

105 CMR: DEPARTMENT OF PUBLIC HEALTH

105 CMR 451.000: MINIMUM HEALTH AND SANITATION STANDARDS AND INSPECTION PROCEDURES FOR CORRECTIONAL FACILITIES

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451.001: Purpose

Whereas, the Department is required by M.G.L. c. 111, § 5 to take cognizance of the health, comfort and convenience of all citizens of the Commonwealth and to advise the government concerning the location and other sanitary condition of any public institution; and the Department is required by M.G.L. c. 111, § 21 to make rules for correctional facilities and detention centers regarding the care and use of eating and drinking utensils, bedding, ventilation of buildings, minimum plumbing facilities for human habitation, and for the general health and safety of the detainees; and the Department is in addition required by M.G.L. c. 111, § 20 to inspect each correctional facility twice annually and to report on its findings and recommendations, 105 CMR 451.000 are adopted to establish required minimum standards for correctional facilities under M.G.L. c. 111, § 21; to recommend additional minimum standards necessary to ensure adequate health and sanitation in correctional facilities under M.G.L. c. 111, § 5; and to establish inspectional procedures for a more fair and effective administration of the Department's inspectional and advisory responsibilities under M.G.L. c. 111, §§ 5 and 20.

451.002: Authority

105 CMR 451.000 are adopted under authority of M.G.L. c. 111, §§ 5, 20 and 21, c. 30A, § 2, c. 270, §§ 21 and 22, and St. 1987, c. 759, § 4.

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451.003: Citation

105 CMR 451.000 shall be known, and may be cited as, 105 CMR 451.000: *Minimum Health and Sanitation Standards and Inspection Procedures for Correctional Facilities*.

451.010: Application to Correctional Facilities

105 CMR 451.000 apply to every correctional facility operated by the Department of Correction or the Counties.

451.011: Required Standards (.100 and .200 Series)

Each correctional facility is required by M.G.L. c. 111, § 21 to comply with Required Minimum Health and Sanitation Standards set forth in 105 CMR 451.101 through 105 CMR 451.214 (.100 and .200 Series). Officials responsible for maintaining correctional facilities are responsible, under M.G.L. c. 111, § 21, for enforcing these Required Standards.

451.012: Recommended Standards (.300 Series)

In addition, in order to provide physical living conditions adequate to maintain the health and safety of inmates of correctional facilities, the Department, pursuant to M.G.L. c. 111, § 5, recommends that each correctional facility comply with the *Recommended Minimum Health and Sanitation Standards* set forth in 105 CMR 451.320 through 105 CMR 451.390 (.300 Series).

451.013: Inspection Procedures (.400 Series)

105 CMR 451.400 through 105 CMR 451.411 (.400 Series) set forth procedures to be used by the Department to carry out its inspection and advisory responsibilities under M.G.L. c. 111, §§ 5 and 20, and recommend procedures to be used by individuals responsible for maintaining facilities in responding to the Department's inspections and recommendations.

451.020: Definitions

Terms as used in 105 CMR 451.000 shall be interpreted as set forth below unless the context or subject matter clearly requires a different interpretation. Words and phrases not expressly defined in 105 CMR 451.000 shall be interpreted according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in sanitary science or in Department practice shall be interpreted according to such meaning.

Cell means any room or group of rooms within a correctional facility used or intended to be used by a prisoner for living and sleeping.

Commissioner means the Commissioner of Public Health appointed pursuant to M.G.L. c. 17, § 2.

Committed Offender means a person convicted of a crime and committed under sentence to a correctional facility.

Correctional Facility means any building, enclosure, space or structure used for the custody, control, and rehabilitation of committed offenders and of such other persons as may be placed in custody therein in accordance with law, as defined by M.G.L. c. 125, § 1. "Correctional facility" includes state and county correctional facilities, but does not include facilities operated under the jurisdiction of the Department of Youth Services.

Corrosion-Resistant Material means a material which maintains its original surface characteristics under prolonged influence of food, cleaning compounds, and sanitizing solutions which may come in contact with it.

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Department means the Department of Public Health established pursuant to M.G.L. c. 17.

Detainee means a person placed in custody in a correctional facility who is accused of a crime but not yet tried.

Easily Cleanable means readily accessible and of such material and finish, and so fabricated that residue may be completely removed by normal cleaning methods.

Employee means any person who works in correctional facility, but who is not an inmate.

Existing Facility means a correctional facility in operation on the effective date of 105 CMR 451.000, but does not include portions of the facility not in operation on the effective date of 105 CMR 451.000, nor a facility or portion of a facility temporarily taken out of use after the effective date of 105 CMR 451.000 for major construction or renovations.

Exterminate means to eliminate insects and rodents.

Facility means a state or county correctional facility.

Fire Retardant means having or providing comparatively low flammability or flame spread properties.

Food Service Department means the food preparation, storage and service areas of a correctional facility.

Garbage means the animal, vegetable, or other organic waste resulting from the handling, preparing, cooking, consumption or cultivation of food, and containers and cans which have contained food, unless such containers and cans have been cleaned or prepared for recycling.

Habitable Space means any space used or intended to be used for living, sleeping, cooking, or eating purposes.

Inmate means a committed offender, detainee, or such other person as is placed in custody in a correctional facility.

Jail or House of Correction means any correctional facility operated by one of the counties of the Commonwealth.

New facility means any facility first used as a correctional facility after the effective date of 105 CMR 451.000.

Occupiable space means a room or enclosed space in which individuals congregate for educational, recreational or similar purposes, or in which individuals are engaged at labor.

Pre-Release Facility means a separate correctional facility, or part of a correctional facility, which houses inmates who are eligible for participation in work and other community release programs.

Program Director means the employee of the Department who, under delegation from and under the supervision of the Commissioner, is responsible with subordinate staff for carrying out the functions assigned the Department relative to correctional facilities.

Renovations means major structural repairs or major remodeling, such as the subdivision of a large open room into cells, bathing or toilet facilities, a food service area, or rooms for other correctional uses; or the gutting of interior space and reconstruction for correctional uses.

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Rubbish means combustible and noncombustible waste material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, grass clippings, tins, metal, mineral matter, glass, crockery, dust, and the residue from the burning of wood, coal, coke and other combustible materials.

Sanitize means to apply effective bactericidal treatment to clean surfaces of equipment and utensils by a process which is effective in destroying microorganisms, including pathogens.

State Correctional Facility means any correctional facility owned, operated, administered or subject to control of the Department of Correction.

Stairway means any group of three or more risers.

Superintendent means the chief administrative officer of a state correctional facility.

451.100: Compliance Required

Each correctional facility shall comply with the minimum health and sanitation standards set forth in sections 105 CMR 451.101 through 105 CMR 451.214.

451.101: Blankets

Each inmate shall be supplied with fire retardant, non-toxic blankets sufficient to maintain personal comfort. Blankets shall be replaced when worn. Each blanket shall be laundered between use by different individuals. If used continuously by one individual, each blanket shall be cleaned at least every three months, and more often if needed.

451.102: Pillows and Linens

Each inmate shall be supplied with two clean sheets, a pillow, pillow case, two towels and a washcloth. This linen shall be laundered at least once each week. Common towels are prohibited. Each pillow shall be laundered between use by different individuals, and more often if needed.

451.103: Mattresses

Each inmate shall be supplied with a clean, comfortable fire-retardant mattress in good condition. Mattresses which produce toxic gases when ignited are prohibited. Each mattress shall be renovated or replaced when soiled or when otherwise necessary. Each mattress pad shall be cleaned at least every three months, or more often if needed.

451.104: Beds

Each inmate shall be supplied with a bed and bedspring or platform raised above the floor and in good condition.

451.109: Toilet and Handwash Facilities Generally

Adequate and conveniently located toilet and handwash facilities shall be provided for all inmates and employees of each facility. A handwash sink shall be located near each toilet.

451.110: Hygiene Supplies at Toilet and Handwash Sinks

(A) At any toilet and/or handwash sink intended for use by staff, and at all toilets and/or handwash sinks outside of an inmate's sleeping area, there shall be at all times at each toilet, toilet paper, and at all handwash sinks, soap and disposable towels.

(B) Adequate waste receptacles shall be located near all handwash sinks.

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451.111: Inmate Toilet Supplies

Each inmate shall be provided with toilet paper and soap necessary to maintain proper personal hygiene at all times.

451.112: Access to Toilet Facilities

Each inmate and each employee shall have access to a toilet and handwash sink at all times.

451.113: Toilet and Handwash Sink in Locked Cell

Each cell within which an individual may be locked for any part of a 24-hour day shall have a working toilet and working handwash sink with hot and cold running water. Each toilet bowl shall be raised off the floor of the inmate's cell and shall be capable of being flushed from the interior of the cell.

451.114: Shared Toilet and Handwash Sinks in Existing Facilities

Each facility, where toilet and handwash sinks are not required for each individual by 105 CMR 451.113 and where the inmate has continuous access without assistance, shall have at least one working toilet and one working handwash sink for every 12 male inmates, one working toilet for every eight female inmates and one working handwash sink for every 12 female inmates. Urinals may constitute up to $\frac{1}{3}$ of the number of men's toilets required, but every bathroom shall contain at least one full toilet.

451.115: Location of Shared Facilities

Toilet and handwash sinks required by 105 CMR 451.114 shall be located within 75 feet from the cell or room of each inmate expected to use them.

451.116: Toilet and Handwash Sinks in Food Preparation Areas

(A) Each food service department shall have conveniently located toilets and handwash facilities for use by employees and inmates working in the department.

(B) At all times each toilet shall be provided with toilet paper and each handwash sink shall be supplied with liquid soap and disposable towels. All required paper towels and liquid soap shall be kept in appropriate dispensers.

(C) Adequate waste receptacles shall be conveniently located near all handwash sinks.

451.117: Toilet Fixtures

Toilet fixtures shall be of sanitary design and easily cleanable. They shall be kept clean and free of objectionable odors.

451.118: Night Soil Pots

Night soil pots are not permitted.

451.119: Bathing Facilities

Each facility shall have at least one shower or bathtub with hot and cold running water for the first twelve inmates and then one for each additional 15 inmates. The Program Director may grant a waiver to 105 CMR 451.119 to allow a higher ratio in a particular area of an existing facility, if he/she finds that in the area affected, inmates must be individually supervised for security reasons when bathing or showering, and bathing or showering facilities are adequate to allow daily bathing or showering at reasonable times of the day.

451.120: Bathing Facilities in Pre-Release Facilities

Each pre-release facility shall have at least one shower or bathtub for each eight inmates or any portion thereof.

451.121: Privacy

(A) Each toilet and shower stall shall be divided from every other toilet and/or shower stall by a partition which provides privacy. The Program Director may grant a waiver to this requirement if he/she finds that in the area affected, inmates must be closely supervised for security reasons.

(B) Separate toilet and shower rooms shall be provided for men and women.

451.122: Shower Floors

Shower floors shall be constructed of non-absorbent, non-slippery materials and sloped towards properly installed floor drains. The use of duckboards in a shower room is not permitted.

451.123: Maintenance

Each toilet, handwash sink, bathing facility and shower and floor, and the surrounding area, shall be cleaned daily with hot water and an effective detergent disinfectant and kept in repair. It is recommended that a chlorine solution having a strength of not less than .05% available chlorine be used for cleaning. Facilities are encouraged to use non-toxic cleaning products whenever possible.

451.124: Water Supply

Each facility shall have a safe and sanitary water supply which is adequate in both pressure and quantity for necessary uses and from a source approved by the Department of Environmental Protection.

451.125: Drinking Water

Each inmate and each employee shall have access at all times to a safe and sanitary supply of water sufficient in quantity and temperature for normal drinking needs.

451.126: Hot Water for Bathing and Hygiene

Each inmate and each employee shall have access to a supply of hot water sufficient for personal hygiene at a minimum temperature of 110°F and a maximum temperature of 130°F, and in quantity and pressure sufficient for use of a handwash sink and shower.

451.127: Water in Food Preparation Areas

Hot and cold running water under pressure shall be provided in all areas where food is prepared, and where food equipment, utensils, or containers are washed.

451.128: Ice

Ice used for any purpose shall have been obtained from a source approved by the Department of Environmental Protection and shall be used only if it has been manufactured, stored, transported and handled in a sanitary manner.

451.129: Sewage Disposal

Each facility shall have a sanitary drainage system connected to a public sewage system if one is available, but if not, a private sewage disposal system approved by the Department of Environmental Protection shall be used.

451.130: Maintenance

All plumbing shall be maintained in good repair and shall be free from leaks. All plumbing shall conform to 248 CMR *Massachusetts Plumbing Code*.

451.131: Cross-Connections

Where the water supply of the facility used for drinking or culinary purposes is physically connected with another water supply, both water supplies or the cross-connection shall be approved by the Department of Environmental Protection.

451.140: Adequate Ventilation

Each inmate shall have adequate ventilation at all times. Each facility shall have ventilation of each cell and each habitable or occupiable space, bathroom, and toilet compartment in compliance with 780 CMR, *State Building Code*. Natural ventilation through a window in each cell is recommended.

451.141: Screens

Each window and door which is used for ventilation to the exterior shall have tight-fitting screens with a minimum of 16 mesh per square inch to effectively block entrance of insects and rodents. Each screen door shall be equipped with a self-closing device unless the door is designed to slide to the side.

451.169: Report of Communicable Disease Hazard to Department

The superintendent or administrator, when he knows or has reason to believe that any employee or inmate has contracted any disease in a communicable form transmissible through food or water or has become a carrier of such disease, shall immediately notify the Department.

451.200: Food Storage, Preparation and Service

All food storage, preparation and service shall be in accordance with 105 CMR 590.000: *Minimum Sanitation Standards for Food Establishments State Sanitary Code Article X*.

451.210: Necessary Clothing

Each inmate shall be furnished with proper clothing to preserve health and comfort at all times of the year if his own wardrobe is not permitted, or is not adequate for these purposes.

451.211: Laundry

Each inmate shall be provided access on no less than a weekly basis to adequate laundry facilities for the purpose of washing personal laundry; provided, that if access cannot be provided for security purposes the administrator or superintendent shall provide the laundry service.

451.212: Recreational Opportunities

Unless security or safety considerations dictate otherwise, each inmate should be afforded the opportunity for recreation and exercise for personal enjoyment and physical fitness outside of his cell as follows:

(A) Each inmate in general population shall be afforded not less than one hour per day of exercise outside of his cell.

(B) Each inmate within special management or disciplinary units shall be afforded not less than one hour per day, five days a week, of exercise outside his cell.

(C) Outdoor exercise and recreation should be provided when weather permits.

451.213: Recreational Space and Equipment

- (A) The facility shall have indoor and outdoor space for active sports and large muscle activities.
- (B) All new facilities built after July 1, 1999 shall have indoor and outdoor spaces for recreational purposes, as follows:
 - (1) Outdoor exercise areas in facilities where 100 or more inmates utilize one recreation area shall have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 1,500 square feet of unencumbered space.
 - (2) Outdoor exercise areas in facilities where less than 100 inmates have unlimited access to an individual recreation area shall have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 750 square feet of unencumbered space.
 - (3) Covered and enclosed exercise areas in facilities where 100 or more inmates utilize one recreation area shall have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 1,000 square feet of unencumbered space with a minimum ceiling height of 18 feet.
 - (4) Covered and enclosed exercise areas where less than 100 inmates utilize one recreation area shall have 15 square feet per inmate for the maximum number of inmates expected to use the space at one time, but not less than 500 square feet of unencumbered space with a minimum ceiling height of 18 feet.

451.214: Tobacco Use: Prohibited

No person shall smoke or have in his possession any lighted cigar, cigarette or other tobacco product in:

- (A) Any food storage, preparation or service area or in any area where food is being consumed; or
- (B) Any areas used for the delivery of health services.

451.218: Windows to Outdoors in New or Renovated Facilities

Within a new facility or a part of a facility constructed or renovated after the effective date of 105 CMR 451.218:

- (A) each inmate in the general population who is confined to a cell/room for less than ten hours per day, shall have access to natural light through an opening or window of at least three square feet between their cell and adjacent space.
- (B) each inmate in the general population who is confined to a cell/room for more than ten hours per day, shall have access to natural light by means of an opening or window at least three square feet and providing a view to the outside.

451.320: Cell Size: Existing Facilities

Each cell or sleeping area in an existing facility should contain at least 60 square feet of floor space for each occupant, calculated on the basis of total habitable room area, which does not include areas where floor-to-ceiling height is less than eight feet.

451.321: Cell Size in New or Renovated Facilities

Each cell in a new facility or a part of a facility constructed after the effective date of 105 CMR 451.000 should contain:

- (A) For segregation and special management areas where inmates are usually locked in for greater than ten hours per day, at least 80 square feet of floor space for a single inmate.

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(B) For inmates usually locked in for less than ten hours per day, contain at least 70 square feet of floor space for a single inmate.

Provided, however, two inmates may occupy a room or cell designed for double occupancy which has a floor space of 120 square feet.

Floor space shall be calculated on the basis of total habitable room area which does not include areas where floor-to-ceiling height is less than eight feet.

451.322: Dormitories in New or Renovated Facilities

Each dormitory in a new facility or a part of a facility constructed after the effective date of 105 CMR 451.000 should contain a minimum of 60 square feet for each occupant. Floor space shall be calculated on the basis of total habitable room area which does not include areas where the floor-to-ceiling height is less than eight feet.

451.330: Heating

Each facility should provide heating for every cell, bathroom and toilet compartment, and other habitable area, at a temperature of at least 68°F, between 7:00 A.M. and 11:00 P.M, and at least 64°F, between 11:01 P.M. and 6:59 A.M., every day other than during the period from June 15th to September 15th, inclusive, in each year. The temperature should at no time exceed 78°F during the heating season. For each degree below 15° below 0°F that the temperature falls, the minimum temperature requirement may likewise be reduced by 1°F. The temperature is read at a height of three feet above floor level at any point in the room more than two feet from the inside of every exterior wall.

451.331: Radiators and Heating Pipes

Each radiator and heating pipe with which individuals may come in contact should be shielded to protect individuals from burns.

451.340: Illumination

Each facility should provide natural and artificial illumination for each habitable space in accordance with 780 CMR the State Building Code, and with 105 CMR 451.341 through 105 CMR 451.346.

451.341: Natural Light in Cell

Each cell should be located so that each inmate can see natural light from his cell. This is especially important for inmates incarcerated for long daily periods.

451.343: Electric Fixtures in Cell

Each cell should have for each inmate at least one wall convenience outlet and at least one electric light fixture containing a bulb of at least 60 watts which is conveniently located for reading providing at least 20 foot-candles at desk level.

451.344: Illumination in Habitable Areas

Each facility should have working electric fixtures with bulbs located so that illumination is available for the safe and reasonable use of every laundry, bathroom or toilet room, food service department, pantry, foyer, community corridor, recreation area, closet, and storage space.

451.345: Illumination in Common Passageways and Areas

Each facility should have light switches and fixtures with bulbs located so that illumination is available for the safe and reasonable use of all cellars, porches, exterior stairways, and common yard areas by inmates, visitors, and employees.

451.346: Safe Wiring

No wiring should lie under a rug or other floor covering, nor extend through a doorway or other opening in a structural element. No temporary wiring should be used or made available for use by inmates or employees; provided, that extension cords which connect portable electric appliances or fixtures to convenience outlets shall not be considered temporary wiring.

451.350: Structural Maintenance

The foundations, floors, walls, doors, windows, ceilings, roofs, staircases, porches, chimneys, and other structural elements of the facility should be maintained so that the facility excludes wind, rain, and snow, and is rodent-proof, watertight and free from chronic dampness, weather tight, in good repair, and in every way fit for the use intended. Further, every interior structural element should be maintained free from holes, cracks, loose plaster, or other defect which renders the area difficult to keep clean, or which constitutes an accident hazard or provides insect or rodent harborage.

NON-TEXT PAGE

451.351: Handrails

A safe handrail and supporting baluster or other protective device should be provided on both sides of every stairway.

451.352: Bathroom Floors and Walls

The floors of every bathroom or toilet compartment and the walls to a height of 48 inches of every bathing place should be constructed of non-absorbent material which is easily cleanable. Linoleum, ceramic tile, vinyl wall paper, or epoxy-type paints are recommended.

451.353: Interior Maintenance

The interior of the facility should be maintained in good repair and in a safe, clean, orderly and sanitary condition, free from all accumulation of dirt and rubbish.

451.360: Protective Measures

Effective measures should be taken to protect against the entrance into the establishment, and the breeding or presence on the premises, rodents, flies, roaches, and other vermin, and to exterminate such pests when they exist.

451.361: Extermination

Extermination should be accomplished by eliminating the harborage places of insects and rodents, by removing or making inaccessible materials that may serve as their food or breeding ground, by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination method. Extermination shall be undertaken in a manner which is not hazardous to the health of inmates or employees, and only by a person certified or licensed to apply pesticides pursuant to M.G.L. c. 132B, § 10.

451.370: Garbage Storage

Garbage or mixed garbage and rubbish should be stored in a sanitary manner in watertight easily cleanable receptacles of metal or other durable non-absorbent material. The receptacles should have tight fitting covers and be inaccessible to insects and rodents.

451.371: Rubbish Storage

All other rubbish should be stored in a sanitary manner in rooms, enclosures, areas or containers which are adequate for the storage of all rubbish accumulating between periods of removal from the premises, and constructed or lined with metal or other durable material which is non-absorbent, easily cleanable, and insect and rodent-proof.

451.372: Cleaning of Garbage and Rubbish Containers

Each container, room or area used to store garbage or rubbish should be thoroughly cleaned after each emptying or removal of garbage or rubbish. Each container should be cleaned on the inside and outside in a way that does not contaminate food, equipment, utensils, or food preparation areas. Suitable facilities and equipment, including hot water and detergent, should be provided and used for washing such containers, rooms and areas.

451.373: Food Waste Grinders

Food waste grinders, if used, shall be suitably constructed, installed in compliance with 248 CMR the State Plumbing Code, and properly operated to prevent creation of unsanitary conditions.

451.374: Disposal

All garbage and rubbish should be disposed of with sufficient frequency and in such manner as to prevent the creation of objectionable conditions, such as odor or the breeding of insects and rodents. In cell blocks, kitchens, and other habitable areas, daily disposal is necessary. Disposal of garbage and rubbish shall be done at locations approved by the Department of Environmental Quality Engineering.

451.380: Access to Exits

Each inmate cell should have a door to an exit access corridor from which there are at least two exits which are located remote from each other. Access to common exits or passageways shall not be obstructed by any material or equipment not necessary for security purposes.

451.381: Unlocking of Doors

Each facility should have a system whereby correctional officers on duty are able to unlock all doors promptly to allow rapid exit of inmates in the event of fire or other emergency.

451.382: Evacuation Plan

Each facility should have a written and rehearsed plan for fire and emergency evacuation approved by the local fire department and/or the authority having jurisdiction.

451.383: Fire Safety System

(A) The superintendent, administrator or a designee of each facility should consult with the State Fire Marshal or his designee, and with the local fire department, and plan a fire protection and detection system adequate to protect inmates from unreasonable risks from smoke and fire. In his planning the superintendent, administrator or the designee should take cognizance of such matters as staff training and removal of hazardous substances, and the feasibility of such devices as smoke detectors, automatic unlocking systems, automatic closure of internal ventilation systems to prevent the spread of smoke, and to remove smoke from occupied areas, and sprinkler systems. The superintendent, administrator or the designee should take all necessary steps to implement this plan promptly.

(B) Each facility shall comply with applicable State Building Code provisions on fire safety.

451.384: Certificate of Use and Occupancy

Each facility shall have a current certificate of use and occupancy for use group I-1, issued by the local building commissioner or inspector of buildings pursuant to 780 CMR the State Building Code.

451.390: Noise Level

Noise levels should not exceed 70 decibels during the day (7:00 AM to 11:00 PM) and 45 decibels at night (11:01 PM to 6:59 AM).

451.400: Environmental Health Officer

It is recommended that the Superintendent or Administrator of each facility delegate to an employee of the facility the responsibility and authority for ensuring adequate health and sanitary conditions at the facility in accordance with 105 CMR 451.000. This individual is referred to in 105 CMR 451.000 as the Environmental Health Officer.

451.401: Frequency of Inspections

The Program Director or his designee, who shall be familiar with 105 CMR 451.000, shall inspect each facility at least twice annually. The Program Director or his designee may inspect any facility without giving prior notice to employees or inmates of the facility; provided, that he shall notify the Superintendent or Administrator upon his arrival at the facility.

451.402: Inspection Report

Within ten days after the inspection, the Program Director or his designee shall prepare a written report of the inspection which he shall transmit to the Superintendent or Administrator and Environmental Health Officer of the facility. The report shall include the date of the inspection and the name or names of the Department employee or employees who conducted the inspection, and shall:

- (A) assess the facility's compliance with the Required Minimum Health and Sanitation Standards (105 CMR 451.100 and 451.200 Series) and Recommended Standards (105 CMR 451.300 Series) by noting every deficiency observed, with citation to the applicable section of 105 CMR 451.000; and
- (B) note any other condition in the facility which the Program Director or his designee finds constitutes or may constitute a threat to the health or safety of inmates or employees; and
- (C) note whether any deficiency or other condition noted has been previously noted by the Department in the past 12 months or in the previous two inspections.

451.403: Transmission of Report

The Program Director or his designee shall transmit a copy of the written report of inspection to each of the following persons:

- (A) the Superintendent or Administrator of the facility;
- (B) the Commissioner of Correction;
- (C) the Secretary of Human Services;
- (D) the Clerk of the Senate;
- (E) the Clerk of the House of Representatives;
- (F) the Environmental Health Officer of the facility; and
- (G) any individual or group who has requested a copy of the report by filing a written request with the Department in December of the previous year; provided, that the Department may charge a copying fee.

451.404: Plan of Correction

It is recommended that the Environmental Health Officer should, within ten working days of receiving the inspection report, transmit a written plan for correction of each deficiency or other condition noted to the Program Director. The plan should be co-signed by the Superintendent or Administrator, and set forth, with respect to each deficiency or condition noted, the specific corrective steps to be taken, a timetable for such steps, and the date by which correction will be achieved. The Environmental Health Officer should also transmit a copy of the plan of correction to each of the individuals listed in 105 CMR 451.403.

451.405: Reply from Department

Within ten working days after receipt of the plan of correction, the Program Director shall notify the Environmental Health Officer whether the plan is acceptable. Where the plan is acceptable in part, the Department representative shall indicate revisions necessary for full acceptance. He shall send a copy of any written notification to each of the individuals listed in 105 CMR 451.403.

451.406: Consultation by Department

If the Environmental Health Officer or the Superintendent or Administrator requests consultation on what methods should be employed to correct deficiencies noted in an inspection, the Program Director or his designee shall provide such consultation, either in person, over the telephone, or by letter. He may recommend that the facility employ specialized consultants to assist in the correction of specific deficiencies (e.g., pest exterminator, sanitarian).

451.407: Additional Consultative Visits

The Program Director or his designee may, at the request of a Superintendent or Administrator or any other individual or on his own initiative, make additional consultative visits under section 105 CMR 451.401, and he shall issue an inspection report to the Environmental Health Officer, with copies to each of the individuals listed in 105 CMR 451.403.

451.408: Additional Inspectional Visits

The Program Director or his designee shall inspect a facility more often than twice annually if he determines that conditions at the facility so warrant; provided, that the Commissioner determines that the Department has staff adequate to provide the additional inspection or inspections.

451.409: Procedures in case of Repeated Non-Compliance or Serious Threat to Health and Safety

If the Program Director on the basis of an inspection of a facility determines that deficiencies or other conditions observed are the result of repeated failure to correct deficiencies or other conditions reported to the facility, or that the deficiencies or other conditions constitute a serious threat to the health or safety of inmates or employees, he shall so notify the Commissioner of Public Health. If the Commissioner agrees, he shall notify the Commissioner of Correction or the sheriff of the particular county, and the Secretary of Human Services, and he shall request that the Commissioner of Correction or the sheriff and the Secretary secure prompt correction of the deficiencies.

451.410: Procedures in Case of Public Health Emergency

If notifications made under 105 CMR 451.409 fail to secure prompt correction of deficiencies which constitute a serious threat to the health or safety of inmates or employees of a facility, and the Commissioner believes that conditions observed are so dangerous that a public health emergency may exist at the facility, he shall so notify the Commissioner of Correction, the Secretary of Human Services and the Governor, and request that the Governor declare under M.G.L. c. 17, § 2A, that an emergency exists which is detrimental to the public health. In the case of a county facility the Sheriff shall also be notified. The Commissioner shall, with the approval of the Governor and the Public Health Council, take such action pursuant to c. 17, § 2A as he deems necessary to assure the maintenance of the public health and the prevention of disease.

105 CMR: DEPARTMENT OF PUBLIC HEALTH

451.411: Public Records

The Department permits examination of all written documents pertaining to inspection of correctional facilities in accordance with relevant provisions of the State Freedom of Information Act (M.G.L. c. 4, § 7, 26th par., and M.G.L. c. 66, § 10(a)). Copies shall be made available by the Department, provided that a copying fee may be charged.

451.500: Effect of State Sanitary Code

If any provision of 105 CMR 451.000 conflicts with a provision of the State Sanitary Code adopted by the Department pursuant to M.G.L. c. 111, § 127A, the provision of the State Sanitary Code shall govern.

451.502: Waiver

The Commissioner may waive any of 105 CMR 451.000 not required by statute, provided that such waiver does not conflict with the spirit and intent of 105 CMR 451.000.

451.503: Severability

The provisions of 105 CMR 451.000 are severable. If any provision shall be determined invalid by any court, such provision shall be null and void and such determination shall not affect or impair any of the remaining provisions.

451.504: Effective Date; Amendment of Predecessor Regulations

105 CMR 451.000 shall take effect upon publication by the Secretary of the Commonwealth. Upon the effective date of 105 CMR 451.000, the regulations found at 105 CMR 450.000: *Minimum Health and Sanitation Standards and Inspection Procedures for Correctional Facilities and Detention Centers*, published on May 11, 1978 are modified to apply only to detention centers operated by the Department of Youth Services.

REGULATORY AUTHORITY

105 CMR 451.000: M.G.L. c. 111, §§ 5, 20, and 21; c. 270, §§ 21 and 22; and St. 1987, c. 759, § 4.

NON-TEXT PAGE