) Refrigerator;

(e) Sterilizer (autoclave); and

(f) Bottle washer.

(7) If commercially prepared formula is to be used or other modifications are proposed in formula preparation and processing, the formula room shall include such space and equipment as are necessary to accommodate formula processing, handling, and storage requirements.

(8) Janitor's closet. This closet for exclusive use in the nursery shall contain floor receptor or service sink and space for supplies and cleaning equipment.

Section 10. Pediatric Unit. If provided as a separate unit it shall include: (1) Patient rooms. Pediatric patient rooms shall conform to the same requirements as Section 6(1)(b) and (c) except that patient rooms used for cribs shall contain at least sixty (60) square feet of clear area for each crib with no more than six (6) cribs in a room.

(2) Nursery. Each nursery serving pediatric patients shall contain no more than eight (8) bassinets. The minimum clear floor area per bassinet shall be forty (40) square feet. Each room shall contain a lavatory equipped for handwashing, nurses' emergency calling system and glazed view windows for observation of infants from public areas and the workroom.

(3) Nursery workrooms. Each nursery shall be served by a connecting workroom. It shall contain gowning facilities at the entrance for staff and housekeeping personnel, work space with counter, storage facilities and a lavatory or sink equipped for handwashing. One (1) workroom may serve more than one (1) nursery.

(4) Examination and treatment room for nursery(ies) may be located in a separate room or a designated part of the workroom. It shall contain a work counter, storage facilities and a lavatory equipped for handwashing.

(5) Service areas. The service areas shall conform to the requirements in Section 6(2) and shall meet the following additional conditions:

(a) Multi-purpose or individual room(s) shall be provided for dining, educational, and play purposes. A total floor area of twenty (20) square feet per pediatric patient bed based on fifty (50) percent of the total number of pediatric patients shall be provided. Special provisions shall be made to minimize the impact noise transmission through the floor of the multi-purpose room(s) to occupied spaces below.

(b) Space for preparation and storage of infant formula shall be provided in the unit or in a convenient location nearby.

(c) Toilet room. A toilet room shall be provided for each sex, with minimum ratio of one (1) toilet for each eight (8) beds excluding bassinets.

(d) Storage closets or cabinets for toys and for educational and recreational equipment shall be provided.

(e) Storage space shall be provided for replacement of cribs and adult beds to provide flexibility for interchange of patient accommodations.

Section 11. Psychiatric Unit. If included as a separate unit, it shall be designed as other nursing units except that care must be taken to provide for patients needing close supervision to prevent the patient's escape, suicide, or hiding. The unit shall contain:

(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.

(b) Maximum of two (2) patients per room.

(c) 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.

(d) 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.

(e) 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 program, but operation of sash shall be restricted to inhibit possible tendency for escape or suicide. Where glass fragments may create a hazard, safety glazing and/or other appropriate security features shall be incorporated.

(f) A nurses' calling system is not required. If a call system is included, provisions shall be made to permit removal of call buttons and/or use of blank plates as appropriate.

(g) The visual privacy provided each patient shall isolate patients from one another but not from observation by staff.

(h) Bedpan flushing devices may be omitted from patient room toilets.

(2) Service areas. These areas shall conform to the requirements in Section 6(2) and shall meet the following additional conditions:

(a) Provide separate space for occupational therapy at the rate of fifteen (15) square feet per patient and a minimum area of 400 square feet.

(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 with not less than 120 square feet for each of the two (2) spaces, whichever is greater. This space may be shared by dining activities.

(c) Storage for recreational and occupational therapy equipment.

(d) Storage for patients' belongings.

(e) 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.

(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 supervision 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 suicidial; therefore, special fixtures, hardware, etc., including ground fault interrupters for electrical circuits and tamper-proof screws shall be used. Doors shall swing outward and shall have provisions for staff observation while maintaining privacy from public and other patients.

Section 12. Surgical Suite. (1) General. If a surgical suite is included in the narrative program, it shall be located and arranged to preclude unrelated traffic through the suite. The number of operating rooms and recovery beds, including the size of the service areas, shall be based on the expected surgical workload.

(2) Operating room(s). Each operating room shall have a minimum clear floor area of 360 square feet, exclusive of fixed and movable cabinets and shelves, with a minimum dimension of eighteen (18) feet. Storage space for splints and traction equipment shall be provided for rooms equipped for orthopedic surgery. At least two (2) x-ray film illuminators in each operating room shall be provided.

(3) Rooms for surgical cystoscopy and other endoscopic procedures. These room shall have a minimum clear area of 250 square feet, exclusive of fixed and movable cabinets and shelves, with a minimum dimension of fifteen (15) feet. Facilities for the disposal of liquid wastes shall be provided.

(4) Recovery room(s). Room(s) for post anesthesia recovery of surgical patients shall be provided and shall contain a drug distribution station, handwashing facilities, charting facilities, clinical sink and storage space for supplies and equipment. Design shall provide for a minimum of three (3) foot clearance to each side of the recovery beds.

(5) Medical preparation and holding area. Room(s) shall be provided for medical preparation of patients and holding prior to surgery. It shall contain a drug distribution station, handwashing facilities and charting facilities. Design shall provide for a minimum of three (3) foot clearance to each side of the beds. This area may be eliminated if the medical preparation of patients prior to surgery is done in the patient bedrooms.

(6) Service areas in each surgical suite. The services shall include:

(a) Control station located to permit visual surveillance of all traffic which enters the surgical suite;

(b) Sterilizing facilities with high speed autoclave(s) located nearby the operating rooms;

(c) Drug distribution station for storage and preparation of medication for patients. It shall contain a work counter, storage facilities, and a sink equipped for handwashing. Controlled substances shall be under double lock;

(d) Scrub facilities. Two (2) scrub stations shall be provided near the entrance to each operating room. However, two (2) scrub stations may serve two (2) operating rooms if the scrub stations are located adjacent to the entrance to each operating room;

(e) Soiled workroom for the exclusive use of the surgical suite staff or a soiled holding area that is part of a system used for the collection and disposal of soiled materials. The soiled workroom shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle, and linen receptacle. A soiled holding room shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted;

(f) Clean workroom or a clean supply room. A clean workroom is required when clean materials are assembled within the surgical suite prior to use. A clean workroom shall contain a work counter, sink equipped for handwashing, and storage space for clean and sterile supplies. A clean supply room shall be provided when the facility utilizes a central system for the clean-up, distribution of clean and sterile supplies and central storage;

(g) Anesthesia workroom. For cleaning, testing and storage of anesthesia equipment. It shall contain a work counter and sink;

(h) Anesthesia storage facilities;

(i) Medical gas supply with storage space for reserve medical gas cylinders shall be provided;

(j) Storage room(s) for equipment and supplies used in the surgical suite.

(k) Staff clothing change areas. Appropriate areas shall be provided for male and female personnel (orderlies, technicians, nurses and doctors) working within the surgical suite. The areas shall contain lockers, showers, toilets, lavatories equipped for handwashing and space for putting on scrub suits and boots. These areas shall be arranged to provide a one (1) way traffic pattern so that personnel entering from outside the surgical suite can shower, change and go directly into the surgical suite. Space for removal of scrub suits and boots in the change area shall be designed so that personnel using it will avoid personal contact with clean personnel;

(l) Outpatient surgery change areas. If the narrative program includes an outpatient surgery load, a separate area shall be provided where outpatients can change from street clothing into hospital gowns and are prepared for surgery. This shall include a waiting room, lockers, toilets and clothing change or gowning area with a traffic pattern similar to that of the staff clothing change area;

(m) Outpatient recovery. If the program narrative includes outpatient surgical services, provisions shall be made for a separate post-recovery area for outpatients;

(n) Patient's holding area. In facilities with two (2) or more operating rooms, a room or alcove shall be provided to accommodate stretcher patients waiting for surgery. This area shall be under the visual control of the surgical suite control station. If a separate room for medical preparation of patients is provided as called for under Section 11(5), this holding area will not be required;

(o) Stretcher storage areas. This area shall be out of direct line of traffic;

(p) Lounge and toilet facilities for surgical staff. These facilities shall be located to permit use without leaving the surgical suite. A nurses' toilet room shall be provided near the recovery room(s); and

(q) A janitor's closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided for exclusive use in the surgical suite.

Section 13. Outpatient and Emergency Care. (1) General. Facilities for emergency and outpatient clinic care shall be provided if included in the narrative plan.

(2) Emergency patient care services. The extent of the emergency services to be provided in the hospital will depend upon the community needs and the availability of other organized programs for emergency care within the community. The facilities shall be located to prevent outpatients from traversing inpatient areas and shall include:

(a) Entrance at grade level which is sheltered from the weather and has convenient access for ambulances and wheelchairs.
(b) Reception and control area located near the entrance, waiting area(s) and treatment room(s).
(c) Public waiting area with toilet facilities, public telephone and drinking fountain.
(d) Examination and treatment room(s). Handwashing facilities shall be provided in each room. Each room shall have a minimum floor area of 120 square feet with a minimum dimension of ten (10) feet.
(e) Emergency room for minor surgical procedures. It shall contain a handwashing facility and shall have a minimum floor area of 240 square feet. The minimum dimension shall be fifteen (15) feet.
(f) Clean workroom. It shall contain a work counter, sink equipped for handwashing, and storage space for clean and sterile supplies.
(g) Soiled workroom. It shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle and linen receptacle.
(h) Drug distribution station for storage and preparation of medication. It shall contain a work counter, storage facilities, and sink equipped for handwashing. Controlled substances shall be under double lock.
(i) Nurses' station for nurses' charting, doctors' charting, communications and storage for supplies and nurses' personal effects.
(j) Staff toilet room.
(k) Patient's toilet room. It shall be located convenient to the treatment room(s).
(l) Wheelchair and stretcher alcove located convenient to the entrance to the department.
(m) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment for exclusive use in the emergency department.
(n) Equipment storage room.
(3) Outpatient department. If outpatient services are provided, the extent of the administrative, clinical and diagnostic facilities to be provided will depend on the estimated patient load as described in the program narrative. The planning of 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 traverse inpatient areas and the following shall be provided:
(a) Entrance at grade level which is sheltered from weather and able to accommodate wheelchair access.
(b) Reception and control area located near the entrance and waiting area(s).
(c) Wheelchair storage out of the line of direct traffic.
(d) Public waiting area with toilet facilities, public telephone and drinking fountain.
(e) Interview space(s) for private interviews relating to social service, credit and admissions.
(f) General or individual office(s) for business transaction, records, administrative and professional staffs.
(g) Multi-purpose room(s) for conferences, meetings, and health education purposes. It shall be equipped for the use of visual aids.
(h) General purpose examination room(s) for medical, obstetrical and similar examinations. Each room shall have a minimum floor area of eighty (80) square feet, excluding such spaces as vestibule, toilet, closet and work counter. Examination table shall be placed to provide at least thirty (30) inches clearance to each side and at the foot of the table. A lavatory or sink equipped for handwashing shall be provided in each room.
(i) Special purpose examination rooms. Room sizes for special clinics such as eye, dental, ear, nose and throat examinations shall be determined by the types of equipment used but shall be not less than eighty (80) square feet. A lavatory or sink equipped for handwashing shall be provided in each room.
(j) Observation room(s) for handling of isolation, suspect or disturbed patients. It shall be located convenient to the nurses' station to permit close observation of patients. In facilities having an annual patient load of 15,000 or less, a separate room will not be required if an examination room is modified to accommodate this function.
(k) Patient toilet facilities shall be provided. The number required will depend on the actual patient load of the department.
(l) Nurses' station for nurses' charting, doctors' charting, communications and storage for supplies and nurses' personal effects.
(m) Staff toilet room located convenient to the nurses' station.
(n) Clean workroom. It shall contain a work counter, sink equipped for handwashing, and storage space for clean and sterile supplies.
(o) Soiled workroom. It shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle and linen receptacle.
(p) Drug distribution station for storage and preparation of medication. It shall contain a work counter, sink equipped for handwashing, and storage facilities. Controlled substances shall be under double lock.
(q) Wheelchair and stretcher alcove located convenient to the entrance to the department.
(r) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment for exclusive use in the outpatient department.
(s) Equipment storage room.

Section 14. Radiology Suite. This suite shall contain the following: (1) Radiographic room(s);
(2) Film processing facilities;
(3) Viewing and administrative area(s);
(4) Film storage facilities;
(5) Toilet room with handwashing facility. It shall be located directly accessible from each fluoroscopy room without entering the general corridor area;
(6) Dressing area(s) for ambulatory patients with convenient access to toilets;
(7) Waiting room or alcove for ambulatory patients;
(8) Holding area for stretcher patients. It shall be located out of the direct line of normal traffic; and
(9) Handwashing facilities shall be provided in each radiographic room unless the room is used only for routine diagnostic screening such as for chest x-rays.

Section 15. Laboratory Suite. Facilities shall be provided for the following and the size of the areas including equipment will depend on the patient workload:
(1) Hematology;
(2) Clinical chemistry. An acid-shower and eye-washing facility shall be provided nearby;
(3) Urinalysis. A specimen toilet with handwashing facility shall be provided nearby;

(4) Cytology;
(5) Bacteriology;
(6) Waiting area for ambulatory patients;
(7) Administrative support areas;
(8) Blood storage facilities;
(9) Blood specimen collection area. It shall contain work counter, handwashing facilities, and space for patient seating;
(10) Glasswashing and sterilizing facilities; and
(11) Recording and filing facilities.

Section 16. Physical Therapy Suite. If the physical therapy suite is included by the narrative program, the following items shall be provided:
(1) Office space;
(2) Waiting space;
(3) Treatment area(s) for thermotherapy, diathermy, ultrasonics, hydrotherapy, etc. Cubicle curtains around each individual treatment area shall be provided for privacy purposes. Handwashing facilities shall be provided but one (1) lavatory or sink may serve more than one (1) treatment cubicle. Facilities for collection of wet and soiled linen or other material shall be provided;
(4) Exercise area(s);
(5) Storage for clean linen, supplies, and equipment;
(6) Patients' dressing areas, showers, lockers and toilet rooms;
(7) Janitor's closet with floor receptor or service sink and storage space for housekeeping supplies and equipment; and
(8) Wheelchair and stretcher storage area.

Section 17. Morgue and Autopsy. (1) If autopsies are performed within the hospital, the following shall be provided:
(a) Refrigerated facilities for body-holding.
(b) Autopsy room. This room shall contain the following:
1. Work counter with sink equipped for handwashing;
2. Storage space for supplies, equipment and specimens;
3. Autopsy table;
4. Clothing change area with shower, toilet and lockers; and
5. A janitor's closet containing a floor receptor or service sink with storage for housekeeping supplies and equipment for exclusive use in this area.
(2) If autopsies will be performed outside the hospital, only a well-ventilated body-holding room shall be provided.

Section 18. Pharmacy or Drug Room. If drugs are used, an adequate supply and other medicinal agents shall be available at all times to meet the requirements of the hospital. They shall be stored in a safe manner and kept properly labeled and accessible. Controlled substances and other dangerous or poisonous drugs shall be handled in a safe manner to protect against their unauthorized use. Controlled substances must be under double lock. There shall be adequate refrigeration for biologicals and drugs which require refrigeration. The existing laws, rules and regulations governing drugs and poisons shall be complied with.

Section 19. Dietary Department. Food service facilities shall be designed and equipped to meet the requirements of the narrative program. The department shall include the following facilities unless an acceptable commercially prepared dietary service, meals, and/or disposables are to be used. If a commercial service will be used, dietary areas and equipment shall be designed to accommodate the requirements for sanitary storage, processing, and handling.
(1) Control station for the receiving of food supplies.
(2) Food preparation facilities. Conventional food preparation systems require space and equipment for preparing, cooking and baking. Convenience food service systems such as frozen prepared meals, bulk packages entrees, and individual package portions, or systems using contractual commissary services require space and equipment for thawing, portioning, cooking and/or baking.
(3) Handwashing facility(ies) located conveniently accessible in the food preparation area.
(4) Patients' meals service facilities. Examples are those required for tray assembly and distribution.
(5) Dishwashing space. It shall be located in the room or alcove separate from the food preparation and service area. Commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting and stacking of soiled dishware and tableware prior to clean-up. The area shall be designed to allow clean dishware and tableware to be removed at a different location than the one used for the soiled dishware and tableware. A handwashing lavatory shall be conveniently located.
(6) Potwashing facilities.
(7) Refrigerated storage to accommodate a three (3) day minimum supply.
(8) Dry storage to accommodate a three (3) day minimum supply.
(9) Storage areas and sanitizing facilities for cans, carts, and mobile tray conveyors.
(10) Waster storage facilities shall be located in a separate room easily accessible to the outside for direct pick-up or disposal.
(11) Dining space for ambulatory patients, staff and visitors.
(12) Office(s) or desk spaces for dieticians or the dietary service manager.
(13) Toilets with handwashing facilities for use by the dietary staff shall be immediately available.
(14) Janitor's closet located within the department. It shall contain a floor receptor or service sink with storage for housekeeping supplies and equipment to be used exclusively in this area.

Section 20. Administrative and Public Areas. The following shall be provided:
(1) Lobby. It shall include:
(a) Storage space for wheelchairs;
(b) Reception and information counter or desk;
(c) Waiting space(s); and
(d) Public toilet facilities designed for use by the physically handicapped.
(2) Interview space(s) for private interviews relating to social services, credit, and admissions.
(3) Director of nurses' office.
(4) Staff toilet rooms.
(5) Medical library facilities.
(6) General or individual office(s) for business transactions, medical and financial records, administrative and professional staff use.
(7) Administrator's office.
(8) Multi-purpose room(s) for conferences, meetings, and health education purposes including provisions for showing visual aids.

(9) Storage for office equipment and supplies.

Section 21. Medical Records Unit. This unit shall include: (1) Medical records administrator/technician office or space;
(2) Active record storage area;
(3) Record review and dictating room; and
(4) Work area for sorting, recording, or microfilming.

Section 22. Central Medical and Surgical Supply Department. The following areas shall be permanently separated from each other: (1) Receiving and decontamination room. It shall contain work space and equipment for cleaning medical and surgical equipment and for the disposal of or processing of unclean material. Handwashing facilities shall be provided.
(2) Clean workroom. This room shall be divided into work space, clean storage area and sterilizing and sanitizing facilities. Handwashing facilities shall be provided.
(3) Storage area for clean supplies and sterile supplies. (May be in a designated area in the clean workroom.)
(4) Equipment storage.
(5) Cart storage, if this type of system is utilized.
(6) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment to be utilized exclusively in this department.

Section 23. Central Stores. The following shall be provided: (1) Offstreet unloading facilities.
(2) Control station for receiving supplies.
(3) General storage rooms which are adequate in size to meet the needs of the facility.

Section 24. Laundry. On-site processing and off-site processing. (1) If linen is to 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) Storage for laundry supplies.
(d) Clean linen inspection and mending room.
(e) Clean linen storage, issuing and holding room or area.
(f) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment to be utilized exclusively in this department.
(g) Cart storage and cart sanitizing facilities.
(h) Arrangement of equipment and procedures shall be in a manner to permit an orderly work flow with a minimum of cross traffic that might mix clean and soiled operations.
(2) If linen is to be processed off the hospital site, the following shall be provided:
(a) Soiled linen holding room with a handwashing facility conveniently accessible.
(b) Clean linen receiving, holding, inspection and storage room(s).

Section 25. Employee's Facilities. (1) Female locker room. This room shall have lounge space, lockers for personal effects and a separate toilet room. The area shall be designed for use by the physically handicapped. In some cases shower facilities may be appropriate depending on the size of the facility.
(2) Male locker room. This room shall have lockers and a separate toilet room. The area shall be designed for use by the physically handicapped. In some cases shower facilities may be appropriate depending on the size of the facility.

Section 26. Engineering Service and Equipment Areas. The following shall be provided:
(1) Room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment;
(2) Engineer's office;
(3) Maintenance shop;
(4) Storage room for building maintenance supplies;
(5) Storage room for central housekeeping equipment and supplies;
(6) Office and administrative support space for person(s) in charge of central housekeeeping; and
(7) Yard equipment storage room.

Section 27. Waste Processing Services. The following shall be provided:
(1) Storage and disposal. 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.
(2) A gas, electric, or oil-fired incinerator shall be provided for the complete destruction of pathological and infectious waste. Infectious waste shall include, but not be limited to: dressing and material from open wounds, laboratory specimens, and all waste material from isolation patient rooms. Waste tissue and contaminated combustible solids shall be rendered safe by such methods as sterilization or incineration. Culture plates, tubes, sputum cups, contaminated sponges, swabs and the like shall be sterilized before they are washed or discarded. Unpreserved tissue specimens from surgical or necropsy material must be disposed of by incineration.

Section 28. Details and Finishes. All details and finishes shall meet the following requirements:
(1) Details.
(a) 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.
(b) All doors to patient-room toilets or patient-room bathrooms shall swing outward or be equipped with hardware that will permit access in an emergency.
(c) If required by the narrative program suitable hardware shall be provided on doors to patient toilet rooms in psychiatric nursing units so that access to these rooms can be controlled by the nursing staff.
(d) Windows and outer doors which may be frequently left in an open position shall be provided with screens.
(e) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use by wheelchairs and carts.
(f) The location and arrangement of lavatories and sinks equipped with blade handles for handwashing purposes shall provide a minimum of sixteen (16) inches clearance to each side of the center line of the fixture.
(g) Towel dispensers or other hand drying equipment shall be provided at all lavatories and sinks equipped for handwashing, except scrub sinks.
(h) Grab bars shall be provided at all patients' toilets,

showers, tubs, and sitz baths. The bars shall have one and one-half (1½) inches clearance to walls and shall be of sufficient strength and anchorage to substain a concentrated load of 250 pounds for a period of five (5) minutes.

(i) Recessed soap dishes shall be provided at all showers and bathtubs.

(j) Mirrors shall not be installed at handwashing fixtures in food preparation areas or in sensitive areas such as nurseries, clean and sterile supplies, and scrub sinks.

(k) Protection requirements of x-ray and gamma-ray installations shall be approved by the Radiation and Product Safety Branch, Office of Consumer Health Protection, *Department* [Bureau] for Health Services, *Cabinet* [Department] for Human Resources.

(l) Ceiling heights shall be as follows:

1. Boiler room not less than two (2) feet and six (6) inches above the main boiler header and connecting piping with a minimum height of nine (9) feet.

2. Corridors, storage rooms, patient toilet rooms, and other minor rooms not less than seven (7) feet and six (6) inches.

3. Radiographic, operating and delivery rooms, and other rooms containing ceiling-mounted equipment or ceiling-mounted surgical light fixtures shall have a height as required to accommodate the equipment or fixtures.

4. All other rooms not less than eight (8) feet.

(m) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed areas, delivery suites, operating suites, or nurseries unless special provisions are made to minimize such noise.

(n) 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.

(o) Noise reduction criteria. Partition, floor, and ceiling construction in patient areas shall comply with Table 1, Section 33.

(2) Finishes.

(a) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and greaseproof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas subject to frequent wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, such as shower and bath areas, kitchen and similar work areas, shall have a non-slip finish.

(b) Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.

(c) Walls generally shall be washable, and in the immediate area of plumbing fixtures the finish shall be smooth and moisture-resistant. Finish, trim, and floor and wall construction in dietary and food preparation areas shall be free of spaces that can harbor rodents and insects.

(d) Wall bases in kitchens, operating rooms, delivery rooms, and other areas subject to frequent wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor harmful bacteria.

(e) Ceilings shall be cleanable and those in sensitive areas such as surgical, delivery, nursery rooms and isolation rooms shall be readily washable and without crevices that can retain dirt particles. These sensitive areas along with the dietary and food preparation areas shall a finished ceiling covering all over-head piping and ductwork. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas and similar spaces, unless required for fire-resistive purposes.

(f) Acoustical type ceilings shall be provided for corridors in patient areas, nurses' stations, labor rooms, dayrooms, recreation rooms, dining areas, and waiting areas.

(g) Ceilings of patient rooms in psychiatric nursing units shall be of monolithic or bonded construction.

Section 29. Elevators. General. All hospitals having patients' facilities, such as bedrooms, dining rooms or recreation areas, or critical services, such as operating rooms, delivery rooms, diagnostic or therapy areas, located on other than the main entrance floor, shall have elevators.

(1) Number of 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-type 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.

(3) Leveling. Elevators shall have automatic leveling of the two-way automatic maintaining type with accuracy within plus or minus one-half (½) inch.

(4) Operation. Elevators, except freight elevators, shall be equipped with a two-way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

Section 30. Construction. (1) Design. Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards, including seismic forces when applicable.

(2) Foundations. Foundations shall rest on natural solid bearing if a satisfactory bearing is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at practical depths, the structure shall be supported on driven piles, augured piles, poured caissons or equivalent designed to support the intended load without detrimental settlement, except that one (1) story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and a certification of compliance with the job specifications. All footings

shall extend to a depth not less than one (1) foot below the estimated frost line.

(3) Construction shall meet the standards of safety adopted by the State Fire Marshal's Office.

(3) Natural disasters. Special provisions shall be made in the design of buildings in geographic areas where local experience reflects loss of life or extensive damage to buildings resulting from tornados or floods.

Section 31. 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) Incinerators. The design and installation shall comply with the current Kentucky standards for control of air contaminants for incinerators regulations as applicable to hospitals.

(3) 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.

(c) Valves. Supply and return mains and risers of cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends except that vacuum condensate returns need not be valved at each piece of equipment.

(4) Thermal and acoustical installation.

(a) Insulation shall be provided on the following within the building:

1. Boilers, smoke breeching, and stacks;
2. Steam supply and condensate return piping
3. Hot water piping above 120 degrees Fahrenheit at all hot water heaters, generators and convertors;
4. Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;
5. Water supply and drainage piping on which condensation may occur;
6. Air ducts and casings with outside surface temperature below ambient dew point or temperature above eighty (80) degrees Fahrenheit; and
7. Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

(b) Insulation on cold surfaces shall include an exterior vapor barrier.

(c) Duct linings shall not be used in systems supplying operating rooms, delivery rooms, recovery rooms, nurseries, isolation rooms and intensive care units unless terminal filters of at least ninety (90) percent efficiency are installed downstream of the lining.

(5) Air conditioning, heating and ventilation systems.

(a) Temperatures and humidities.

1. The designed capacity of the systems shall provide the following temperatures and humidities in the areas noted below:

Area Designation	Temperature F.	RH *	
		(Min)	(Max)
Operating Room	68-76*	50**	60
Delivery Room	70-76*	50**	60
Recovery Room	75	30	60
Intensive Care Room	72-78*	30	60
Nurseries	75	30	60
Special Care Nursery	75-80*	30	60

* Variable temperature range required

** Minimum relative humidity may be reduced to 30% if the facility establishes written policy prohibiting the use of flammable anesthetics.

2. For other areas occupied by inpatients, the indoor winter design temperature shall be seventy-five (75) degrees Fahrenheit. For all other occupied areas, the indoor winter design temperature shall be seventy-two (72) degrees Fahrenheit.

3. For all other occupied areas, the indoor 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 on Table 2, Section 33, 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, medical surgical vacuum systems, 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 relationship as shown in Table 2, Section 33.

3. All air supplied to sensitive areas such as operating rooms, delivery rooms and nurseries shall be delivered at or near the ceiling of the area served and all return/exhaust air shall be removed near floor level. At least two (2) return/exhaust outlets shall be provided in each operating room and delivery room.

4. All room supply, return and exhaust outlets shall be located not less than three (3) feet AFF.

5. Isolation rooms and intensive care rooms may be ventilated by induction units if the induction units contain only a reheat coil and if only the primary air from a central system passes through the reheat coil.

6. All central ventilation of air-conditioning systems shall be equipped with filters having minimum efficiencies as listed below:

Area Designation	Minimum No. of Filters	Filter Efficiences % No. 1	No. 2
Sensitive Areas*	2	25	90
Patient Care, Treatment, Diagnostic and Related Areas	2	25	90**
Food Preparation and Laundry	1	80	—
Administrative, Storage, and Soiled Holding	1	25	—

* Includes operating rooms, delivery rooms, nurseries, recovery units and intensive care units.

** May be reduced to 80% for systems using all-outdoor air.

7. Where two (2) filter beds are required in central ventilation and air-conditioning equipment, Filter Bed No. 1 shall be located upstream of the air-conditioning equipment and Filter Bed No. 2 shall be located downstream of the supply fan, any recirculating spray water system, and water reservoir type humidifiers. Where only one (1) filter bed is required, it shall be located upstream of the air-conditioning equipment unless an additional pre-filter is employed. In this case, the pre-filter shall be located upstream of the equipment and the main filter may be located further downstream.

8. All filter efficiencies as listed above shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-76.

9. Filter frames shall be durable and carefully dimensioned, and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakages.

10. A manometer or its equivalent shall be installed across each filter bed serving sensitive areas or central air systems.

11. Ducts which penetrate construction intended for x-ray or other ray protection shall not impair the effectiveness of the protection.

12. Laboratories shall be provided with outdoor air at a rate of two (2) air changes per hour. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional outdoor air shall be provided. A filter with ninety (90) percent minimum efficiency shall be installed in the air supply system at its entrance to the media transfer room.

13. Laboratory hoods for general use shall have a minimum average face velocity of seventy-five (75) feet per minute. Hoods in which infectious or highly radioactive materials are processed shall have a face velocity of 100 feet per minute and each hood shall have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials shall be equipped with a means of disinfection.

14. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used shall be constructed of stainless steel for a minimum distance of ten (10) feet from the hood and shall be equipped with washdown facilities.

15. Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and reasonable temperatures in the rooms and in adjoining areas.

(6) Plumbing systems. All plumbing systems shall be designed and installed in accordance with the requirements of the current Kentucky plumbing standards regulations applicable to hospitals.

(a) Plumbing fixtures.

1. The material used for plumbing fixtures shall be of non-absorptive acid-resistant material.

2. 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 used by medical and nursing staff and all lavatories used by patients and 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.

3. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(b) Water supply systems.

1. Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

2. Each water service main, branch main, riser and branch to a group of fixtures shall be valved. Stop valves shall be provided at each fixture.

3. Backflow preventers (vacuum breakers) shall be installed on hose bibbs, laboratory sinks, janitor's sinks, bedpan flushing attachments, autopsy tables and all other fixtures to which hoses or tubing can be attached.

4. Flush valves installed on plumbing fixtures shall be of a quiet operating type.

5. Bedpan flushing devices shall be provided in each patient toilet room and in the soiled workrooms located in the patient nursing units.

6. An auxiliary water supply shall be available to provide potable water in case of emergencies.

(c) Hot water heating systems.

1. The hot water heating equipment shall have a sufficient capacity to supply water at the temperature and amounts indicated below:

	Use		
	Clinical	Dishwasher	Laundry
Gal/hr/bed	6½	4	4½
Temp. F.	125	180*	160**

* Temperature may be reduced to 160 degrees F. if a chloritizer is used. Required temperature must be provided throughout the wash and rinse cycles.

** Required temperature of 160 degrees F. is that measured in the washing machine and shall be supplied so that the temperature will be maintained over the entire wash and rinse cycles.

2. Storage tank(s) shall be fabricated of corrosive-resistant metal or be lined with non-corrosive material.

(d) Drainage systems.

1. Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid-resistant material.

2. Piping over operating and delivery rooms, nurseries, food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

3. Floor drains shall not be installed in operating and delivery rooms. Flushing rim type floor drains may be installed in cystoscopic operating rooms.

4. Building sewers shall discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment shall be installed which conforms to all applicable local and state regulations.

(7) Nonflammable medical gas systems. Installations shall be in accordance with the requirements of NFPA 56-A and 56-F. The number, type, and location of outlets shall be as follows:

Station Outlets for Oxygen and Vacuum (Suction) Outlets

Location	Oxygen	Vacuum
Patient room for adult medical, surgical, and for post-partum care; and pediatric care	A	A
Examination and treatment room in nursing unit	B	B
Patient room for intensive care	C	C
Nursery and pediatric nursery	A	A
General operating room	F	F
Cystoscopy and special procedure room	D	D
Recovery room	E	E
Delivery room	F	G
Labor room	A	A
Emergency treatment room	D	D
Autopsy room	—	D
Anesthesia workroom	—	D

A—One (1) outlet accessible to each bed. One (1) outlet may serve two (2) beds.
B—One (1) outlet. Portable equipment may be considered acceptable in lieu of fixed outlets.
C—Two (2) outlets for each bed or provide one (1) outlet with Y-fitting.
D—One (1) outlet.
E—One (1) outlet for each bed.
F—Two (2) outlets.
G—Three (3) outlets.

Section 32. Electrical Requirements. (1) General.

(a) 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.

(b) All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified. A written record of performance tests on special electrical systems and equipment shall be supplied to the owner. Such tests shall show compliance with the governing codes and shall include conductive floors, isolated power centers, grounding continuity, and alarm systems.

(2) Switchboard and power panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Overload devices shall be suitable for operating properly in the ambient temperature conditions.

(3) Panelboards. Lighting and appliance panelboards shall be located on the same floor as the circuits they serve.

(4) Lighting.

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have lighting.

(b) Patients' bedrooms shall have general lighting and night lighting. A reading light shall be provided for each patient. Flexible light arms shall be mechanically operated to prevent the bulb from coming in contact with the bed linen. 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, mounted at approximately sixteen (16) inches above the floor, shall be provided in each patient room. All switches for control of lighting in patient areas shall be of the quiet operating type.

(c) Operating and delivery rooms shall have general lighting in addition to local lighting provided by special lighting units at the surgical and obstetrical tables. Each fixed special lighting unit at the tables, except portable units, shall be connected to an independent circuit.

(d) Nursing unit corridors shall have general illumination with provisions for reduction of light levels at night. Refer to Table 3, Section 33.

(5) Receptacles (convenience outlets).

(a) Anesthetizing locations. Each operating, delivery, and emergency room shall have at least three (3) receptacles. In locations where mobile x-ray is used, an additional outlet distinctively marked for x-ray use shall be provided.

(b) Bedroom. Each patient bedroom shall have duplex receptacles as follows: one (1) on each side of the head of the bed; one (1) for the television, if used; and one (1) on another wall. Receptacles in pediatric and psychiatric units shall be of the safety type or shall be protected by five (5) milliampere ground fault interrupters.

(c) Nurseries. Each bassinet shall have a minimum of one (1) duplex receptacle. In special care nurseries additional receptacles shall be provided dependent on the types of equipment which will be used to provide medical care.

(d) 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 in corridors of pediatric and psychiatric units shall be of the safety type or shall be protected by five (5) milliampere ground fault interrupters.

(6) Equipment installation in special areas.

(a) Installation in anesthetizing locations. All electrical equipment, devices, receptacles and wiring shall be in accordance with NFPA No. 56-A as adopted by the State Fire Marshal's Office for hospitals.

(b) X-ray and gamma-ray installations. X-ray stationary installations and mobile equipment shall conform to the current Kentucky standards for radiographic and radioisotope equipment and use regulations applicable to hospitals.

(c) X-ray film illuminator. At least two (2) units shall be installed in each operating room, emergency treatment room, and in the x-ray viewing room for the radiology department.

(7) Nurses' calling system.

(a) General. In general patient areas, each room shall be served by at least one (1) calling station and each bed shall be provided with a calling button. Two (2) call buttons serving adjacent beds may be served by one (1) calling station.

Calls shall register at an annunciator panel at the nurses' station and shall actuate a visible signal in the corridor at the patient room door, in the clean workroom, soiled workroom, the nourishment station, and the nurses' lounge of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two (2) or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two (2) way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

(b) Patients' emergency. A nurses' call emergency button shall be provided for patients' use at each patient's toilet, bath, sitz bath, or shower room on the nursing unit floors. Such buttons shall be usable by a collapsed patient lying on the floor; inclusion of a pull cord will satisfy this requirement.

(c) Intensive care. In areas such as intensive care where patients are under constant surveillance, the nurses' calling system may be limited to a bedside station that will actuate a signal that can be readily seen by the nurse.

(d) Nurses' emergency. An emergency calling station, which may be used by nurses to summon assistance, shall be provided in each operating, delivery, recovery, emergency treatment and intensive care room, in nurseries and in supervised nursing units for mental patients.

(8) Fire alarms and fire detection systems. The design and installation of these systems must be approved by the State Fire Marshal's Office.

(9) Emergency electrical.

(a) General. 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) Sources. 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 32(9)(e) 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. Surgical, obstetrical, and emergency room operating lights.

c. Nursery, laboratory, recovery room, intensive care areas, nursing station, medication preparation area, and labor rooms.

d. Generator set location, switch-gear location, mechanical room and boiler room;

e. Elevator cabs.

f. Night light in patient rooms.

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. Alarms required for medical gas systems.

c. Fire pump and jockey pump, if installed.

d. Pump for central suction system.

e. Sewerage or sump lift pump, if installed.

f. Blood bank refrigerator.

g. Selected receptacles in infant nurseries, medicine dispensing areas, cardiac catheterization laboratories, angiographic laboratories, labor, operating, delivery and recovery rooms, dialysis units, intensive care units, emergency treatment rooms, basic laboratory functions, and nurses' stations.

h. Duplex receptacles in patient corridors, and at least one (1) duplex receptacle located on the patient headwall in each patient room.

i. Elevator service that will reach every patient floor. Manual throwover facilities shall be provided to allow temporary operation of any elevator for the release of persons who may be trapped between floors.

j. Ventilation of operating and delivery rooms.

k. Equipment necessary for maintaining telephone service.

3. Heating. Equipment for heating operating, delivery, labor, recovery, intensive care, and general patient rooms; except that service for heating of general patient rooms will not be required under either of the following conditions:

a. The design temperature is higher than twenty (20) degrees Fahrenheit, based on the Median of Extremes as shown in the current edition of the ASHRAE Handbook of Fundamentals.

b. 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.

(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; blood banks; nurses' calling systems; equipment necessary for maintaining telephone service; pump for central suction system; and task illumination and receptacles in operating, delivery, emergency, intensive care nursing areas, nurseries, patient rooms and 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 33. Table 1—Sound Transmission Limitations in General Hospitals. Table 2—Pressure Relationships and Ventilation of Certain Hospital Areas. Table 3—Lighting Levels for Hospitals.

Table 1. Sound Transmission Limitations in General 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 Hospital Areas

Area Designation	Pressure Relationship to Adjacent Areas	All Supply Air From Outdoors	Minimum Air Changes of Outdoor Air per Hour
Operating room	P	—	5
Emergency operating room	P	—	5
Delivery room	P	—	5
Nursery	P	—	5
Recovery	O	—	2
Intensive Care	P	—	2
Patient room	O	—	1
Patient corridor	O	—	1
Isolation room	O	—	2
Isolation anteroom	N	—	2
Treatment room	O	—	2
X-ray, fluoroscopy room	N	—	2
X-ray, treatment room	O	—	2
Physical therapy and hydrotherapy	N	—	2
Soiled workroom	N	—	2
Clean workroom	P	—	1
Autopsy and darkroom	N	—	3
Toilet room	N	—	—
Bedpan washing room	N	—	2
Bathroom	N	—	2
Janitor's closet	N	—	—
Sterilizer equipment room	N	—	—
Linen and trash chute rooms	N	—	—
Laboratory, general	O	—	2
Laboratory, media transfer	P	—	2
Food preparation centers	O	—	2
Dishwashing room	N	—	2
Dietary dry storage	O	—	—
Laundry, general	O	—	2
Soiled linen sorting and storage	N	—	2
Clean linen storage	P	—	1
Central medical and surgical supply:			
Soiled or decontamination room	N	—	2
Clean workroom and supply storage	P	—	2

P = Positive N = Negative O = Equal — = Optional

Table 2. Continued

Area Designation	Minimum Total Air Changes Per Hour	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Operating room	12	—	No
Emergency operating room	12	—	No
Delivery room	12	—	No
Nursery	12	—	No
Recovery	6	—	No
Intensive care	6	—	No
Patient room	4	—	—
Patient corridor	4	—	No
Isolation room	8	Yes	No
Isolation anteroom	8	Yes	No
Treatment room	8	—	No
X-ray, fluoroscopy room	8	Yes	No
X-ray, treatment room	8	—	No
Physical therapy and hydrotherapy	8	Yes	No
Soiled workroom	8	Yes	No
Clean workroom	4	—	No
Autopsy and darkroom	12	Yes	No
Toilet room	10	Yes	No
Bedpan washing room	8	Yes	No
Bathroom	10	Yes	No
Janitor's closet	10	Yes	No
Sterilizer equipment room	10	Yes	No
Linen and trash chute rooms	10	Yes	No
Laboratory, general	8	—	No
Laboratory, media transfer	8	—	No
Food preparation centers	10	—	No
Dishwashing room	10	Yes	No
Dietary dry storage	2	—	No
Laundry, general	10	—	No
Soiled linen sorting and storage	10	Yes	No
Clean linen storage	4	—	No
Central medical and surgical supply: Soiled or decontamination room	10	Yes	No
Clean workroom and supply storage	8	—	No

Table 3. Lighting Levels for Hospitals

Area	Footcandles*
Administrative and lobby areas, day	100
Administrative and lobby areas, night	20
Chapel or quiet area	30
Corridors and interior ramps	30
Corridor night lighting	10
Dining area and kitchen	50
Doorways	10
Examination and treatment room	
General	50
Examining table	100
Exit stairways and landings	30
Janitor's closet	20
Nurses' station, general, day	50
Nurses' station, general, night	20
Nurses' desk or counter, for charts and records	150
Nurses' medicine area, preparations and storage	100
Occupational therapy	30
Patient care unit or room, general	10
Patient care room, reading	50
Patient care room, night light (variable)	.5 to 1.5
Physical therapy	30
Stairways other than exits	50
Toilet and bathing facilities	30
Clean workroom	100
Soiled workroom	100
Nurses' lounge	30
Laundry, general	50

*Minimum on task at anytime.

FRANK W. BURKE, Sr., Chairman
ADOPTED: September 13, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: September 15, 1983 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

CABINET FOR HUMAN RESOURCES
Department for 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 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 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.

(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 birth date, and the medical record number.

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.

3. All clinical information pertaining to inpatient or outpatient services 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 current 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.

(12) Delicensure of excess capacity. (a) Any hospital which does not meet the minimum occupancy rates in Table 1 shall have beds delicensed pursuant to the requirements of this section. The official source of occupancy data shall be the Annual Hospital Utilization and Services Report published by the Office of Health Data in the Department for Health Services of the Cabinet for Human Resources.

Table 1. Minimum Occupancy Rates (MOR)

	Calendar Year		
Hospital size	*1982*	*1983*	*1984*
Under 50 beds	*50%*	*55%*	*60%*
50—99	*55%*	*60%*	*65%*
100—199	*60%*	*65%*	*70%*
200—299	*65%*	*70%*	*75%*
300 or more	*70%*	*75%*	*80%*

(b) The executive director of the board shall notify all hospitals not in compliance with the minimum occupancy rates (MOR's) of the date of the board meeting at which the board will consider taking delicensure action. The notice shall be mailed at least thirty (30) days prior to the board meeting.

(c) The board shall review the occupancy data of each facility for the previous calendar year to determine compliance with the prescribed MOR's and initiate delicensure of any beds not in compliance at its first regularly scheduled meeting after publication of the Annual Utilization Report, but no earlier than thirty (30) days after publication of the report.

(d) The number of beds to be delicensed shall be the number needed to bring the facility to the occupancy rates listed in Table 1, except that no beds shall be delicensed if less than five (5) beds are involved. The number of beds to be delicensed shall be determined by making the following calculations:

1. Average daily census = Total patient days ÷ Number of days in year

2. Number of beds needed to meet the MOR = Average daily census ÷ MOR

3. Number of beds to be delicensed = Number of licensed beds - Number of beds needed to meet the MOR

(e) The licensee may reserve some or all of the beds to be reduced for a period of two (2) years only by submitting a written request to the Certificate of Need and Licensure Board prior to the board meeting at which delicensure will be initiated. Upon receipt of the request, the beds shall be deactivated and held out of service. Said beds shall be available only to the facility holding them in reserve. The two (2) year reserve period shall begin upon receipt of the request.

(f) Upon the request of the licensee to the executive director of the board, at the end of the first six (6) months of the first year of the two (2) year reserve period some or all of the reserve beds may be reactivated if the facility's average daily census for the previous six (6) months exceeds the MOR.

(g) Upon the request of the licensee to the executive director of the board, at the end of the first year of the two (2) year reserve period some or all of the reserve beds may be reactivated if the facility's average daily census for the previous calendar year is such that reactivation of those beds would result in an occupancy rate above the minimum rate listed in Table 1.

(h) Upon the request of the licensee to the executive director of the board, at the end of the second year of the two (2) year reserve period some or all of the reserve beds may be reactivated if the facility's average daily census for the previous calendar year is such that reactivation of those beds would result in an occupancy rate above the minimum rate listed in Table 1.

(i) At the end of a two (2) year reserve period, the board shall initiate delicensure of any beds which have not been reactivated.

(j) Existing facilities which add new beds do not have to meet the MOR's in Table 1 until the beds have been licensed for eighteen (18) months. At the end of the eighteen (18) month period the hospital shall report its utilization on a special form furnished by the Cabinet for Human Resources. If the report indicates that the facility has not attained the applicable MOR's for the last six (6) month period, the board, at its next regular meeting shall give notice of its intent to delicense an appropriate number of beds as determined by the formula in paragraph (d) of this subsection.

(k) New facilities do not have to meet the MOR's in Table 1 until the beds have been licensed for three (3) years. At the end of the three (3) year period the hospital shall report its utilization on a special form furnished by the Cabinet for Human Resources. If the report indicates that the facility has not attained the applicable MOR's for the last six (6) month period, the board, at its next regular meeting, shall give notice of its intent to delicense an appropriate number of beds as determined by the formula in paragraph (d) of this subsection.

(l) Nothing in this subsection shall preclude the board from pursuing delicensure for noncompliance with other provisions of the licensure regulations.

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 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 phar-

maceuticals 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, National 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 workup 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) 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: September 13, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: September 15, 1983 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

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

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 Licensing and Regulation in the office of the Inspector General, Cabinet for Human Resources.

(5) "Shelled-in space" means any square footage contained in a proposed construction or renovation project for which there is no defined programmatic or specified functional usage.

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.

(3) There shall be no shelled-in space in any new construction or renovations for which specific uses are not outlined in the certificate of need application.

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. *The patient area in a room to contain one (1) bed shall not exceed 159 square feet exclusive of toilet rooms, closets, lockers, wardrobes or vestibules and such rooms shall not be used as multibed rooms. An exception to the room size requirement may be allowed if architectural considerations necessitate larger rooms provided the facility stipulates in writing that the rooms will not be used as multibed rooms.*

(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: September 13, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: September 15, 1983 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Frank W. Burke, Sr., Chairman, Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board, 275 East Main Street, Frankfort, Kentucky 40621.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
(Proposed Amendment)

904 KAR 1:012. Inpatient hospital services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 13.082, 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to inpatient hospital services for which payment shall be made by the Medical Assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Length of Stay. Inpatient hospital services except for services in an institution for treatment of tuberculosis or mental diseases shall be limited to a maximum of fourteen (14) days per admission. A recepient may transfer from one (1) hospital to another hospital when such transfer is necessary for the patient to receive medical care which is not available in the first hospital. In addition, for neonatal care related to any of the diagnoses specified in Section 4, an infant recipient may transfer from a hospital with a level III neonatal unit to a different hospital with a level II or level I neonatal unit. Such transfers and admissions shall begin anew the fourteen (14) day per admission limitation; in such situations, the maximum covered inpatient hospital stay that may result is a total of twenty-eight (28) days for the two (2) admissions. *Each admission must have prior approval of appropriateness by the Kentucky Peer Review Organization in order for the admission to be covered under the program; this requirement does not apply for emergency admissions.* [Each admission shall be reviewed by the Kentucky Peer Review Organization and assigned a length of stay date in order to qualify for reimbursement. The admission shall again be reviewed on or before the assigned length of stay date if further admission necessitates.] Weekend stays associated with a Friday or Saturday admission will not be reimbursed unless an emergency exists.

Section 2. Covered Admissions. Admissions for which payment is made shall be limited to those primarily indicated in the management of acute or chronic illness, injury or impairment, or for maternity care that could not be rendered on an outpatient basis. Admissions relating to only observation or diagnostic purposes or for elective cosmetic, plastic or reconstructive surgeries shall not be covered.

Section 3. Inpatient Hospital Services Not Covered by the Medical Assistance Program: (1) Those services which are not medically necessary to the patient's well-being, such as television, telephone and guest meals.

(2) Private duty nursing.

(3) Those supplies, drugs, appliances, and equipment which are furnished to the patient for use outside the hospital unless it would be considered unreasonable or impossible from a medical standpoint to limit the patient's use of the item to the periods during which he is an inpatient.

(4) Those laboratory tests not specifically ordered by a physician and not done on a pre-admission basis unless an emergency exists.

(5) Private accommodations unless medically necessary and so ordered by the attending physician.

(6) The following listed surgical procedures, except when a life-threatening situation exists there is another primary purpose for the admission, or the admitting physician certifies a medical necessity requiring admission to a hospital:

(a) Biopsy: breast, cervical node, cervix, lesions (skin, subcutaneous, submucous), lymph node (except high axillary excision, etc), and muscle.

(b) Cauterization or cryotherapy: lesions (skin, subcutaneous, submucous), moles, polyps, warts/condylomas, anterior nose bleeds, and cervix.

(c) Circumcision.

(d) Dilation: dilation and curettage (diagnostic and/or therapeutic non-obstetrical); dilation/probing of lacrimal duct.

(e) Drainage by incision or aspiration: cutaneous, subcutaneous, and joint.

(f) Exam under anesthesia (pelvic).

(g) Excision: bartholin cyst, condylomas, foreign body, lesions lipoma, nevi (moles), sebaceous cyst, polyps, and subcutaneous fistulas.

(h) Extraction: foreign body, and teeth (per existing policy).

(i) Graft, skin (pinch, splint or full thickness up to defect size three-fourths (¾) inch diameter).

(j) Hymenotomy.
(k) Manipulation and/or reduction with or without x-ray; cast change: dislocations depending upon the joint and indication for procedure, and fractures.
(l) Meatotomy/urethral dilation, removal calculus and drainage of bladder without incision.
(m) Myringotomy with or without tubes, otoplasty.
(n) Oscopy with or without biopsy (with or without salpingogram): arthroscopy, bronchoscopy, colonoscopy, culdoscopy, cystoscopy, esophagoscopy, endoscopy, gastroscopy, hysteroscopy, laryngoscopy, laparoscopy, peritoneoscopy, otoscopy, and sigmoidoscopy or procto sidmoidoscopy.
(o) Removal; IUD, and fingernail or toenails.
(p) Tenotomy hand or foot.
(q) Vasectomy.
(r) Z-plasty for relaxation or scar/contractune.

Section 4. Neonatal Diagnosis Appropriate for Additional Stay in A Different Hospital with a Level II or Level I Neonatal Unit. (1) Fetus or newborn affected by maternal conditions which may be unrelated to present pregnancy.
(2) Fetus or newborn affected by maternal complications of pregnancy.
(3) Fetus of newborn affected by complications or placenta, cord, and membranes.
(4) Fetus or newborn affected by other complications of labor and delivery.
(5) Slow fetal growth and fetal malnutrition.
(6) Disorders relating to short gestation and unspecified low birthweight.
(7) Disorders relating to long gestation and high birthweight.
(8) Birth trauma.
(9) Intrauterine hypoxia and birth asphyxia.
(10) Respiratory distress syndrome.
(11) Other respiratory conditions of fetus and newborn.
(12) Infections specific to the perinatal period.
(13) Fetal and neonatal hemorrhage.
(14) Hemolytic disease of fetus or newborn, due to isoimmunization.
(15) Other perinatal jaundice.
(16) Endocrine and metabolic disturbances specific to the fetus and newborn.
(17) Hematological disorders of fetus and newborn.
(18) Perinatal disorders of digestive system.
(19) Conditions involving the integument and temperature regulation of fetus and newborn.
(20) Congenital anomalies and related surgical procedures.
(21) Other and ill-defined conditions originating in the perinatal period.

Section 5. Definitions Relating to Neonatal Care and Admissions. (1) "Infant" means a child not more than twelve (12) months of age.
(2) "Level II neonatal unit" means a unit able to provide the full range of resources and expertise required for the management of any complication of the newborn. A nurse/patient ratio of 1:2 is required.
(3) "Level II neonatal unit" means a unit able to provide care to the moderately ill infant who requires various support services. A nurse/patient ratio of 1:4 is required.
(4) "Level I neonatal unit" means a unit providing care to infants with uncomplicated conditions. Normal nursery staffing is required.

Section 6. The provisions of Sections 1 through 5 of this regulation, as amended, shall be effective *September 1, 1983* [May 1, 1982].

JOHN CUBINE, Commissioner
ADOPTED: August 30, 1983
APPROVED: BUDDY H. ADAMS, Secretary
RECEIVED BY LRC: August 30, 1983 at 3 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, DHR Building, 275 East Main Street, Frankfort, Kentucky 40621.

Proposed Regulations

DEPARTMENT OF PERSONNEL

101 KAR 1:220. Unclassified service; classification and compensation plans.

RELATES TO: KRS 18A.155
PURSUANT TO: KRS 13.082, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed rules for persons in positions numerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these rules shall be approved by the Governor and promulgated according to KRS Chapter 13. Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This regulation complies with and implements this statutory provision.

Section 1. Classification Plan. (1) The commissioner shall, after consultation with the appointing authorities, prepare and recommend to the Governor a classification plan for his adoption. The plan shall be based on investigation and analysis of all the duties and responsibilities assigned to each position, and each position shall be allocated to its proper class in the classification plan after consultation with appointing authorities. The classification plan shall include for each class of position an appropriate title, description of duties and responsibilities, and the required education, experience and other qualifications.
(2) The principles and provisions of 101 KAR 1:040 shall apply to positions in the unclassified service.

Section 2. Compensation Plan, Pay for Performance. (1) After consultation with appointing authorities and the Secretary of Finance and Administration Cabinet, and after conducting wage and salary surveys of relevant labor markets, the commissioner shall prepare a compensation plan for all classes of positions based on the concepts of internal job equity, external market competitiveness, and in-

dividual employee merit. The plan shall provide salary grades or specific salary rates as appropriate for the various classes. Each job class shall be assigned an appropriate pay grade or rate with consideration given to internal job evaluation data and external market conditions. All rates of pay for classes shall be consistent with the functions outlined in the classification plan. The compensation plan shall reward individual employee work performance in accordance with a performance increase chart to be developed by the commissioner.

(2) The commissioner shall submit the plan, through the Secretary of the Finance and Administration Cabinet, to the Governor for his final approval. Amendments to the pay plan may be made in the same manner. The commissioner shall review the plan annually.

(3) With the exception of the provision relating to probationary performance increases, the principles and provisions of 101 KAR 1:055E shall apply to employees and positions in the unclassified service. An employee in the unclassified service who completes the initial six (6) month period following appointment with at least a satisfactory performance level may be granted a performance increase at the beginning of the month following completion of such period. The commissioner may, upon request by the appointing authority, approve a salary adjustment for an employee when standards of internal equity justifies such adjustment.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: JOHN Y. BROWN, JR. Governor
RECEIVED BY LRC: September 15, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

DEPARTMENT OF PERSONNEL

101 KAR 1:230. Unclassified service; promotion, transfer and disciplinary actions.

RELATES TO: KRS 18A.155
PURSUANT TO: KRS 13.082, 18A.155
NECESSITY AND FUNCTION: KRS 18A.155 requires the Commissioner of Personnel to submit to the Governor proposed rules for persons in positions numerated in KRS 18A.115(1)(g), (h), (i), (j), (k), (p), (u) and (v). KRS 18A.155 further provides that these rules shall be approved by the Governor and promulgated according to KRS Chapter 13. Nothing herein shall be construed to preclude the optional use of rules promulgated under this section on behalf of employes enumerated in paragraphs (a), (b), (d), (e) and (q) of subsection (1) of KRS 18A.115 and on behalf of members of state boards and commissions who work on a full-time, salaried basis. This regulation complies with and implements this statutory provision.

Section 1. Promotion. (1) Vacancies may be filled by promotion whenever practicable and in the best interest of the service. Employees in executive policy-making positions serve at the pleasure of the appointing authority.

(2) A promotion is the filling of a vacancy by the advancement of an employee from a position having a lower minimum salary. Promotion to an executive policy-making position requires prior written approval of the Governor in accordance with KRS 12:050.

(3) Any employe promoted or re-appointed without an interruption in service from a classified to an unclassified position retains his status in the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the rules pertaining to lay off shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to re-employment procedures and KRS 18A.130 and 18A.135.

(4) An employee's promotion to a different agency must be approved by the appointing authority and the commissioner.

Section 2. Transfer. (1) The movement of an employee from one position to another of the same grade having the same salary ranges and the same level of responsibility shall be deemed a transfer. A transfer may be an interagency or intra-agency action. An appointing authority, with written notice, may transfer an employee from one position to another in the unclassified service. An employee may request a transfer. The employee must meet the minimum requirements of the job class to which transferred.

(2) An employee may be transferred between agencies to a position having the same salary range and level of responsibility, with the approval of the commissioner.

Section 3. Demotion. (1) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range.

(2) An employee may be demoted by the appointing authority with the approval of the Commissioner of Personnel. If the demotion is for cause, the employee may appeal to the Personnel Board pursuant to 101 KAR 1:210.

(3) If, for personal or other reasons, an employee requests in writing that he be assigned to a position of a lower class, the appointing authority may make such a voluntary demotion. Involuntary demotions shall be intra-agency only.

Section 4. Detail to Special Duty. When the services of a permanent employee are needed in a position within the agency other than the position to which regularly assigned, the employee may be detailed to that position for a period not to exceed one (1) year with approval of the Commissioner of Personnel. For detail to special duty the Commissioner of Personnel may waive the minimum requirements when requested by the appointing authority in writing.

Section 5. Separations and Disciplinary Actions. (1) General provisions. Except as otherwise provided in these rules, the tenure of an employee shall be during good behavior and the satisfactory performance of his duties.

(2) Layoffs. An appointing authority may layoff an employee whenever he deems it necessary by reason of shortage of funds or work, abolishment of a position, or other material change in duties or organization. The employee shall be notified of the effective date at least fourteen (14) calendar days prior to such effective date and shall be given written notice of the reasons for the layoff. An employee who has been promoted or re-appointed without an interruption in service from the classified service to the unclassified service must be reverted to the classified service in order to be considered for lay-off. On separation from the unclassified service, he reverts to a

position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the rules pertaining to lay-off shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to re-employment procedures and KRS 18A.130 and 18A.135.

(3) Dismissals. The appointing authority, upon written notice, may remove an employee for cause, or without cause. If the dismissal is for cause, the employee may appeal to the Personnel Board pursuant to 101 KAR 1:210, and the appointing authority must notify the employee in writing of the reasons for the dismissal and of the employee's right to appeal. An employee who has been promoted or re-appointed without an interruption in service from the classified service to the unclassified service and who is dismissed from the unclassified service without cause shall revert to the classified service. On separation from the unclassified service, he reverts to a position in that class in which he had status in the agency from which he was terminated if a vacancy in that class exists. If no such vacancy exists in a position of the former class, the rules pertaining to lay-off shall apply. He shall be considered for employment in any vacant position for which he is qualified pursuant to re-employment procedures and KRS 18A.130 and 18A.135.

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

(5) Retirement. If an employee is retired, he is considered as separated without prejudice.

(6) Suspension. An apppointing authority, upon written notice stating the reasons therefor, a copy of which shall be sent to the commissioner, may suspend an employee without pay or other compensation as punishment for disciplinary cause. Such a suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period begins with the first day of the suspension. An employee suspended for cause may appeal to the Personnel Board pursuant to 101 KAR 1:210, and the appointing authority must notify the employee in writing of the employee's right to appeal.

(7) Disciplinary fines. An appointing authority may impose, as a disciplinary measure, a fine to be computed on the basis of the employee's current salary. Disciplinary fines may not exceed ten (10) days' pay for each occurence, and may not exceed a total of thirty (30) days' pay in any twelve (12) month period. The employee shall be notified in writing by the appointing authority of the reasons for the action, a copy of which shall be sent to the commissioner. An employee receiving a disciplinary fine for cause may appeal to the Personnel Board pursuant to 101 KAR 1:210, and the appointing authority must notify the employee in writing of the employee's right to appeal.

(8) Written reprimands. An appointing authority may give an employee a written reprimand as a preliminary disciplinary measure. A copy of the written reprimand shall be placed in the employee's personnel file in the agency and a copy shall be given to the employee. The employee shall be given the opportunity to reply in writing to the written reprimand and to include this reply in his personnel file with the written reprimand. The employee shall be informed of his right to reply at the time the written reprimand is given.

DEE MAYNARD, Commissioner
ADOPTED: August 16, 1983
APPROVED: JOHN Y. BROWN, JR., Governor
RECEIVED BY LRC: September 15, 1983 at 4:30 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Commissioner, Kentucky Department of Personnel, New Capitol Annex, Frankfort, Kentucky 40601.

FINANCE AND ADMINISTRATION CABINET
Board of Accountancy

201 KAR 1:100. Continuing professional education requirements for renewal of the permit to practice.

RELATES TO: KRS 325.330
PURSUANT TO: KRS 325.240
NECESSITY AND FUNCTION: To promulgate administrative regulations of the State Board of Accountancy of Kentucky. This regulation pertains to continuing professional education requirements for renewal of the permit to practice public accounting in the state.

Section 1. Basic Requirements. Effective for the license period beginning July 1, 1985 and each renewal period thereafter, certified public accountants shall provide evidence to the board of satisfactory completion of twenty (20) hours of acceptable education at the time of application for renewal of the annual permit to practice. All persons holding a Kentucky CPA certificate and renewing their permit to practice annually must comply with the continuing education requirements.

(1) An applicant for an initial permit to practice, or a reinstatement as the holder of a permit to practice as a certified public accountant in this state, may be granted a permit on the condition that the applicant agrees to complete, by the next succeeding June 30, a proportionate number of hours of continuing education required for that year. The applicant would be required to complete two (2) hours per month for the number of full months from the date of application for the permit to the next succeeding June 30.

(2) A licensee short of the required continuing education hours at the renewal date may be given an extension of time by the board upon application to the board and presentation of sufficient cause to justify the extension. The board reserves the right to interpret the foregoing with flexibility depending upon the individual circumstances. During the extension period, the licensee must not only make up the deficiency for the preceeding reporting period but must also earn towards the requirement for the next reporting period. All licensees still deficient in continuing education requirements at the end of the one (1) year renewal period and the extension will have their permits to practice withheld. If the situation continues the board will consider formal disciplinary action to revoke or suspend the CPA certificate.

(3) A licensee who exceeds the reporting requirement may not carry over the excess hours for the next reporting period.

(4) Exceptions. Licensees who are retired, disabled or have an individual hardship which precludes them from completing the education requirements will be required to file an affidavit with the board attesting to the difficulty

and requesting waiver of the education requirements prior to the expiration of their present license. Formal approval by the board must be secured before the waiver can be assumed to be granted.

Section 2. Programs Which Qualify. (1) The overiding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of an individual licensed to practice as a certified public accountant in this state. The board may look to recognized state or national organizations for assistance in interpreting the acceptability of and credit to be allowed for individual courses.

(2) Continuing education programs will qualify only if:

(a) An outline of the program is prepared in advance and preserved;

(b) The program is at least one (1) hour (fifty (50) minute period) in length excluding meals and business sessions;

(c) The program is conducted by a qualified instructor. A qualified instructor or discussion leader is anyone whose background training, education or experience makes it appropriate for him to lead a discussion on the subject matter of the particular program; and

(d) A record of registration or attendance is maintained.

(3) Acceptable subject matter. The following general subject matters are acceptable so long as the programs meet the criteria established by this regulation: accounting and auditing; taxation; management services; computer science; communication arts; mathematics; statistics; probability and quantitative applications in business; economics; business law, functional fields of business—finance, production, marketing, personnel relations, business management and organizations; specialized areas of industry (i.e., real estate, farming, etc.); administration practice (e.g., engagement letters, personnel, etc.). Areas other than those listed above may be acceptable if the registrant can demonstrate that they contribute to his professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the registrant.

(4) Acceptable programs. The following group programs qualify for credit if they meet the standards specified in this regulation: professional education and development programs of national, state and local accounting organizations; technical sessions at meetings of national, state and local accounting organizations and their chapters; university or college courses (both credit and non-credit courses); formal in-firm education programs; programs of other organizations (accounting, industrial, professional, etc.); and firm meetings for staff or management groups which are structured as formal education programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial and operating matters would not qualify.

(5) Formal individual study programs. The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) is to be recommended by the program sponsor based upon one-half (½) the average completion time under appropriate field tests. Applicants claiming credits for such correspondence or formal individual study courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. Credit will be allowed in the renewal period in which the course was completed. A maximum credit for such programs shall not exceed fifty percent (50%) of the renewal period requirement.

(6) Service as lecturer, discussion leader, or speaker. Instructors, discussion leaders and speakers may claim continuing education credit for both preparation and presentation time. Credit may be claimed for actual preparation time up to two (2) times the class contact hours. Credit as an instructor, discussion leader or speaker may be claimed provided that the session is one which would meet the continuing education requirements of those attending. No credit will be granted for repetitious presentations of group programs. Maximum credit for such preparation and teachings shall not exceed fifty percent (50%) of the renewal period requirement.

(7) Published articles, books. Credit may be awarded for published articles and/or books provided they contribute to the professional competence of the individual. Credit for preparation of such publications may be given on a self-declaration basis up to twenty-five percent (25%) of the total education hours required. In exceptional circumstances, an applicant may request additional credit by submitting the article or book to the board with an explanation of the circumstances which he feels justifies a greater credit. The board will determine the amount of credit to be granted for such exercise.

Section 3. Reporting and Controls. (1) Primary responsibility for documenting the requirements rests solely with the licensee, and evidence to support fulfilling those requirements must be retained for a period of five (5) years after completion of educational courses. The board will verify on a test basis, information submitted by licensees for renewal of their permit to practice. If an application for license renewal is not approved, the applicant will be so notified and he may be granted a period of time by the board in which to correct the deficiencies noted. Licensees will provide a statement of completion of the required education requirements under penalty of perjury on forms designated by the board.

(2) Sponsors. All sponsors of programs may pre-register with the board on an advance approval form which constitutes an agreement between the sponsor and the board. The programs sponsored will conform to the continuing education rules and policies of the board. All programs and subject areas not covered by this regulation must have separate approval by the board. Detailed records of each program must be kept by the sponsor. The records will include:

(a) The date and location of the program presentation;

(b) The names of each instructor or discussion leader;

(c) A listing of licensees attending each program presentation; and

(d) A written outline of the program presentation.

These records must be kept by the sponsor for a period of five (5) years following the date each program is presented.

The sponsors of approved programs may advise attendees of such approval and the number of hours of continuing education credit allowable. The failure by sponsors to comply with the rules and policies of the board may result in revocation of approval of programs and such action may be made public to all licensees. The board may select an advisory committee on continuing education and request licensees participate as members in the capacity of offering advice on the acceptability of such programs.

JAMES T. AHLER, Executive Director

ADOPTED: August 12, 1983

RECEIVED BY LRC: September 6, 1983 at 9:30 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Mr. James T. Ahler, Executive Director, Kentucky State Board of Accountancy, 332 W. Broadway, Suite 310, Louisville, Kentucky 40202.

COMMERCE CABINET
Department of Fish and Wildlife Resources

301 KAR 2:088. Limits and seasons for taking migratory birds.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.305, 150.330, 150.340, 150.360, 150.600
PURSUANT TO: KRS 13.082
NECESSITY AND FUNCTION: This regulation pertains to the bag limits, possession limits, and seasons for the taking of certain migratory birds. This regulation is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply.

Section 1. Seasons for Gun and Archery. (1) Ducks, Coots and Mergansers: November 12 through November 26 and December 17 through January 20.
(2) Geese:
(a) Eastern zone: November 12 through January 20, east of a boundary beginning at the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, east on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.
(b) Western zone: December 12 through January 20, west of the boundary described in paragraph (a) of this subsection.
(c) Ballard quota zone: December 23 through January 31, or until such time as 6,000 Canada geese are harvested, whichever occurs first. This zone is defined as the area within the following boundary: Starting at the northwest city limits of the town of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the Canada goose quota of 6,000 will be filled prior to January 31, the season for taking geese in this zone will close. Notice will be given through the news media at least forty-eight (48) hours in advance of the time and date of closing.
(3) Sora and Virginia Rails and Gallinules: November 12 through January 20.

Section 2. Limits for Gun and Archery. (1) Ducks, Coots and Mergansers:
(a) A point system bag limit is in effect. Point values are as follows for either sex unless specified:
1. Canvasback and black duck: 100;
2. Hen mallard, wood duck, hooded merganser and redhead: 70;
3. Pintail, blue-winged teal, cinnamon teal, green-winged teal, widgeon, gadwall, shoveler, scaup and mergansers except hooded merganser: 10;
4. Drake mallard and all other species of ducks not mentioned above: 25;
5. Coots, but limited to fifteen (15) daily and thirty (30) in possession: 0.
(b) The daily bag limit is reached when the point value of the last duck taken, added to the total of the point values of the other ducks already taken during that day, reaches or exceeds 100 points.
(c) The possession limit is the maximum number of ducks which could have legally been taken in two (2) days.
(2) Geese:
(a) The bag limit is five (5) with no more than two (2) Canada and two (2) white-fronted geese.
(b) The possession limit is ten (10), not to include more than four (4) Canada and four (4) white-fronted.
(3) Sora and Virginia Rails: The bag and possession limits are twenty-five (25) singly or in the aggregate.
(4) Gallinules: The bag and possession limits are fifteen (15) and thirty (30), respectively.

Section 3. Shooting Hours. One-half (½) hour before sunrise to sunset for all species listed in this regulation.

Section 4. Shot Size Restrictions. No shot larger than BBs may be in possession while hunting the species listed in this regulation.

Section 5. Falconry Season. November 1 through January 20. All species listed in this regulation may be taken by falconry.

Section 6. Falconry Limits. The bag and possession limits are three (3) and six (6), respectively, of any species listed in this regulation, singly or in the aggregate.

Section 7. Hunting Hours for Falconry. The hunting hours will conform with the shooting hours stated in Sections 3 and 9.

Section 8. Migratory Bird Shipping and Transporting Restrictions. Geese taken in the counties of Ballard, Hickman, Fulton and Carlisle may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of any licensed waterfowl hunter, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese.

Section 9. Exceptions for Specified Wildlife Management Areas and Counties. Unless otherwise specified in this section, stipulations of preceding sections of this regulation apply.
(1) Ballard County Wildlife Management Area, except the Miller Tract, located in Ballard County.
(a) Species and seasons.
1. The season for ducks, coots and mergansers is December 26 through January 20.
2. The season for geese is December 26 through

January 31, or until such time as the Ballard Quota Zone is closed, whichever occurs first.

3. No hunting is permitted on Sundays.

(b) General rules. There will be a ten (10) shell limit per hunter when hunting geese. This does not apply when hunting ducks from pothole blinds or pits as separated from goose hunting areas. Shooting ducks is permitted in goose hunting areas but shooting geese in duck areas is prohibited. Any hunter under the age of eighteen (18) years must be accompanied by an adult. Any person whose transportation to and from pits and blinds is furnished by the Department of Fish and Wildlife Resources must have his gun encased.

(c) Shooting hours. The shooting hours are one-half (½) hour before sunrise to twelve (12) o'clock noon.

(2) Land Between the Lakes Wildlife Management Area, located in Lyon and Trigg Counties.

(a) Closed areas. Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. Duncan Bay is closed to all activity. The Environmental Education Center is closed to waterfowl hunting.

(b) LBL Permit. An annual LBL Hunting Permit is required for waterfowl hunting on all shoreline and inland areas. Shoreline areas are defined as all LBL areas along Kentucky and Barkley Lakes from the waters edge to twenty-five (25) yards above elevation 359 feet. Waterfowl hunting from shoreline areas along Lake Barkley is allowed according to Lake Barkley Wildlife Management Area regulations. Inland areas are defined as all areas above shoreline areas. No waterfowl hunting is permitted on inland areas during quota gun deer hunt days. Permanent pits and blinds are not permitted on inland areas nor along Kentucky Lake shoreline area. Temporary blinds and decoys may be used, but they must be removed at the end of each hunting day.

(3) Lake Barkley Wildlife Management Area.

(a) Closed areas. Refuge areas will be closed to all hunting, fishing, boating and molesting of waterfowl during the dates designated in this subsection and designated on signs posted along the boundaries. Refuges and closing dates are as follows: November 1 through February 15 within an area including a row of islands on the west side of the main channel as marked by buoys and signs between river mile 51 (Hayes Landing Light) and river mile 57.3 (Crooked Creek Light), excluding Taylor and Jake Fork Bays as marked by buoys and signs. Within the refuge area, Fulton Bay will remain closed until March 15 and Honker Bay until March 1, or later if marked by buoys and signs. Boating is allowed but hunting is prohibited within 200 yards of the area surrounded by a levee and located between river mile 68.4 and river mile 70.4 during the period October 15 through March 15. Recreation areas and access points are closed to hunting.

(b) Blinds and pits. Permanent blinds or pits, defined as those which are in place more than twenty-four (24) hours, must be registered on a permit issued by the Corps of Engineers. Applicants for blind or pit permits must show a current Kentucky hunting license to the registration clerk before a permit will be issued. Registration will be conducted at the Lake Barkley Maintenance Shop located at Barkley Dam off U.S. Highway 641-62 on October 3 from 8:00 a.m. to 9:00 a.m. Applicants for permanent blinds or pits will take part in a drawing to determine the order of blind registration. Hunters who miss the October 3 drawing will be registered on a first come-first served basis at the Resource Manager's Office from October 6 through November 11. A permit will be issued for each permanent blind or pit and only one (1) permit will be issued per hunter. Within a specified area around Duck Island Refuge permanent blinds shall remain within ten (10) yards of the assigned number blind marker for the entire waterfowl season. This area is bounded as follows: Beginning at the mouth of Donaldson Creek and proceeding south along the east side of the old Cumberland River channel as marked by buoys, to a point due west of the boat ramp at Linton, then east to the Linton boat ramp, then north along the east shore of Barkley Lake to the mouth of Donaldson Creek. All other blinds within this described area must be temporary. Blind or pit permittees will have priority over their registered blinds or pits and may claim ownership by showing their permit. Permits are not transferable to other hunters. Permanent registered blinds or pits must not be locked to exclude other waterfowl hunters when not occupied. All blinds or pits must be erected or installed no later than the day before the opening of the goose hunting season. All pits and blinds must be 200 yards apart and 200 yards from any refuge as designated by signs. Permanent blinds or pits must be removed no later than thirty (30) days after the close of the waterfowl season. Any extension must be approved by the Lake Barkley Resource Manager.

(4) Barren Lake Wildlife Management Area, located in Barren, Allen and Monroe Counties. All recreation areas, operational areas and islands, except Mason Island, are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration and a drawing for permanent blinds will be conducted at the Barren Lake Resource Manager's Office located near the dam off Kentucky Highway 252, on October 5 from 7:00 a.m. to 9:00 a.m. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season.

(5) Green River Wildlife Management Area. All recreation and park areas are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration for a drawing for blind permits will be conducted on October 1 from 8 a.m. to 10 a.m. at the Resource Manager's office located off Highway 55 between Campbellsville and Columbia. Registrants must have a valid Kentucky hunting license. No more than one (1) blind permit will be issued per immediate family.

(6) Nolin, Rough River, and Buckhorn Wildlife Management Areas. All recreation and park areas are closed to waterfowl hunting. Permanent blinds must be registered and a blind permit issued by the Corps of Engineers. Registration will be conducted at each of the Resource Managers' offices located at or near the dam sites, from October 5 through December 31. A permit will be issued for each permanent blind and only one (1) permit will be issued per hunter. All blinds must be 100 yards apart. Permanent blinds must be removed no later than thirty (30) days after the close of the waterfowl season.

(7) Sloughs Wildlife Management Area located in Henderson and Union Counties.

(a) Grassy Pond-Powell's Lake Unit. Waterfowl hunting is permitted only from permanent pits or blinds registered by the Department of Fish and Wildlife Resources.

(b) Jenny Hole-Highland Creek Unit. Waterfowl hunting will be allowed from permanent pit or blind sites registered by the Department of Fish and Wildlife

Resources and at any other above ground site provided there is a minimum of 200 yards between hunters or hunting parties.

(c) Shooting hours. The shooting hours on the Grassy Pond-Powell's Lake and Jenny Hole-Highland Creek Units shall be one-half (½) hour before sunrise until 2 p.m.

(d) Pit or blind registration. Applicants for a permanent pit or blind must show a current Kentucky hunting license before a permit will be issued. The drawing for blind registration order will occur September 30, from 6:00 p.m. until 8:00 p.m. at the Henderson Community and Youth Center in Atkinson Park, Henderson. The drawing will be followed by registration in which hunters with the lowest numbers will receive first choice of pit or blind locations. A hunter may designate one (1) other person as a partner for registration. Two (2) nontransferable permits will be issued for each permanent pit or blind and only one (1) permit per hunter will be issued. Either of the permittees for a location will have priority over other users of their registered pits or blinds and may claim ownership by showing their permit. Registered pits or blinds must not be locked to exclude other hunters when not occupied by the permittee. Any waterfowl hunter may occupy any unoccupied pit or blind until claimed by the permittee. Only four (4) persons may occupy a pit or blind at one (1) time. All blinds and pits must be 200 yards apart and at the designated locations. Permit holders who have not constructed their pit or blind at the designated location by November 30 will lose their location and the site may be assigned to another hunter. Blinds or pits and all construction materials must be removed from the area no later than thirty (30) days after the close of the waterfowl season.

(e) When the Ohio River reaches a level that requires boat access to the units, hunting will be allowed from boats spaced 200 yards apart, without regard to the registered pits or blinds.

(f) Sauerheber Unit of the Sloughs Wildlife Management Area located in Henderson County will be closed to all hunting, fishing, boating and trespassing during the period indicated on posted signs. This area includes all state-owned land north and south of Kentucky Highway 268 and privately-owned land south of Kentucky Highway 268 as designated by yellow waterfowl refuge signs. Hunting waterfowl is also prohibited from Kentucky Highway 268 and thirty (30) feet on either side on the center line where it lies adjacent to the refuge.

(8) Ohio River Islands Wildlife Management Area. This area consists of Twin Sisters, Pryor, and Rondeau Islands and the mainland marsh area between Twin Sisters and Pryor Islands. Waterfowl blinds must be removed at the end of each day's hunting. All blinds must be 200 yards apart and only four (4) persons may occupy a blind at one (1) time.

(9) Ohio River Waterfowl Refuge located in Livingston County will be closed to all hunting and molesting of waterfowl from October 15 through March 15. This area includes the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to a power line crossing the river at approximately river mile 911.5 and including Stewart Island.

(10) Dewey Lake Wildlife Management Area located in Floyd County is closed to all waterfowl hunting.

(11) Grayson Lake Wildlife Management Area located in Carter and Elliott Counties is closed to all waterfowl hunting.

(12) Bath, Rowan, Menifee and Morgan Counties, including Cave Run Lake, are closed to goose hunting. Breech and muzzle-loading shotguns may be used for duck hunting along the shoreline portion of Cave Run Lake bordering the Pioneer Weapons Wildlife Management Area.

(13) Beaver Creek Wildlife Management Area located in Pulaski and McCreary Counties is closed to all waterfowl hunting.

(14) Cane Creek Wildlife Management Area located in Laurel County is closed to all waterfowl hunting.

(15) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all waterfowl hunting.

(16) Redbird Wildlife Management Area located in Leslie and Clay Counties is closed to all waterfowl hunting.

(17) Mill Creek Wildlife Management Area located in Jackson County is closed to all waterfowl hunting.

(18) Ohio County south of Rough River, Muhlenberg County east of state route 181 and Butler County west of state route 79 are closed to goose hunting.

Section 10. 301 KAR 2:087, Migratory birds; limits and seasons for taking, is hereby repealed.

CARL E. KAYS, Commissioner
DR. ROBERT C. WEBB, Chairman
ADOPTED: August 26, 1983
APPROVED: W. BRUCE LUNSFORD, Secretary
RECEIVED BY LRC: September 12, 1983 at 11 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: The Commissioner, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, No. 1 Game Farm Road, Frankfort, Kentucky 40601.

TRANSPORTATION CABINET
Department of Vehicle Regulation

601 KAR 9:073. Kentucky highway use license, taxes and records.

RELATES TO: KRS Chapters 138 and 281
PURSUANT TO: KRS 13.082, 138.725
NECESSITY AND FUNCTION: KRS 138.725 makes the Department of Vehicle Regulation responsible for the application of the Kentucky motor carrier fuel use tax and weight distance tax to motor carriers covered by KRS 138.655 to 138.725. This regulation provides procedures for licensees to follow in order to comply with the statutes.

Section 1. Application for Kentucky Highway Use License. Every motor carrier as defined in KRS 138.655(5) shall apply for and obtain on a department approved form a license before using or continuing to use the public highways in the state. The department shall issue a license number to each motor carrier, and the carrier shall cause said license number to be displayed on a vehicle identification card issued it by the department. The card shall be carried in each vehicle operated by the carrier at all times.

Section 2. Bonds-Cash Deposit. Every motor carrier and heavy equipment motor carrier, pursuant to the provisions of KRS 138.655 and 138.670 shall file with the department at the time of application for a license a corporate bond, cash bond, or security approved by the department. The applicant for the license shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee. In the event the department decides to accept a

bond in lieu of the cash bond or securities, the bond will be conditioned as required in KRS 138.670. The department shall administer the bond as provided in KRS 138.670.

Section 3. Registration for Weight Distance Tax and Fuel Taxes. (1) For the purpose of this section current registration period shall mean the valid period for vehicle identification cards which shall be from February 1 one (1) year to January 31 the succeeding year. The applicant for the license shall apply to the department for a vehicle identification card on forms prescribed and furnished by the department. The completion by the applicant and submittal to the department for validation shall be necessary prior to the authority of the applicant to operate a motor vehicle on the public highways of Kentucky. A vehicle identification card shall be issued which must contain the name and address of the owner or operator, the identification of the vehicle, and such other information as may be requested, including, but without limitation, the KYU license number issued to the applicant for the use of the public highways of Kentucky. The vehicle identification card shall show the vehicle combined license weight or the actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state.

(2) Definitions.

(a) "Combined license weight" shall mean the declared combined maximum gross weight of the vehicle and any towed unit for the current registration period or the highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

(b) "Declared gross weight" shall mean the same as paragraph (a) of this subsection.

(c) "Tare weight" shall mean the weight of the vehicle without the weight of the load.

(d) "Net weight" shall mean the same as paragraph (c) of this subsection.

(e) "Gross weight" shall mean the unloaded weight of the vehicle plus the maximum load to be carried by it on the highways of the Commonwealth of Kentucky.

(3) The vehicle identification card shall be displayed in the cab of the vehicle at all times. Failure to display the vehicle identification card shall constitute a violation of KRS 138.665. Each day constitutes a separate violation.

Section 4. Communications, Business Names and License Address. All licensees must immediately report any change in principal business address, legal status or business name to the department. All motor carrier operations must be conducted in the name in which the license is issued or the duly assumed business name of the licensee, as it appears on the application for the license. All licensees are required to use the name utilitized in the application for the license in all documents relating to their operations and in all correspondence with the department. All correspondence with the department shall be addressed as follows: Kentucky Department of Vehicle Regulation, Division of Motor Carriers, Post Office Box 2007, Frankfort, Kentucky 40602.

Section 5. Trip Permits. A trip permit may be issued in the discretion of the department under the provisions of KRS 138.665. Application for trip permits will be considered on a case by case basis.

Section 6. Instruments Filed Become Permanent Records. All surety bonds filed with the department as required by statute are permanent records and cannot be returned to licensee or removed from the custody of the department as long as the licensee is subject to the Kentucky Statutes.

Section 7. Kentucky Highway Use License for Leased Vehicles. (1) Any person leasing or renting a motor vehicle to a lessee who is engaged in private carriage may obtain a license by making application to the department and complying with the appropriate rules and regulations. The license shall entitle the lessee to operate the leased or rented vehicle under the lessor's license.

(2) The lease shall be carried in the vehicle and the required vehicle identification card shall be in the lessor's name and the lessor shall make the required quarterly reports and pay all taxes which may become due by virtue of the operation of the motor vehicle.

(3) A lessor of motor vehicle equipment who makes an application for a license under this section shall furnish the department a copy of the standard lease or rental agreement as well as the address of the place of business where the lessor's records are maintained. A current list of all lessees who lease equipment from the lessor and who will use the lessor's Kentucky Highway Use License shall be filed with the department. This list shall contain the name of the lessee, the lessee's address, the number of vehicles leased to each lessee and other pertinent information which the department may require. The list required herein shall be submitted with each quarterly tax return.

(4) A motor vehicle which is leased to a certificated carrier will be required to have the Kentucky Highway Use License and the lessee shall be responsible for the payment of any tax which may become due.

Section 8. Authorized Deductions on Quarterly Returns. Every person licensed as a motor carrier may deduct on his quarterly tax return the amount of tax paid on fuel at the time of purchase, provided the purchase is made in Kentucky and the Kentucky motor fuel tax has been paid. A valid receipt must be obtained as evidence of purchase from the person making the sale or delivery.

(1) The valid receipt is one (1) in which:

(a) The purchase receipt shall be the original receipt prepared by a station or vendor located in the state of Kentucky and shall have an imprinted Kentucky address. Those receipts which contain an imprinted Kentucky address are valid receipts unless the receipts also contain addresses for station location outside of the state of Kentucky.

(b) The following is included:

1. Name and station location of the vendor;
2. Date of purchase;
3. Number of gallons;
4. Type of fuel purchased;
5. Company unit number of vehicle or registration number of units; and
6. Licensee's name.

(c) The name and address of the vendor shall be preprinted or imprinted, and may include, but will not be restricted to credit card machines. Station receipts that are identified only by impressed rubber stamp markers or handwritten are not valid.

(2) Bulk or storage purchasers of fuel shall maintain a withdrawal or disbursement record when such fuel is used in taxable highway or road units. This record shall be kept on all units fueling from this tank showing the unit fueled, gallons withdrawn, and the date of withdrawal. Tax on

bulk purchases shall be paid at the time of purchase in accordance with KRS 138.220 and 234.320. If a motor carrier uses tax free bulk storage to fuel taxable units (highway units), tax will be levied on total fuel purchased for bulk storage. Any use of fuel from a tax free storage tank without adequate records to prove non-highway use shall be taxable. Approved location of tax free storage shall be issued by the Revenue Cabinet before tax free fuel is purchased.

(3) In instances where fuel is purchased by trip leased units and the lessee is responsible for the Kentucky highway tax, all receipts shall be made in the name of the lessee. Receipts made out in the name other than the person or company responsible for the fuel tax shall be invalid.

(4) All receipts shall be kept in the possession of the carrier for a period of three (3) years, subject to examination by representatives of the Transportation Cabinet.

Section 9. Cancellation of License. (1) If a motor carrier fails to comply with the terms of KRS 138.655 to 138.725, Kentucky Highway Use Tax License will be cancelled. Reasons for cancellation shall include, but are not limited to, the following:

(a) Failure to file tax return thirty (30) days after the due date. The licensee will be mailed a second notice or reminder and be given fifteen (15) days to file the return. If the licensee fails to comply with the second notice, the license will be subject to cancellation.

(b) Failure to pay additional taxes assessed by the department. To be reinstated after cancellation of license, the carrier must prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax Returns.

(c) Failure by a licensee to produce such records after written demand may result in cancellation of the license and any other penalties applicable by law.

Section 10. Procedure upon Cancellation of License. (1) Upon cancellation of Kentucky Highway Use License in accordance with the provisions of KRS 138.675 and after notice to the carrier by mailing the same to the address on file in the department, the carrier shall immediately return to the department the license and all vehicle identification cards issued to such carrier.

(2) Failure to return the license and cards or the operation of a motor vehicle displaying a vehicle identification card after notice of revocation of the highway use license shown thereon, shall be a violation of this regulation.

(3) Cancellation of the user's license shall also constitute a revocation of the grant of reciprocal privileges for an interstate motor vehicle.

(4) Any carrier operating a motor vehicle displaying a vehicle identification card with a cancelled highway use license shown thereon shall be subject to citation before the department to show cause why such carrier's operating authority, if any, should not be revoked and in every case the motor vehicle shall be subject to seizure in accordance with KRS 138.990(18).

Section 11. Reinstatement of License. (1) If the carrier desires to be reinstated after cancellation, the carrier must:

(a) Prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax returns.

(b) Submit quarterly returns for all missed periods.

(c) Pay all taxes for missed returns plus penalties and interest.

Section 12. Tax Liability and Protest Procedures. (1) The licensee will be mailed a tax statement, found as the result of an audit or found as the result of an examination of licensee's tax return. The licensee has thirty (30) days to pay or protest to the department per KRS 131.110 in writing any assessment or tax liability imposed by the department. A protest must be accompanied by a supporting statement identifying specific adjustments being protested and setting forth the reasons upon which the protest is being made.

(2) The department will acknowledge receipt of the protest and if protest is acceptable, a tax conference will be set between the department and licensee within sixty (60) days of the protest. The department will notify the licensee within thirty (30) days its decision to deny or accept the reasons of the protest. If denied, the licensee may protest to the Kentucky Board of Tax Appeals.

(3) If the licensee does not acknowledge the tax statement within thirty (30) days, a reminder will be sent to licensee demanding payment within fifteen (15) days. If within fifteen (15) days, the taxes have not been remitted to the department, a demand will be made against the licensee's surety bond. Any balance of unpaid taxes will be submitted to the department's legal section for collection.

(4) If the licensee so desires, he may, within thirty (30) days, protest directly to the Kentucky Board of Tax Appeals.

Section 13. Penalties. Licensee shall be subject to the penalties provided for the violation of KRS 138.655 to 138.725 specifically including KRS 138.720 and the penalties as set forth in KRS 138.990(17) and (18) shall apply and will be assessed by the department through its personnel or the proper departmental enforcement agencies or by courts of competent jurisdiction.

Section 14. Inspection. Any department highway enforcement officer or state police officer may inspect the vehicle identification card, license registration, driver's log, lease, trip sheet or shipping document to determine if the vehicle is qualified to operate on the highways of the State of Kentucky. The department highway enforcement officer may also weigh vehicles to determine if the gross weight conforms to the licensed weight on the vehicle identification card.

Section 15. Maintenance of Records. (1) Licensees shall keep and maintain complete and comprehensive records of all business transactions.

(2) All papers, books, accounts, payroll records, time records, bills, invoices, vouchers, journals, ledgers, contracts, leases and agreements, operating and statistical statements or exhibits, records of mileage operated, annual or other periodic or special reports, working sheets or papers and all other papers and records disclosing or appertaining to operations of licensees authorizing transportation of persons or property by motor vehicle shall be maintained.

(3) Odometer readings for each vehicle shall be retained on file, with drivers' logs of miles, trip reports, manifests and/or any other such records which prove miles operated.

(4) Kentucky miles reported shall be no less than the miles as calculated on the official Kentucky mileage map prepared by the Kentucky Department of Highways. The motor carrier shall not calculate miles operated by fuel purchases and miles per gallon.

(5) Miles per gallon reported shall be calculated by maintaining adequate records of total miles operated and total

fuel consumed. Total fuel consumed is the sum of road purchases and bulk storage withdrawals or data from maintenance records.

(6) Mileage records must be maintained as follows:

(a) Total miles operated in Kentucky for each unit with less than 59,999 pounds.

(b) Total miles operated in Kentucky for each unit with more than 59,999 pounds.

(7) Any licensee must produce and make available for audit and examination at any reasonable time, within or without this state, the records, accounts, papers, reports and other documents under the licensee's control.

(a) Records maintained by licensees outside this state may be presented at a designated place in this state for audit and examination. This may be done at the request of the licensee or by direction of the department. Such records must be presented by a representative of the carrier who can explain all entries and records and be responsible for their safekeeping.

(b) When a motor carrier keeps and maintains its records outside this state, the department may examine such records and shall be reimbursed by the motor carrier for all expenses incurred in making such out of state examination. The department shall bill the carrier for transportation, lodging and meals at the rate set by the Kentucky regulations on travel expense.

(c) The refusal by a licensee to produce such records after written demand may result in cancellation of the license and any other penalties applicable by law.

(d) In addition to any other penalty authorized by law, the operating authority or license of a person who fails to prepare or maintain records required by statute or regulation of the state shall be subject to suspension or cancellation.

(e) Such records must be preserved for three (3) years.

Section 16. Records Disposition. The department will retain the active file of KYU tax returns for at least three (3) years. An inactive KYU license will be retained three (3) years after cancellation.

Section 17. 601 KAR 9:072, Kentucky Highway Use License, Taxes and Records, and 601 KAR 9:072E, Kentucky Highway Use License, Taxes and Records, are hereby repealed.

TIMOTHY D. HELSON, Commissioner
ADOPTED: September 15, 1983
APPROVED: JAMES F. RUNKE, Secretary
RECEIVED BY LRC: September 15, 1983 at 3:15 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Steve Reeder, Deputy Secretary for Legal Affairs, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Labor
Workers' Compensation Board

803 KAR 25:070. Charges for attorneys.

RELATES TO: KRS 342.320
PURSUANT TO: KRS 342.260
NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare such rules and regulations as it considers necessary to carry on its work and for carrying out the provisions of KRS Chapter 342. KRS 342.320 requires the Workers' Compensation Board to approve the payment of the attorney's fee in any case involving benefits under KRS Chapter 342 and to commute the final payments of benefits payable under the award to a lump sum for that purpose. KRS Chapter 342.120 provides the method by which an employer or its insurance carrier and the Special Fund share liability for awards for injuries occurring and disabilities arising on or after July 15, 1982. The function of this regulation is to establish a mechanism for crediting the above referenced parties for the payment of attorneys' fees in these cases.

Section 1. Credit for Lump Sum Payment of Charges by Attorneys. A party defendant shall be entitled, without further order of the board, to credit for the lump sum value of any attorney's fee paid. The procedure for payment of attorney fees and the impact of such payment on weekly benefits shall be as follows:

(1) The Department of Labor, Division of the Special Fund, shall calculate the credit for attorney's fee as follows:

(a) Number of weeks as awarded due in future (do not include payments payable prior to attorney fee award) = X weeks.

(b) Obtain a lump sum of X (X weeks on lump sum table) = Y weeks.

(c) Divide amount of attorney fee by amount due per week = Z weeks.

(d) Y weeks minus Z weeks = A weeks.

(e) Look in table on lump sum and find A weeks in the Present Worth column of the chart and then take the figure in the weeks column of the chart = B weeks, the total number of weeks of actual remaining award payments by parties defendant before the credit causes cessation of award payment checks.

(f) X minus B = C weeks, the number of weeks of benefit cessation required to equal the statutory credit.

(2) The Department of Labor, Division of the Special Fund, shall calculate the employer's credit for attorney's fee as follows:

(a) Number of weeks due from employer or insurance carrier in future pursuant to KRS 342.120 (do not include payments payable prior to attorney fee award) = X_1.

(b) Obtain a lump sum of X_1 (X_1 weeks on lump sum table) = Y_1 weeks.

(c) Divide amount of attorney fee by amount due per week = Z weeks.

(d) Multiply Z weeks by employer's percentage of award = Z_1 weeks.

(e) Y_1 weeks minus Z_1 weeks = A_1 weeks.

(f) Look in table on lump sum and find A_1 weeks in the Present Worth column of the chart and then take the figure in the weeks column of the chart = B_1 weeks, the number of weeks yet to be paid by the employer or the insurance carrier before the Special Fund begins to pay disability benefits.

(3) The calculations set forth in subsections (1) and (2) of this section shall be completed by the Division of the Special Fund and the results forwarded to the other payors, as well as the plaintiff. Any disagreements as to the application of the formula shall be resolved by the board upon motion by any party. Special Fund's notice shall include the following information:

(a) Attorney fee to be paid by each party. The period of time for which each party defendant will be responsible for disability benefit payment and, in cases involving lifetime benefits, the date upon which benefits payments will be

reinstituted by the Special Fund after taking credit for the amount advanced to pay the attorney's fee in a lump sum.

(4) When the defendant payor or payors has fulfilled its obligation as reduced pursuant to subsection (2) of this section, payments will commence by the Special Fund (there will be no stoppage to recover advance attorney fee payments at this time). The Special Fund shall continue weekly benefit payments until such time as the number of weeks remaining in the specified benefit period or the life expectancy as determined by mortality tables approved by the Workers' Compensation Board, multiplied by the weekly benefit rate is equal to the total attorney fee and discount paid by all payors on behalf of the injured worker. In claims where benefits are payable for a lifetime, the weekly benefit payments will be reinstituted by the Special Fund at such time as the payor surpasses the life expectancy as determined by the mortality table approved by the Workers' Compensation Board and shall continue until terminated by death or order of the Workers' Compensation Board.

(5) No part of this section should be viewed as a limitation on the party's right to negotiate a settlement subject to statutory approval by the Workers' Compensation Board.

LANNY R. HOLBROOK, Chairman
THELMA L. STOVALL, Commissioner
ADOPTED: July 25, 1983
RECEIVED BY LRC: August 24, 1983 at 3 p.m.
APPROVED: LEONARD MARSHALL, Secretary
SUBMIT COMMENT OR REQUEST FOR HEARING TO: J. Scott Getsinger, Workers' Compensation Board, 127 Building, U.S. 127 South, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

804 KAR 9:040. Retail package liquor license quota.

RELATES TO: KRS 241.060, 241.065, 241.075, 243.030
PURSUANT TO: KRS 13.082, 241.060
NECESSITY AND FUNCTION: The express provisions of KRS 241.060(2) enable the Alcoholic Beverage Control Board to limit the number of licenses to be issued in any political subdivision of the state and permit the board to make reasonable division and subdivisions of the state or any political subdivision into districts for this purpose. 804 KAR 9:010 establishes a general retail liquor license quota based upon county population for any area within that county in which prohibition has been repealed. Instances may arise, however, in which the quota based on county population permits the issuance of retail liquor licenses in a number totally disproportionate to the population of the area in said county in which prohibition has been repealed. It is, therefore, necessary for the board to establish individual quotas when such a situation as above described arises.

Section 1. The Alcoholic Beverage Control Board may, for good reason shown, adopt by regulation retail liquor license quotas for political subdivisions less than a county where the county quota established by 804 KAR 9:010 would be excessively disproportionate to that based upon the population of the smaller political subdivisions. In such instances, the quota set in Sections 1 and 2 of 804 KAR 9:010 shall be inapplicable. The quota exceptions contained in Section 2 of 804 KAR 9:010 shall remain in effect and be incorporated herein.

Section 2. Pursuant to the authority herein, the city of Pikeville, having voted to repeal prohibition on April 12, 1983, the actual resident population of the city of Pikeville being 4,756, and the resident population of Pike County being 81,123 according to the 1980 census, it is determined that the retail package liquor license quota established according to 804 KAR 9:010 would create a permissible number of retail package liquor licenses excessively disproportionate to the population of the city of Pikeville, the retail package liquor license quota for the city of Pikeville, Kentucky, is therefore set at thirteen (13).

EDWARD A. FARRIS, Commissioner-Chairman
ADOPTED: August 23, 1983
APPROVED: LEONARD MARSHALL, Secretary
RECEIVED BY LRC: August 29, 1983 at 9 a.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Edward A. Farris, Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky 40601.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Insurance

806 KAR 38:080. Health maintenance organizations' reserve funds.

RELATES TO: KRS 304.38-130
PURSUANT TO: KRS 13.082, 304.2-110, 304.38-150
NECESSITY AND FUNCTION: KRS 304.38-150 provides that the Commissioner of Insurance may adopt reasonable rules and regulations that he deems necessary for the proper administration of KRS Chapter 304.38. 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 the Kentucky Insurance Code. This regulation specifies when a health maintenance organization is no longer considered to be financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees.

Section 1. A health maintenance organization shall not be considered to be financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees if the commissioner determines that the health maintenance organization has failed to possess and maintain for the protection of its enrollees a reserve as a portion of its net worth equivalent to one and one-half (1½) months of actual incurred medical, hospital, secondary care, administrative, and solicitation expense as reported in the health maintenance organization's annual financial statement filed with the commissioner for the immediately preceding year. For its initial year of operation, the health maintenance organization's reserve shall be based upon projected medical, hospital secondary care, administrative, solicitation expense as estimated in its application for a certificate of authority.

Section 2. (1) Health maintenance organizations

holding a certificate of authority in good standing with the commissioner on the effective date of this regulation shall be allowed a period of three (3) years from the effective date of this regulation to comply with this regulation.

(2) The exception provided by this section shall cease to apply to any health maintenance organization from and after the date upon which it has accumulated a reserve equal to or in excess of the reserve required by Section 1 of this regulation.

Section 3. This regulation shall become effective upon its approval pursuant to KRS Chapter 13.

DANIEL D. BRISCOE, Commissioner
ADOPTED: September 8, 1983
APPROVED: LEONARD B. MARSHALL, JR.
Secretary
RECEIVED BY LRC:September 15, 1983 at 8:15 a.m.
See public hearings scheduled on page 391.

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

815 KAR 45:050. Requirements for obtaining firefighters training facility grants.

RELATES TO: KRS 17.250, 45A.080, 322.360
PURSUANT TO: KRS 13.082, 17.250(4)
NECESSITY AND FUNCTION: KRS 17.250 requires that prior to any expenditures of funds for the purpose of constructing new or upgrading existing training facilities for firefighters, plans must be submitted to and reviewed by the Commission on Fire Protection Personnel Standards and Education. The purpose of this regulation is to set out standards and procedures for determining the amount and use of the funds to be expended from the Firefighter's Training Center Fund.

Section 1. Definitions. (1) "Commission" for the purpose of this regulation shall mean the Commission on Fire Protection Personnel Standards and Education established pursuant to KRS 95A.020.

(2) "Cost estimate" for the purpose of this regulation shall mean an itemized list of labor, items or materials needed and their estimated cost at the time of bidding. It can also mean the estimated cost of land or buildings to be purchased.

(3) "Quotations or bids" for the purpose of this regulation shall contain the same information as cost estimates.

Section 2. Eligibility. (1) To qualify to receive aid under the Firefighter's Training Center Fund, fire departments in cities of all classes, fire prevention districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083 and all other organized fire departments or groups or associations of fire departments operated and maintained on a non-profit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth, must maintain at least twelve (12) firefighters, a chief and at least one (1) operational fire apparatus.

(2) Any fire department or entity eligible for and receiving funding pursuant to this regulation shall have a minimum of seventy-five percent (75%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

Section 3. Participation Requirements. (1) There shall be submitted to the commission an application which shall contain, but not be limited to, a letter of application, containing a general statement of intent; a list of fire departments and agencies that will use the facility; a list of what is available to the applicant, such as land, free labor or materials, etc.; name of an agent or contact person; a drawing or sketch of the proposed training center, as well as building drawing if applicable; and a cost estimate as stated in the definitions of this regulation.

(2) All applications must comply with the state laws applicable to capital construction projects and the requirements stated in this regulation.

(a) Quotations or bids shall be obtained from at least three (3) suppliers for all expenditures of less than $10,000.

(b) Expenditures exceeding $10,000 shall require advertisement in newspapers prior to letting the bid to inform the public and suppliers of the needs of the fire department and assure that purchases will be at the lowest cost.

(c) Capital construction projects exceeding the cost of $25,000 shall require bidding, advertisement and the services of an architect or professional engineer registered in the state of Kentucky.

(d) Equipment expenditures exceeding $50,000 shall comply with paragraphs (a), (b) and (c) of this subsection and shall be submitted to and approved by the Capital Construction and Equipment Purchase Oversight Committee.

(3) Permits shall be obtained for all electrical installations, all plumbing installations, all fuel installations, and boiler and pressure vessel installations.

Section 4. Processing Applications. (1) The commission shall review the applications and, subject to funds available, shall recommend to the State Fire Marshal which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(2) No funds shall be expended for any purpose other than that for which it is approved without the approval of the commission.

(3) If funds are granted to an applicant and are not to be used for the purpose granted, the applicant's agent shall contact the commission through its administrator directly, giving the reason why change is required or desired in the original plan; and resubmit new plans and cost estimates which shall be approved by the commission; or return the funds.

(4) Granted funds shall not be held longer than twelve (12) calendar months after the date of the grant check without reasonable progress toward the purpose of the grant. If no progress has been made or there is insufficient progress in the consideration of a majority of the commission members after twelve (12) months, the remaining funds shall be returned.

(5) When expenditures are made, receipts for funds expended during each quarter shall be sent by the 15th of the following month. Receipts for January, February and March should be in the hands of the commission administrator by the 15th of April and so on.

(6) Maintenance of the training facilities and/or equipment purchased with the granted funds shall be the responsibility of the applicant. A reasonable fee may be charged for use of the facilities by others than the applicant's members. These fees are to be used for the maintenance of the facilities or equipment.

(7) Any false statements made knowingly by an appli-

cant shall call for refund of grant monies and prosecution under existing statutes.

CHARLES A. COTTON, Commissioner
ADOPTED: September 14, 1983
APPROVED: LEONARY B. MARSHALL, JR.
Secretary
RECEIVED BY LRC: September 15, 1983 at 2:30 p.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.

CABINET FOR HUMAN RESOURCES
Department for Health Services

900 KAR 1:020. State health plan development process.

RELATES TO: KRS 194.025(3), 194.050(1)
PURSUANT TO: KRS 13.082, 194.050(1)
NECESSITY AND FUNCTION: KRS 194.050 requires the Secretary for Human Resources to adopt, administer and enforce all rules and regulations necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Human Resources. This regulation implements the agreement between the cabinet and the Secretary of the Department of Health and Human Services to carry out the provisions of the Health Planning and Resources Development Act of 1974 (Public Law 93-641) and its subsequent amendments.

Section 1. Purpose. The purpose of this regulation is to establish the process by which the state health plan is prepared, amended and revised. The state health plan shall serve as a major health policy document which provides a coordinated approach for identifying statewide health needs and addressing major health issues.

Section 2. Definitions. (1) "Council" means the State Health Planning Council which for administrative purposes is attached to the Department for Health Services, Cabinet for Human Resources, and acts as the State Health Coordinating Council pursuant to the cabinet's agreement with the Secretary of the Department of Health and Human Services, under the Health Planning and Resource Development Act, as amended.

(2) "Cabinet" means the Cabinet for Human Resources acting as the State Health Planning and Development Agency pursuant to its contract with the Secretary of the Department for Health and Human Services under the Health Planning and Resources Development Act, as amended.

(3) "State health plan" means the document duly adopted by the State Health Planning Council and approved by the Governor.

Section 3. State Health Plan Development. (1) The cabinet shall determine the statewide health needs of the Commonwealth after providing reasonable opportunity for the submission of written recommendations respecting such needs from appropriate state agencies and other agencies designated by the Governor for the purpose of making such recommendations and after consultation with the council.

(2) The cabinet shall prepare, review at least triennially and revise as necessary a preliminary state health plan.

(3) The cabinet shall submit the preliminary state health plan to the council for approval or disapproval and for use in developing the state health plan.

(4) The council shall review the preliminary state health plan and direct the cabinet to make revisions and amendments as necessary.

(5) The preliminary state health plan shall become the proposed state health plan upon the approval of its contents by the council.

(6) Prior to submission of the proposed state health plan to the Governor, the council shall conduct a public hearing on the proposed plan to receive comments orally or in writing from interested parties.

(7) Not less than thirty (30) days prior to such hearing, the cabinet shall publish in at least two (2) newspapers of general circulation in the state, a notice of the council's consideration of the proposed plan, the time and place of the hearing, the place at which interested persons may consult the plan prior to the hearing and the place and period within which written comments on the proposed plan may be submitted.

(8) The council shall consider the comments received in the public hearing and revise the proposed state health plan as deemed necessary.

(9) After approval of the proposed state health plan and any revisions or amendments made subsequent to the public hearing, the council shall submit the proposed plan to the Governor for approval or disapproval.

(10) If the Governor determines the proposed plan does not effectively meet statewide health needs as determined by the cabinet and disapproves the proposed plan, the council shall review the changes in the plan which the Governor specifies in writing are necessary to meet such needs and implement any such revisions within thirty (30) days. Such revisions shall not be subject to the provisions of subsections (6), (7) and (8) of this section.

(11) All revisions and amendments to the state health plan except those specified by the Governor under subsection (10) of this section shall follow the procedures set forth in this regulation for development of the plan.

Section 4. Effective Date and Availability of State Health Plan. (1) The state health plan adopted by the council on June 8, 1983 and approved by the Governor on August 15, 1983, shall be effective as of that date and remain in effect until June 30, 1986, unless revised or amended.

(2) The state health plan shall be available at the office of the Division of State Health Planning of the Cabinet for Human Resources at 275 East Main Street, Frankfort, Kentucky.

(3) All revisions and amendments to the state health plan and all subsequent state health plans shall be promulgated in accordance with this regulation.

BUDDY H. ADAMS, Secretary
ADOPTED: September 14, 1983
RECEIVED BY LRC: September 15, 1983 at 4 p.m.
SUBMIT COMMENT OR REQUEST FOR HEARING TO: Secretary for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the August 23-24, 1983 Meeting

(Subject to subcommittee approval at the September 28 meeting.)

The Administrative Regulation Review Subcommittee held its monthly meeting on Tuesday, August 23, at 1 p.m., and on Wednesday, August 24, at 10 a.m. in Room 103 of the Capitol Annex. Present were:

Members: Representative William T. Brinkley, Chairman; Senators Pat McCuiston, Bill Quinlan and Joe Lane Travis; Representatives Greg Stumbo, Albert Robinson and James Bruce.

Guests: Tom Carter, Board of Medical Licensure; Kathy Williams, L. W. True, Sidney Simandle, Gary Bale, Deborah Knapp, Billie Downing and Jewell Deene Ellis, Department of Education; Judith Walden, Department of Housing, Buildings and Construction; Tom Edwards, Department of Labor; Larry Schneider and Eugene Atkisson, Department of Mines and Minerals; Andrew Cammack, Environmental Quality Commission; Merl Hackbart, Robert Warren, Grant Satterly and Jim Ramsey, Finance Cabinet; Clint Newman, Treasury; Joe Miller and Ked Fitzpatrick, Human Resources Cabinet; Ron Mills, Dennis Conniff and Steve Taylor, Natural Resources and Environmental Protection Cabinet; Larry Stanley, Ellyn Crutcher, John Van Volkenburgh and Laura Murrell, Public Service Commission; Jack Hoover, Farmers Bank; Dennis Fleming, Kentucky Association of Health Care Facilities; V. Wayne Young, Kentucky Association of School Administrators; Bill Caylor, Kentucky Coal Association; Ronald Scott, Kentucky Municipal League; Richard Hannan, Kentucky Nature Preserves Commission.

LRC Staff: Susan Harding, Joe Hood, Dan Risch, Carla Arnold, Chris Lilly, Roy Haddix, Paula Payne, Mary Helen Miller, Joyce Morse, Dr. Jim Peyton and Shirley Hart.

Press: Herb Sparrow, Associated Press; Glen Osbourne, UPI; Kurt Pickering, Kentucky Network News; and Livingston Taylor, Courier-Journal.

Chairman Brinkley announced that a quorum was present and called the meeting to order. On motion of Representative Bruce, seconded by Representative Stumbo, the minutes of the July 27-28, 1983 meeting were approved.

The following regulation was recommended for deferral by the subcommittee until the September 28 meeting:

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
Oil Shale Operations

405 KAR 30:160. Data requirements.

The subcommittee took no action on the following emergency regulations:

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Medical Assistance

904 KAR 1:010E. Payments for physicians' services.
904 KAR 1:013E. Payments for hospital inpatient services.
904 KAR 1:015E. Payments for hospital outpatient services.
904 KAR 1:027E. Payments for dental services.
904 KAR 1:036E. Amounts payable for skilled nursing and intermediate care facility services.
904 KAR 1:045E. Payments for mental health center services.
904 KAR 1:055E. Payments for primary care center services.
904 KAR 1:095E. Payments for nurse-midwife services.
904 KAR 1:200E. Nurse anesthetists' services.
904 KAR 1:210E. Payments for nurse anesthestists' services.

PUBLIC PROTECTION AND REGULATION CABINET
Public Service Commission
Utilities

807 KAR 5:002E. Organization.

The subcommittee recommended that the following regulations be approved for filing:

CABINET FOR HUMAN RESOURCES
Department for Health Services
Maternal and Child Health

902 KAR 4:040. Special Supplemental Food Program for Women, Infants and Children (WIC). (As amended.) (Senator Travis objected.)

Department for Social Insurance
Medical Assistance

904 KAR 1:013. Payments for hospital inpatient services.
904 KAR 1:015. Payments for hospital outpatient services.
904 KAR 1:027. Payments for dental services.
904 KAR 1:055. Payments for primary care center services.
904 KAR 1:095. Payments for nurse-midwife services.
904 KAR 1:200. Nurse anesthetists' services.
904 KAR 1:210. Payments for nurse anesthetists' services.

Public Assistance

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

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Superintendent

701 KAR 5:050. Summary hearing procedures.

Bureau of Instruction
Teacher Certification

704 KAR 20:005. Kentucky standards for preparation program approval.
704 KAR 20:020. Rank II equivalency.
704 KAR 20:100. Administrators and supervisors.
704 KAR 20:185. Psychometrists.
704 KAR 20:198. Director of special education. (Repeals 704 KAR 20:203.)
704 KAR 20:208. Educational diagnostician. (Repeals 704 KAR 20:207.)

Bureau of Vocational Education
Management of State-Operated Schools
705 KAR 5:040. Steering committee.
705 KAR 5:050. Policy for vocational-technical education regional advisory committee.
Bureau of Rehabilitation Services
Administration
706 KAR 1:010. Three-year plan for vocational rehabilitation services. (As amended upon the approval of the State Board of Education.)
Bureau of Education for Exceptional Children
Exceptional and Handicapped Programs
707 KAR 1:060. Identification, evaluation and placement policy and procedures.
707 KAR 1:080. Appeals board.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
Oil Shale Operations
405 KAR 30:201. Repeal of lands unsuitable for oil shale operations regulations. (Repeals 405 KAR 30:190 and 405 KAR 30:200.)

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings, and Construction
Kentucky Building Code
815 KAR 7:070. Requirements for certification of Kentucky Building Code inspectors.
Mobile Homes and Recreational Vehicles
815 KAR 25:020. Recreational vehicles.
Department of Labor
Occupational Safety and Health
803 KAR 2:015. General industry standards.
803 KAR 2:016. Construction industry standards.
803 KAR 2:020. Adoption of 29 CFR Part 1910.
803 KAR 2:027. Adoption of 29 CFR Parts 1915, 1918 and 1919, maritime employment.
803 KAR 2:070. Inspection; procedure.
803 KAR 2:180. Recordkeeping; statistics.
803 KAR 2:200. Confined space entry.
Department of Mines and Minerals
Division of Explosives and Blasting
805 KAR 4:090. Storage of explosives and blasting agents.
805 KAR 4:100. Surface transportation of explosives.
Public Service Commission
Utilities
807 KAR 5:002. Organization.
807 KAR 5:008. Winter hardship reconnection of residential electric and gas service.

FINANCE AND ADMINISTRATION CABINET
Board of Medical Licensure
201 KAR 9:030. Examinations.
Department of Administration
State Investment Commission
200 KAR 14:040. Priority to public depositories. (On August 23, the subcommittee recommended passage as amended on a roll call vote—5 yeas, 1 nay, 1 pass. On August 24, Representative Robinson moved to withdraw the motion to recommend approval, seconded by Representative Stumbo. Senator McCuistion moved to recommend approval as amended, seconded by Representative Bruce, the motion passed 6-0.)

The subcommittee recommended by voice vote that the following regulations be rejected:

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
Oil Shale Operations
405 KAR 30:010. Definitions.
405 KAR 30:020. General provisions.
405 KAR 30:025. Experimental practices.
405 KAR 30:070. Procedures, criteria and schedule for release of performance bond.
405 KAR 30:121. Oil shale exploration.
405 KAR 30:130. Oil shale operation permits.
405 KAR 30:250. Use of explosives.
405 KAR 30:280. Prime farmland.
405 KAR 30:320. Water quality standards, effluent limitations, and monitoring.
405 KAR 30:360. Waste management provisions.
405 KAR 30:370. Disposal of excess spoil materials and spent shale.
405 KAR 30:390. Backfilling and grading.

The meeting was adjourned at 12:40 p.m. on August 24 until September 27-28, 1983.

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