

MIKE HARMON  
AUDITOR OF PUBLIC ACCOUNTS

June 13, 2023

Ms. Emily Caudill  
Regulations Compiler  
Legislative Research Commission  
Room 083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Hand-delivered and via email at: [Emily.Caudill@lrc.ky.gov](mailto:Emily.Caudill@lrc.ky.gov); [RegsCompiler@lrc.ky.gov](mailto:RegsCompiler@lrc.ky.gov)

Re: 45 KAR 1:040

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 45 KAR 1:040, the Auditor of Public Accounts proposes the attached staff-suggested amendment to 45 KAR 1:040.

Sincerely,

A handwritten signature in blue ink that reads "Graham Gray".

Graham Gray  
General Counsel

Cc: Farrah Petter, Assistant State Auditor, APA

**Staff-suggested Amendment**  
**Final Version 5/17/2023**  
**GENERAL GOVERNMENT CABINET**  
**Auditor of Public Accounts**

**45 KAR 1:040. Audits of county fee officials.**

**Page 1**

**RELATES TO paragraph**

**Line 5**

After "43.075,", insert "64.530".

**Page 1**

**Section 1**

**Lines 11 and 12**

Delete the quotation marks from "Government Auditing Standards".

**Page 2**

**Section 3**

**Line 1**

After "Independent", insert "Judgment".

Delete "Judgement".

**Page 2**

**Section 4(2)(a)**

**Lines 9 and 10**

After "adopted under KRS", insert "64.530 and".

**Page 2**

**Section 5(3)**

**Lines 23 and 24**

Delete the quotation marks from "Audit Program for County Fee Officials".

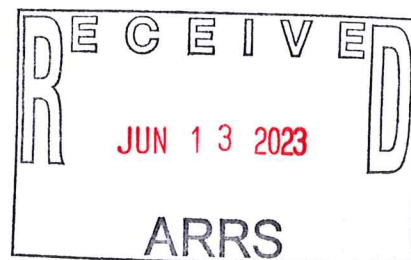
**Page 3**

**Section 6 (2)**

**Line 5**

After "5:00 p.m.", insert the following:

or online at <https://www.auditor.ky.gov/cpatools/Pages/adminregs.aspx>.



**OFFICE OF THE GOVERNOR  
DEPARTMENT FOR LOCAL GOVERNMENT  
100 AIRPORT ROAD, THIRD FLOOR  
FRANKFORT, KENTUCKY 40601  
PHONE (502) 573-2382  
FAX (502) 227-8691  
www.kydlgweb.ky.gov**

**Andy Beshear  
Governor**

**Dennis Keene  
Commissioner**

June 13, 2023

Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
029, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 109 KAR 17:010, the Department for Local Government proposes the attached suggested amendments to 109 KAR 17:010.

Sincerely,

A handwritten signature in black ink, appearing to read "Matt Stephens".

Matt Stephens, General Counsel  
Office of the Governor  
Department for Local Government  
100 Airport Road, 3<sup>rd</sup> Floor  
Frankfort, KY 40601

**REVISED:**  
**6/5/2023 9:54 AM**  
**SUGGESTED AMENDMENT**  
**Department for Local Government**

**109 KAR 17:010. County attorney annual settlement.**

**Page 1**

**Section 1**

**Line 14**

After "shall", insert "annually".

After "file", insert the following:

the "County Attorney Settlement Form"

Delete "an annual settlement".

**Line 15**

After "KRS", insert "69.370".

Delete "Chapter 69".

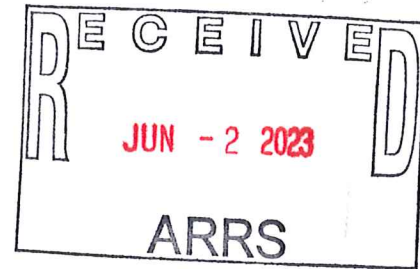
**Page 1**

**Section 2(2)**

**Line 20**

After "4:30 p.m.", insert the following:

or at [https://kydlgweb.ky.gov/Articles/16\\_articleView.cfm?NewsID=861](https://kydlgweb.ky.gov/Articles/16_articleView.cfm?NewsID=861).



COMMONWEALTH OF KENTUCKY  
**BOARD OF OPTOMETRIC EXAMINERS**  
**CHRISTI LEMAY, EXECUTIVE DIRECTOR**  
2365 HARRODSBURG ROAD, SUITE A240  
LEXINGTON, KY 40504-3333  
(859) 246-2744

June 1, 2023

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee Legislative Research Commission 083,  
Capitol Annex Frankfort KY 40601

Re: 201 KAR 5:055 Telehealth

Dear Co-Chairs West and Lewis:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 5:055, the Kentucky Board of Optometric Examiners proposes the attached amendment to 201 KAR 5:055.

Sincerely,

A handwritten signature in cursive script that reads "Christi LeMay".

Christi LeMay, Executive Director  
Kentucky Board of Optometric Examiners  
2365 Harrodsburg Road, Suite A240  
Lexington, KY 40504

Final, 5-23-2023

SUGGESTED SUBSTITUTE

GENERAL GOVERNMENT CABINET  
Board of Optometric Examiners

201 KAR 5:055. Telehealth.

RELATES TO: KRS 211.332, 211.334, 211.335, 211.336, 320.210, 320.300, 320.390, 367.680-367.690, 42 U.S.C. secs. 1320d to 1320d-9, 12101 et. seq.

STATUTORY AUTHORITY: KRS 211.332, 211.336, 320.390(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 320.390(2) requires the Board of Optometric Examiners to promulgate administrative regulations to prevent abuse and fraud through the use of telehealth services, prevent fee-splitting through the use of telehealth services, and utilize telehealth in the provision of optometric services and in the provision of continuing education. KRS 211.336 establishes requirements for a state agency that promulgates administrative regulations relating to telehealth. This administrative regulation establishes requirements for the use of telehealth services.

Section 1. Definitions.

- (1) [~~"Contact lens prescription" is defined by KRS 367.680(3).]~~  
[(2)] [~~"Eye examination" means an examination that meets the requirements for a complete eye examination established in 201 KAR 5:040, Section 7(1).]~~  
[(3)] [~~"Face to face" means in person and not via telehealth.]~~  
[(4)] [~~"Licensed health care professional" means an optometrist licensed pursuant to KRS Chapter 320, or a physician or osteopath licensed under KRS 311.550(12).]~~  
[(5)] "Doctor of Optometry[Optometrist]" means an individual licensed by the Kentucky Board of Optometric Examiners to engage in the practice of optometry.  
(2)[(6)] "Patient" means the person receiving services or items from a doctor of optometry[an optometrist or a physician].  
[(7)] [~~"Physician" is defined by KRS 311.550(12).]~~  
(3)[(8)] "Practice of optometry" is defined by KRS 320.210(2).  
[(9)] [~~"Prescription" means an order for a pharmaceutical agent, or any other therapy within the scope of practice of an optometrist or a physician.]~~  
[(10)] [~~"Prescription for eyewear" means a written prescription for visual aid glasses or a contact lens prescription after a complete eye examination is performed by an optometrist or physician.]~~  
(4)[(11)] "Telehealth" is defined by KRS 211.332(5) and 320.390(3)[and KRS 211.332].  
[(12)] [~~"Telehealth provider" means an optometrist licensed pursuant to KRS Chapter 320 who performs a telehealth consultation.]~~  
[(13)] [~~"Telepractice" means the practice of optometry that is provided by using communication technology that is two (2) way, interactive, simultaneous audio and video.]~~  
[(14)] [~~"Visual aid glasses" is defined by KRS 320.210(4).]~~

Section 2. [~~Patient Identity,~~]Communication and Informed Consent Requirements.

- (1) All telehealth services by a doctor of optometry shall be conducted:  
(a) By a doctor of optometry to a patient or to another health care provider at a different location; and[.]  
(b) Over secure telecommunication technologies, including **technologies such as[but not limited to]** synchronous and asynchronous technology, remote patient monitoring technology, and audio-only encounters.  
(2) Prior to the delivery of telehealth services, a doctor of optometry **shall[must]** obtain the informed consent of the patient or obtain the consent by another appropriate person with authority to make the health care treatment decision for the patient **such as the legal guardian or medical power of attorney.**

- (a) ~~[For purposes of this section,]~~ Informed consent by a patient *may[can]* be provided in writing, verbally acknowledged, or electronically submitted.
- (b) The informed consent *shall[must]* include an acknowledgment of the risks and limitations of telehealth services. ~~[An optometrist-patient relationship shall not commence via telehealth.]~~
- [(2)] ~~[An initial, in-person meeting for the optometrist and patient who will prospectively utilize telehealth shall occur in order to evaluate whether the potential or current patient is a candidate to receive services via telehealth.]~~
- [(3)] ~~[An optometrist who uses telehealth to deliver vision or eye care services shall at the initial, face-to-face meeting with the patient:]~~
- [(a)] ~~[Verify the identity of the patient;]~~
- [(b)] ~~[Establish a medical history and permanent record for the patient;]~~
- [(c)] ~~[Obtain alternative means of contacting the patient other than electronically such as by the use of a telephone number or mailing address;]~~
- [(d)] ~~[Provide to the patient alternative means of contacting the optometrist other than electronically such as by the use of a telephone number or mailing address;]~~
- [(e)] ~~[Provide contact methods of alternative communication the optometrist shall use for emergency purposes such as an emergency on-call telephone number;]~~
- [(f)] ~~[Document if the patient has the necessary knowledge and skills to benefit from the type of telepractice provided by the optometrist; and]~~
- [(g)] ~~[Inform the patient in writing and document acknowledgement of the risk and limitations of:]~~
- [1.] ~~[The use of technology in the use of telepractice;]~~
- [2.] ~~[The potential breach of confidentiality of information or inadvertent access of protected health information due to technology in telepractice;]~~
- [3.] ~~[The potential disruption of technology in the use of telepractice;]~~
- [4.] ~~[When and how the optometrist will respond to routine electronic messages;]~~
- [5.] ~~[The circumstances in which the optometrist will use alternative communications for emergency purposes;]~~
- [6.] ~~[Others who may have access to patient communications with the optometrist;]~~
- [7.] ~~[How communications shall be directed to a specific optometrist;]~~
- [8.] ~~[How the optometrist stores electronic communications from the patient; and]~~
- [9.] ~~[Whether the optometrist may elect to discontinue the provision of services through telehealth.]~~

### Section 3. Jurisdictional Considerations.

- (1) A doctor of optometry licensed by the Kentucky Board of Optometric Examiners may provide telehealth services in the practice of optometry:
- (a) To a person who is a permanent resident of Kentucky *if[while]* the person is located in Kentucky;
- (b) To a person who is a permanent resident of Kentucky *if[while]* the person is temporarily located outside of Kentucky; or
- (c) To a person who is not a permanent resident of Kentucky *if[while]* the person is temporarily located in Kentucky.
- (2) A doctor of optometry licensed by the Kentucky Board of Optometric Examiners may provide telehealth services *if[when]* the doctor of optometry is not physically located in Kentucky to a permanent resident of Kentucky.
- (3) A doctor of optometry licensed by the Kentucky Board of Optometric Examiners may establish a doctor-patient relationship using telehealth and digital technologies. ~~[A licensed health care professional providing eye and vision services via telehealth shall be licensed by the Kentucky Board of Optometric Examiners or the Kentucky Board of Medical Licensure if services are provided:]~~
- [(1)] ~~[To a person physically located in Kentucky; or]~~
- [(2)] ~~[By a person who is physically located in Kentucky.]~~

### Section 4. Representation of Services and Code of Conduct.

- (1) A doctor of optometry ~~[A telehealth provider]~~ shall not engage in false, misleading, or deceptive advertising.

~~(2) An advertisement for telehealth services shall~~**[must]** comply with 201 KAR 5:002, Section 2. ~~[A person shall not advertise an eye examination unless the requirements of 201 KAR 5:040, Section 7(1) are met. A person shall not purport to write a prescription for eyewear solely by using an autorefractor or other automated testing device.]~~

~~(3)~~**(2)** Evaluation, treatment, and consultation recommendations by a doctor of optometry via telehealth shall be held to the same standards of appropriate practice as those in traditional in-person clinical settings and established in 201 KAR 5:002, Section 3. ~~[Treatment and consultation recommendations made in an online setting, including a prescription or a prescription for eyewear via electronic means, shall be held to the same standards of appropriate practice as those in traditional practice, face-to-face settings. Treatment, including issuing a prescription for eyewear based solely on an online autorefraction, shall not constitute an acceptable practice or standard of care.]~~

~~(4) A doctor of optometry providing optometry services via telehealth shall:~~**[A telehealth provider shall:]**

~~(a) Verify the identity of the patient before telehealth services are performed~~**[Not split fees in accordance with KRS 320.300(3);]**

~~(b) Collect and review a patient's medical history~~**[Shall maintain a medical record of a service or item provided to a patient via telepractice];**

~~(c) Provide any applicable accommodations required by the Federal Americans with Disabilities Act, 42 U.S.C. secs. 12101 et seq., as amended;~~

~~(d) Maintain patient privacy and security in accordance with applicable state and federal law;~~

~~(e) Gather and transmit protected health information in compliance with the federal Health Insurance Portability and Accountability Act of 1996, as amended, 42 U.S.C. secs. 1320d to 1320d-9;~~

~~(f)~~**(e)** Document and maintain a record of the patient's presenting problem ~~or~~**[.]** purpose for the telehealth service, including the ~~or~~**[.]** diagnosis or treatment and include which services were provided by telehealth**[telepractice];**

~~(g) Perform telehealth services with a recognized Current Procedural Terminology Code maintained by the American Medical Association, if applicable;~~

~~(h) Secure all required credentialing for reimbursement of telehealth services; and~~

~~(i) Obtain privileges if required by hospitals or facilities to admit and treat patients.~~

~~(5) An optometrist providing telehealth services shall not split fees in accordance with KRS 320.300(3);~~

~~(6) Prescriptions for controlled substances shall not be made via telehealth by a doctor of optometry.~~

~~(7) A contact lens or visual aid glasses prescription issued through telehealth shall~~**[must]** include the requirements established in the Kentucky Consumer Protection *in* Eye Care Act, KRS 367.680 to **367.690-690 et seql.**

~~[(d)] [Use secure communications with each patient including encrypted text messages, via email or secure Web site and not use personal identifying information in non-secure communications; and]~~

~~[(e)] [Dispense visual aids only in accordance with KRS 320.300(1).]~~

Section 5. Utilization of Telehealth in Provision of Continuing Education. Credit for telehealth educational presentations shall be granted in accordance with 201 KAR 5:030. ~~[Section 2. Educational hours obtained through telehealth shall be considered as part of the credit hours granted in accordance with 201 KAR 5:030, Section 6(1).]~~

~~[Section 6.] [This administrative regulation shall not be construed as giving jurisdiction over physicians licensed under KRS Chapter 311 to the Kentucky Board of Optometric Examiners.]~~

CONTACT PERSON: Christi LeMay, Executive Director, Kentucky Board of Optometric Examiners, 2365 Harrodsburg Road, Suite A240, Lexington, Kentucky 40504; phone (859) 246-2744; fax (859) 246-2746; email christi.lemay@ky.gov.

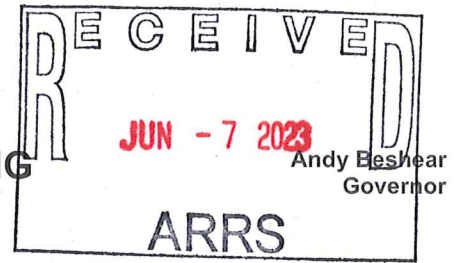




502-429-3300  
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**KENTUCKY BOARD OF NURSING**

312 Whittington Parkway, Suite 300  
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kbn.ky.gov



June 7, 2023

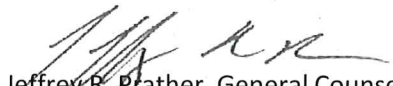
Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Complier  
Adminstrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Captiol Annex  
Frankfort, KY 40601

Re: **201 KAR 20:478**. Dialysis technican scope of practice, discipline, and miscellaneous requirements.

Dear Co-Chairs West and Lewis:

After discussions with Adminstrative Regulation Review Subcommittee staff of the issues raised by 201 KAR 20:478, the Kentucky Board of Nursing proposes the attached suggested substitute to 201 KAR 20:478.

Sincerely,



Jeffrey R. Prather, General Counsel  
Kentucky Board of Nursing  
312 Whittington Parkway, Suite 300  
Louisville, KY 40222  
Phone: (502) 338-2851  
Email: [Jeffrey.prather@ky.gov](mailto:Jeffrey.prather@ky.gov)

Final, 5-17-2023

SUGGESTED SUBSTITUTE

BOARDS AND COMMISSIONS

Board of Nursing

**201 KAR 20:478. Dialysis technician scope of practice, discipline, and miscellaneous requirements.**

RELATES TO: KRS 314.021, 314.035, 314.089, 314.091, 314.103, 314.137, 314.991

STATUTORY AUTHORITY: KRS 314.131(1), 314.137

NECESSITY, FUNCTION AND CONFORMITY: KRS 314.137 requires the board to promulgate administrative regulations to regulate dialysis technicians **and includes establishing provisions for discipline and further regulating as necessary** ~~and includes establishing provisions for discipline and further regulating as necessary~~. This administrative regulation establishes the scope of practice and disciplinary procedures for dialysis technicians.

Section 1. Scope of Practice. (1) The scope of practice of a dialysis technician shall include the following and shall be performed under the direct, on-site supervision of a registered nurse, an advanced practice registered nurse, a physician, or a physician's assistant:

(a) Preparation and cannulation of peripheral access sites (arterial-venous fistulas and arterial-venous grafts);

**(b) Preparation of catheter ports, ~~and~~ access, including connection and disconnection, and site care of percutaneously or surgically inserted central venous catheters, if the dialysis technician has six (6) months experience that includes training and skills validation regarding central venous catheters;**

~~(c)~~**(b)** Initiating, delivering, or discontinuing dialysis care;

~~(d)~~**(e)** Administration of the following medications only:

1. Heparin 1:1000 units or less concentration either to prime the pump, initiate treatment, or for administration throughout the treatment, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse. The dialysis technician shall not administer heparin in concentrations greater than 1:1000 units;

2. Normal saline via the dialysis machine to correct dialysis-induced hypotension based on the facility's medical protocol. Amounts beyond that established in the facility's medical protocol shall not be administered without direction from a registered nurse or a physician; and

3. Intradermal lidocaine, in an amount prescribed by a physician, physician's assistant, or advanced practice registered nurse;

~~(e)~~**(d)** Assistance to the registered nurse in data collection;

~~(f)~~**(e)** Obtaining a blood specimen via a dialysis line or a peripheral access site;

~~(g)~~**(f)** Responding to complications that arise in conjunction with dialysis care; and

~~(h)~~**(g)** Performance of other acts as delegated by the registered nurse pursuant to 201 KAR 20:400.

(2) The scope of practice of a dialysis technician shall not include:

(a) Dialysis care for a patient whose condition is **found** ~~determined~~ ~~found~~ by the registered nurse to be critical, fluctuating, unstable, or unpredictable;

**(b) The preparation of catheter ports, access, including connection and disconnection, and site care of ~~connection and disconnection of patients from, and the site care and catheter port preparation of,~~ percutaneously or surgically inserted central venous catheters, ~~except as authorized~~ ~~provided~~ in Section 1(1)(b) of this administrative regulation; and**

(c) The administration of blood and blood products.

Section 2. Discipline of a Dialysis Technician. (1) The board ~~may/shall have the authority to~~**may** discipline a dialysis technician (DT) or a dialysis technician applicant (DTA) for:

(a) Failure to safely and competently perform the duties of a DT or DTA as established in this administrative regulation;

(b) Practicing beyond the scope of practice as established in this administrative regulation;

(c) Conviction of any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence;

(d) Obtaining or attempting to obtain a credential by fraud or deceit;

(e) Abusing controlled substances, prescription medications, or alcohol;

(f) Use, or impairment as a consequence of use, of alcohol or drugs while on duty as a dialysis technician, dialysis technician trainee, or dialysis technician applicant;

(g) Possession or use of a Schedule I controlled substance;

(h) Personal misuse or misappropriation for use of others of any drug placed in the custody of the DT or DTA for administration;

(i) Falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records;

(j) Having a dialysis technician credential disciplined by another jurisdiction on grounds sufficient to cause a credential to be disciplined in this Commonwealth;

(k) Practicing without filing an Application for Dialysis Technician Credential, **as incorporated by reference in 201 KAR 20:476**, ~~as incorporated by reference in 201 KAR 20:476,~~ or without holding a dialysis technician credential;

(l) Abuse of a patient;

(m) Theft of facility or patient property;

(n) Having disciplinary action on a professional or business license;

(o) Violating any lawful order or directive previously entered by the board;

(p) Violating any applicable requirement of KRS Chapter 314 or 201 KAR Chapter 20;

(q) Having been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property; or

(r) Having violated the confidentiality of information or knowledge concerning any patient, except as authorized or required by law.

(2) The discipline may include the following:

(a) Immediate temporary suspension of the credential, following the procedure established in KRS 314.089;

(b) Reprimand of the credential;

(c) Probation of the credential for a specified period of time, with or without limitations and conditions;

(d) Suspension of the credential for a specified period of time;

(e) Permanent revocation of the credential; or

(f) Denying the Application for Dialysis Technician Credential, **as incorporated by reference in 201 KAR 20:476**, ~~as incorporated by reference in 201 KAR 20:476~~.

(3) The board shall follow the procedures established in and have the authority established in KRS 314.091, 201 KAR 20:161, and 201 KAR 20:162 for management and resolution of complaints filed against a dialysis technician.

(4) In addition to the provisions of subsection (3) of this section, the board may impose a civil penalty of up to \$10,000.

Section 3. Miscellaneous Requirements. (1) ~~A~~**A**~~Any~~**Any** person credentialed by the board as a

dialysis technician shall maintain a current mailing address and email address with the board and immediately notify the board in writing of a change of mailing address or email address.

(2)(a) Holding a credential shall constitute consent by the dialysis technician to service of notices or orders of the board. Notices and orders shall be sent to the mailing address on file with the board.

(b) Any notice or order of the board mailed or delivered to the mailing address on file with the board shall constitute valid service of the notice or order.

(3) ~~A/Any/[A]~~ dialysis technician credentialed by the board shall, within ninety (90) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony conviction in this or any other jurisdiction.

(4) ~~A/Any/[A]~~ dialysis technician credentialed by the board shall, within ninety (90) days of entry of a sanction specified in this subsection, notify the board in writing if any professional or business license that is issued to the person by any agency of the commonwealth or any other jurisdiction:

(a) Is surrendered or terminated under threat of disciplinary action;

(b) Is refused, limited, suspended, or revoked; or

(c) If renewal is denied.

(5) If the board has reasonable cause to believe that any DT or DTA is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it shall require the person to submit to a substance use disorder evaluation or a mental or physical examination by a board approved practitioner.

(a) Holding a credential shall constitute:

1. Consent by the dialysis technician to a substance use disorder evaluation, mental examination, or physical examination if directed in writing by the board. The direction to submit to an evaluation or examination shall contain the basis for the board's concern that the technician is unable to practice safely and effectively; and

2. Waiver of objections to the admissibility of the examining practitioner's testimony or examination reports on the grounds of privileged communication.

(b) The dialysis technician shall bear the cost of substance use disorder evaluation, mental examination, or physical examination ordered by the board.

(c) Upon failure of the dialysis technician to submit to a substance use disorder evaluation, mental examination, or physical examination ordered by the board ~~[, unless due to circumstances beyond the person's control,]~~ the board ~~may/shall~~ ~~[may]~~ initiate an action for immediate temporary suspension pursuant to KRS 314.089 or deny an application until the person submits to the required examination.

(d) If a substance use disorder evaluation, mental examination, or physical examination pursuant to this subsection results in a finding that indicates that the dialysis technician is unable to practice with reasonable skill and safety or has abused alcohol or drugs, the dialysis technician shall be subject to disciplinary procedures as established in this administrative regulation.

(6) Due process procedures, including appeal, pertaining to this administrative regulation shall be conducted in accordance with KRS Chapter 13B.

CONTACT PERSON: Jeffrey R. Prather, General Counsel, Kentucky Board of Nursing, 312 Whittington Parkway, Suite 300, Louisville, Kentucky 40222, (502) 338-2851, jeffrey.prather@ky.gov. Or submit a comment at: <https://secure.kentucky.gov/formservices/Nursing/PendReg>



**KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES**

**Rich Storm**  
Commissioner

#1 Sportsman's Lane  
Frankfort, Kentucky 40601  
Phone (502) 564-3400  
Fax (502) 564-0506

**Brian Clark**  
Deputy Commissioner

**Gabe Jenkins**  
Deputy Commissioner

June 2, 2023

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
Rm 029, Capitol Annex  
Frankfort KY 40601

Re: **301 KAR 1:001** Definitions for 301 KAR Chapter 1., 301 KAR 2:222. Waterfowl hunting requirements on public land

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 1:001, and 301 KAR 2:222, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 1:001, 2:222.

Sincerely,

Jenny Gilbert  
Legislative Liaison  
Commissioner's Office  
Kentucky Department of Fish and Wildlife Resources  
1 Sportsmen's Lane  
Frankfort, KY 40601

## SUGGESTED SUBSTITUTE

Final Version: 05/23/23 at 8:54 a.m.

### 301 KAR 1:001. Definitions for 301 KAR Chapter 1.

RELATES TO: KRS 150.010, 150.025, **150.170, 50 C.F.R. 17.11**

STATUTORY AUTHORITY: 150.025(1)(h)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1)(h) **authorizes[requires]** the department to promulgate administrative regulations to carry out the **purposes of KRS Chapter 150[purpose of the chapter]**. This administrative regulation establishes definitions for terms used in 301 KAR Chapter 1.

#### Section 1. Definitions.

- (1) "Adjacent landowner" means the owner of real property that shares a common boundary with department property.
- (2) "Angler" means a person holding a valid resident or nonresident fishing license and includes those persons who are fishing license exempt as established in KRS 150.170.
- (3) "APHIS" means U.S. Department of Agriculture Animal and Plant Health Inspection Service.
- (4) "APHIS-approved laboratory" means a laboratory authorized by a state, tribal, or federal primacy authority to analyze aquatic animal health and perform assays for the detection of the VHS virus.
- (5) "Aquarium species" means the species of fish that are legally sold in the pet and ornamental trade business and not stocked into waters of the Commonwealth.
- (6) "Aquatic organisms" means fish, frog, crayfish, and other aquatic vertebrate and invertebrate.
- (7) "Archery equipment" means a long bow, recurve bow, or compound bow incapable of holding an arrow at full or partial draw without aid from the archer.
- (8) "Artificial bait" means a lure, bare hook, or fly made of wood, metal, plastic, feathers, preserved pork rind, or a similar inert material.
- (9) "Bar mesh size" means the distance between two (2) knots on a line of a net.
- (10) "Boat dock" means a privately owned floating or fixed structure that is used by an adjacent landowner to moor a boat on department property.
- (11) "Boat dock tag" means a metal tag provided by the department that has a unique combination of letters and numbers and is permanently affixed to an approved boat dock so that it is visible from the lake.
- (12) "Boating access area" means property owned or managed by the department and identified by signs as a public facility for launching and retrieving boats, including:
  - (a) Ramps, parking lots, courtesy docks, and access roads; and
  - (b) A zone extending fifty (50) feet into the water adjacent to the department property **established[described]** in paragraph (a) of this subsection.
- (13) "Bow fishing" means shooting rough fish with an arrow with a barbed or retractable style point that has a line attached to it for retrieval with archery equipment, a crossbow, or a pneumatic arrow launching device.
- (14) "Buffer zone" means the area from the lake pool level of Cedar Creek Lake to the marked boundary.
- (15) "Buyer's permit" means a Commercial Roe-bearing Fish Buyer's Permit.
- (16) "By-catch" means any fish that is not an invasive carp or scaled rough fish.
- (17) "Camp" means the erecting of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, or parking of a motor vehicle, motor home, or trailer for the apparent purpose of overnight occupancy.
- (18) "Catfish" means a blue catfish, channel catfish, or flathead catfish.

(19) "Certified VHS free facility" means a fish-rearing facility that has been certified VHS free by an APHIS approved laboratory.

(20) "Chumming" means placing substances in the water for the purpose of attracting fish to a particular area.

(21) "Commercial fisherman" means a person holding a valid resident or nonresident commercial fishing license.

(22) "Commercial gear tag" means a metal tag provided by the department **and** that is attached to legal commercial fishing gear as established in 301 KAR 1:146.

(23) "Crossbow" means a bow designed or fitted with a device to hold an arrow at full or partial draw without the aid from an archer.

(24) "Cull" **or "culling"** means to release a previously caught fish that an angler has kept as a part of a daily limit and replace it with another fish of the same species.

(25) ***["Culling" means releasing a previously caught fish that an angler has kept as a part of a daily limit and replacing it with another fish of the same species.]***

~~(26)~~ "Daily limit" means the maximum number of a particular species or group of species a person may legally take in one (1) calendar day while fishing.

~~(26)~~~~(27)~~ "Department property" means lands or waters controlled by the department through ownership, lease, license, easement, or cooperative agreement at department-owned lakes.

~~(27)~~~~(28)~~ "Different body of water":

**(a)** Means a body of water that is separate and not contiguous to another body of water, including a man-made reservoir that is separated from a downstream river by a dam; **and**

**(b) Does not mean, but does not include** a river, stream, or creek that is separated by a low-level dam.

~~(28)~~~~(29)~~ "Diploid grass carp" means a fish of the genus and species *Ctenopharyngodon idella* that is reproductively fertile and has not been genetically altered and therefore has the normal set of somatic chromosomes as determined by blood sample.

~~(29)~~~~(30)~~ "Existing structure" means an exempted access or nonaccess structure built on department property prior to April 2, 2010.

~~(30)~~~~(31)~~ "Flag net" means a gill or trammel net that is anchored on one (1) end, with the other end of the net unanchored, allowing this end of the gill or trammel net to float freely.

~~(31)~~~~(32)~~ "Harvester permit" means a Commercial Roe-bearing Fish Harvester's Permit.

~~(32)~~~~(33)~~ "Idle speed" means the slowest possible speed at which maneuverability can be maintained.

~~(33)~~~~(34)~~ "Immediate family" means a person's spouse, mother, father, daughter, brother, sister, grandparent, or son.

~~(34)~~~~(35)~~ "Invasive carp" means:

- (a) Bighead carp *Hypophthalmichthys nobilis*;
- (b) Black carp *Mylopharyngodon piceus*;
- (c) Grass carp *Ctenopharyngodon idella*; or
- (d) Silver carp *Hypophthalmichthys molitrix*.

~~(35)~~~~(36)~~ "Lake" means impounded waters from the dam upstream to the first riffle on the main stem river and tributary streams.

~~(36)~~~~(37)~~ "Live bait" means the organisms established in paragraphs (a) through (h) of this subsection if they are alive:

- (a) Live bait fish;
- (b) Crayfish;
- (c) Salamander;



- (d) Frog, except bullfrog;
- (e) Tadpole;
- (f) Native lamprey;
- (g) Asiatic clam (Genus Corbicula); or
- (h) Other aquatic invertebrate organisms, except for mussel.

**(37)[(38)]** "Live bait fishes" means:

- (a) Rough fish, except invasive carp and federally threatened or endangered species, as established in 50 C.F.R. 17.11; or
- (b) Redear sunfish less than six (6) inches in length.

**(38)[(39)]** "Lower Ohio River Trophy Catfish" means, for the area downstream of Cannelton Lock and Dam in the Ohio River and its tributaries open to commercial fishing:

- (a) Blue or flathead catfish that is a minimum of forty (40) inches in length; or
- (b) Channel catfish that is a minimum of thirty (30) inches in length.

**(39)[(40)]** "Lower Ohio River Trophy Catfish Harvest Permit" means a permit that allows a commercial fisherman to harvest Lower Ohio River Trophy Catfish.

**(40)[(41)]** "Normal pool" means a water level equal to the elevation of the lake's principal spillway.

**(41)[(42)]** "Overflow lake" means a permanent or temporary body of water that receives overflow flood waters from an adjacent stream.

**(42)[(43)]** "Pay lake" means a privately owned~~[privately-owned]~~, impounded body of water where a daily fee is charged to fish and is open to the public.

**(43)[(44)]** "Pay lake operator" means a person who holds a valid pay lake license, as established in 301 KAR 3:022.

**(44)[(45)]** "Permanent dwelling":

**(a)** Means a private residence on an adjacent landowner's property that is both fixed in location and of durable permanent construction; **and**

**(b) Does not mean[, but does not include]** tents, motorized vehicles, trailers, camp trailers, or any type of interim construction or residence.

**(45)[(46)]** "Pneumatic arrow launching device" means a device designed to fire an arrow using a compressed air cartridge.

**(46)[(47)]** "Possession limit" means the maximum number of unprocessed fish a person **holds[may hold]** after two (2) or more days of fishing.

**(47)[(48)]** "Processed fish" means a fish that has been gutted, with the head removed.

**(48)[(49)]** "Rebuild" means to totally reconstruct.

**(49)[(50)]** "Release" means to return a fish to the water from which it was taken immediately after removing the hook.

**(50)[(51)]** "Restricted water" means those areas, as established in 301 KAR 1:140, 1:146, 1:150, and 1:155, where:

- (a) Commercial fishing is prohibited;
- (b) Commercial fishing with gill or trammel nets is prohibited; or
- (c) Commercial fishing with gill or trammel nets of restricted net mesh size is prohibited.

**(51)[(52)]** "Roe-bearing fish" means paddlefish, shovelnose sturgeon, and bowfin, regardless of the sex of the fish or the presence or absence of roe.

**(52)[(53)]** "Roe-bearing Fish Buyer's Permit" means a permit issued by the department that entitles the permit holder to buy roe-bearing species or roe ~~[in accordance with this administrative regulation]~~.

**(53)[(54)]** "Roe-bearing Fish Harvester's Permit" means a permit issued by the department to a licensed commercial fisherman that entitles the permit holder to harvest and sell roe-bearing species ***[in accordance with this administrative regulation]***.

**(54)[(55)]** "Rough fish" is defined by KRS 150.010(37).

**(55)[(56)]** "Scaled rough fish" means any scaled fish that is not an invasive carp, sport fish as established in 301 KAR 1:060, roe bearing fish, or a species ineligible for commercial harvest as established in 301 KAR 1:155.

**(56)[(57)]** "Shad" means a live gizzard shad or threadfin shad.

**(57)[(58)]** "Shoreline use permit" means a permit issued by the department that allows an adjacent landowner to construct a new access structure or to keep or rebuild an existing structure on department land.

**(58)[(59)]** "Single hook" means a hook with no more than one (1) point.

**(59)[(60)]** "Size limit" means the minimum legal length of a fish that is measured by laying the fish flat on a ruler with the mouth closed and tail lobes squeezed together.

**(60)[(61)]** "Slot limit" means a size range of a fish species that shall be released by an angler.

**(61)[(62)]** "Slow speed" means speed attained with the throttle of the motor set at its slowest forward position.

**(62)[(63)]** "Speeding and reckless operation" means any operation of a boat in any area of a lake that ***could[may]*** endanger other persons or craft using the lake by intimidation, direct contact or by waves created by the speed or reckless operation of a boat.

**(63)[(64)]** "Sport fish" means those species established in 301 KAR 1:060.

**(64)[(65)]** "Sport fisherman" means a person holding a valid resident or nonresident fishing license and includes a person who is license exempt pursuant to KRS 150.170.

**(65)[(66)]** "Temporary aquatic area" means an area:

(a) Temporarily inundated from, but still connected to, a stream, river, or reservoir; and

(b) That persists only for the duration of the elevated water levels.

**(66)[(67)]** "Temporary pool" means an area temporarily inundated from, but not connected to, a stream, river, or reservoir.

**(67)[(68)]** "Traditional fishing methods" means the act of taking or attempting to take for non-commercial purposes any freshwater fish species using:

(a) Hook and line in hand; or

(b) Rod in hand.

**(68)[(69)]** "Triploid grass carp" means a fish of the genus and species *Ctenopharyngodon idella* that is reproductively sterile because it has been genetically altered to have an additional or extra set of somatic chromosomes as determined by blood sample.

**(69)[(70)]** "Trophy catfish" means a:

(a) Blue or flathead catfish that is a minimum of thirty-five (35) inches in length; or

(b) Channel catfish that is a minimum of twenty-eight (28) inches in length.

**(70)[(71)]** "Turtle" means a:

(a) Common snapping turtle (*Chelydra serpentina*);

(b) Smooth softshell turtle (*Apalone mutica*); or

(c) Spiny softshell turtle (*Apalone spinifera*).

**(71)[(72)]** "Unlicensed helper" means a person without a commercial fishing license who is assisting a commercial fisherman.

**(72)[(73)]** "Unprocessed fish" means the whole fish prior to being processed.

**(73)[(74)]** "Unprocessed roe" means roe that has been removed from a roe-bearing fish by a food processing plant prior to its sale at a roe-bearing fish buyer's facility.

**(74)**~~(75)~~ "VHS" means Viral Hemorrhagic Septicemia, a disease of fish.

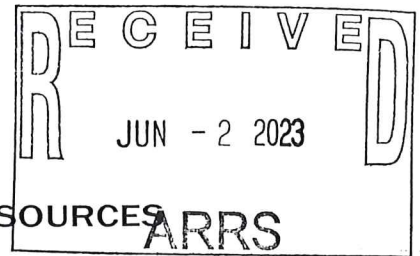
**(75)**~~(76)~~ "VHS positive state" means any state in the United States, or any Canadian province, listed on the APHIS Web site [www.aphis.usda.gov](http://www.aphis.usda.gov) as being positive for Viral Hemorrhagic Septicemia (VHS).

**(76)**~~(77)~~ "VHS-regulated fish species" means any species of fish deemed susceptible to VHS and listed on the APHIS Web site at [www.aphis.usda.gov](http://www.aphis.usda.gov).

**(77)**~~(78)~~ "Water supply lake" means a lake that:

- (a) Is owned by a municipality or other public water supply entity;
- (b) Provides potable water supply for the public;
- (c) Is not owned by the state; and
- (d) Is not managed by the department.

**(78)**~~(79)~~ "Whip set" means a gill net or a trammel net rigged so it is free-floating.



KENTUCKY DEPARTMENT OF FISH & WILDLIFE RESOURCES

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June 2, 2023

Senator Stephen West, Co-Chair  
Representative Derek Lewis, Co-Chair  
c/o Emily Caudill, Regulation Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
Rm 029, Capitol Annex  
Frankfort KY 40601

Re: 301 KAR 1:001 Definitions for 301 KAR Chapter 1, 301 KAR 2:222. Waterfowl hunting requirements on public land

Dear Co-Chairs:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 301 KAR 1:001, and 301 KAR 2:222, Kentucky Department of Fish and Wildlife Resources proposes the attached amendment to 301 KAR 1:001, 2:222.

Sincerely,

Jenny Gilbert  
Legislative Liaison  
Commissioner's Office  
Kentucky Department of Fish and Wildlife Resources  
1 Sportsmen's Lane  
Frankfort, KY 40601

## Subcommittee Substitute

### TOURISM, ARTS AND HERITAGE CABINET Department of Fish and Wildlife Resources (As Amended at ARRS)

#### 301 KAR 2:222. Waterfowl hunting requirements on public lands.

RELATES TO: KRS 150.010(42)[(44)], 150.305(1), 150.330, 150.340(1), (3), 150.990

STATUTORY AUTHORITY: KRS 150.025(1), 150.360, 150.600(1), 50 C.F.R. 20, 21

NECESSITY, FUNCTION, AND CONFORMITY: KRS 150.025(1) authorizes the department to promulgate administrative regulations to establish open seasons for the taking of wildlife and to regulate bag limits. KRS 150.360 authorizes the department to restrict methods of taking wildlife. KRS 150.600(1) authorizes the department to regulate the taking of waterfowl on public and private land. This administrative regulation establishes requirements for the taking of waterfowl within reasonable limits and within the frameworks established by 50 C.F.R. Parts 20 and 21.

#### Section 1. Definitions.

(1) "Blind" means a:

(a) Concealing enclosure;

(b) Pit; or

(c) Boat.

(2) "Department blind" means a permanently fixed blind structure built by the department.

(3) "Drawn hunter" means a hunter who applied for a limited-access hunt and was selected by the department to participate in the hunt.

(4) "Guest hunter" means a hunter invited by a waterfowl permit holder to participate in a limited-access hunt.

(5) "Hunt site" means a specific location where waterfowl hunting is allowed, as assigned by the department or the U.S. Army Corps of Engineers and marked with a sign.

(6) "Hunt unit" means a tract of land with defined boundaries where a party may hunt waterfowl as approved by the department.

(7) "Limited-access hunt" means a hunting opportunity where public access is limited by the department to those who are selected in a random drawing.

(8) "Party" means:

(a) A person hunting alone; or

(b) Two (2) to four (4) people who share a department blind, hunt unit, or hunt site.

(9) "Permanent blind" means a blind left in place by a waterfowl hunter longer than twenty-four (24) hours.

(10) "Quota hunt" means a class of limited-access hunt that includes the word quota in the name of the hunt as established in **administrative** regulation.

(11) "Regular waterfowl season" means the open waterfowl season that does not include the Light Geese Conservation Order season, special youth waterfowl season, special veterans and active military personnel waterfowl season, or the September wood duck, teal, and Canada goose seasons as established in 301 KAR 2:221 and 2:225.

(12) "Special commission waterfowl permit holder" means a person who has been assigned a special commission permit for waterfowl, issued pursuant to 301 KAR 3:100, which allows the permit recipient to participate in the waterfowl quota hunt and receive priority selection for hunting dates during hunts at Ballard and Sloughs WMAs.

(13) "Waterfowl permit holder" means a special commission waterfowl permit holder or drawn hunter who has been assigned to a limited-access department blind, hunt unit, or hunt site by the department or the U.S. Army Corps of Engineers.

(14) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

### Section 2. Waterfowl Seasons on Wildlife Management Areas.

(1) Waterfowl season provisions shall apply, as established in 301 KAR 2:221 and 301 KAR 2:225, except as established in this section or in Section 3 of this administrative regulation.

(2) On a wildlife management area, a person hunting waterfowl shall not:

(a) Establish or hunt from a permanent waterfowl blind;

(b) Hunt within 200 yards of another legal waterfowl hunting party;

(c) Hunt in a designated recreation area or access point;

(d) Hunt on an area marked by sign as closed to hunting;

(e) Enter an area marked by signs as closed to public access; or

(f) Hunt a species on an area marked by signs as closed to hunting for that species.

(3) More than one (1) party shall not occupy a waterfowl blind or hunt site.

(4) A party shall remove decoys and personal items daily, except that a party assigned a multi-day hunt may choose to leave decoys in place for the duration of the hunt.

(5) A permanent blind, department blind, or blind site not occupied by the waterfowl permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.

(6) Restrictions established in this section shall not apply to a falconer if regular waterfowl season, special youth waterfowl season, or special veteran's active military personnel season, as established in 301 KAR 2:221, are not open.

### Section 3. Wildlife Management Area Requirements.

(1) The provisions of this section shall not apply to a waterfowl hunting season that opens prior to October 15, as established in 301 KAR 2:225.

(2) On wildlife management areas in Ballard County:

(a) The shotgun shell possession limit shall be twenty-five (25);

(b) At least one (1) person in each party shall be eighteen (18) years of age or older; and

(c) A person hunting waterfowl shall:

1. Not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day;

2. Hunt in a party that includes a waterfowl permit holder;

3. Hunt in the department blind, hunt unit, or hunt site assigned to that waterfowl permit holder through a drawing as established in Section 4 of this administrative regulation;

4. Hunt in close proximity to other party members so that each member of the party is within

twenty-five (25) feet of another party member and no two (2) party members are more than seventy-five (75) feet apart;

5. Stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns; and

6. Check out of the area by accurately completing the Daily Post-hunt Survey provided by the department and submitting the survey at the department-designated drop point by 3 p.m. the day of the hunt or be declared ineligible to hunt in a department limited-access waterfowl hunt for the remainder of the current and following waterfowl season.

(3) Ballard WMA.

(a) Ballard WMA shall be closed to the public from October 15 through March 15, except for persons participating in department-managed activities.

(b) During periods of high water or flood, the public shall not enter upon the premises of the Ballard WMA by boat for any purpose. High water or flood conditions **shall [do]** not affect or change the management area boundary.

(c) A person hunting waterfowl shall not hunt waterfowl on the Ohio River from fifty (50) yards upstream of the northern border of Ballard WMA to fifty (50) yards downstream from the southern border of Ballard WMA from October 15 through March 15.

(4) Boatwright WMA.

(a) The Swan Lake Unit shall be closed to the public from October 15 through March 15, except for persons participating in department-managed activities.

(b) The area open to hunting during the regular waterfowl season shall be open for the Light Geese Conservation Order season as established in 301 KAR 2:221.

(c) Blind, hunt unit, or hunt site restrictions shall not apply to the Light Geese Conservation Order season.

(d) Boatwright WMA shall be closed to boats from December 1 through January 31, except for persons participating in department-managed activities.

(5) Lake Barkley WMA.

(a) A permanent blind shall only be established within ten (10) yards of a hunt site.

(b) Waterfowl refuge areas:

1. The area west of the Cumberland River channel, as marked by buoys, between river mile 51, at Hayes Landing Light, south to the Tennessee Valley Authority's power transmission lines at river mile 55.5, shall be closed from November 1 through February 15; and

2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, shall be closed from November 1 through March 15.

(c) A person shall not hunt from October 15 through March 15:

1. On Duck Island; or

2. Within 200 yards of Duck Island.

(6) Barren River Lake WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(7) Big Rivers WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(8) Cedar Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(9) Miller Welch-Central Kentucky WMA. A person shall not hunt waterfowl from October 15 through January 14.

(10) Lake Cumberland WMA. The following sections shall be closed to the public from October 15 through March 15:

(a) The Wesley Bend area, bounded by Fishing Creek, Beech Grove Road, and Fishing Creek Road; and

(b) The Yellowhole area, bounded by Fishing Creek Road and Hickory Nut Road.

(11) Dix River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(12) Doug Travis WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns.

(d) On Black Lake, Fish Lake, Forked Lake, Indian Camp Lake, Number Four Lake, Town Creek Moist Soil Unit, Twin Ponds Moist Soil Unit, and Upper Goose Pond Field, all waterfowl hunting shall be from a permanent blind or within ten (10) yards of a hunt site assigned by the department through a drawing as established in Section 4 of this administrative regulation.

(13) Grayson Lake WMA. A person shall not hunt waterfowl:

(a) Within the no-wake zone at the dam site marina;

(b) From the shore of Camp Webb;

(c) On Deer Creek Fork; or

(d) Within three-quarters (3/4) of a mile from the dam.

(14) Green River Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(15) Kaler Bottoms WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(16) Kentucky River WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(17) Land Between the Lakes National Recreation Area.

(a) The following portions shall be closed to the public from November 1 through March 15:

1. Long Creek Pond;

2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and

3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys.

(b) The following portions shall be closed to waterfowl hunting:

1. The Environmental Education Center; and



2. Energy Lake.

(c) A person shall possess an annual Land Between the Lakes Hunting Permit if hunting waterfowl:

1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or

2. From a boat on a flooded portion of Land Between the Lakes when the lake level is above **an elevation of 359 feet.**

(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.

(e) A person shall not establish or use a permanent blind:

1. On an inland area; or

2. Along the Kentucky Lake shoreline of Land Between the Lakes.

(18) Obion Creek WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(19) Ohio River Islands WMA.

(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to the power line crossing at approximately river mile 911.5.

(b) Stewart Island shall be closed to public access from October 15 through March 15.

(c) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(d) A person shall not enter a hunting area prior to 4 a.m. daily.

(20) Peabody WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) The following areas, as posted by signs, shall be closed to the public from October 15 through March 15:

1. The Sinclair Mine area, bounded by Hwy 176, the haul road, and Goose Lake Road; and

2. The Ken area, bounded by Wysox Road, H2 Road, H1 Road, and H6 Road.

(21) Pioneer Weapons WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(22) Robinson Forest WMA. The main block of the WMA shall be closed to waterfowl hunting.

(23) Sloughs WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department as necessary due to flooding, weather, or other safety concerns.

(d) If hunting waterfowl on the Crenshaw and Duncan Tracts of the Sauerheber Unit or the Jenny Hole Unit:

1. A person shall not hunt on a Tuesday or Wednesday;

2. A person shall not possess more than twenty-five (25) shotgun shells;

3. At least one (1) person in each party shall be eighteen (18) years of age or older;[:]

4. Hunt in a party that includes a waterfowl permit holder;

5. Hunt in the department blind, hunt unit, or hunt site assigned to that waterfowl permit holder

through a drawing as established in Section 4 of this administrative regulation;

6. Hunt in close proximity to other hunt party members so that each member of the party is within twenty-five (25) feet of another party member and no two (2) party members are more than seventy-five (75) feet apart; and

7. Check out of the area by accurately completing the Daily Post-Hunt Survey provided by the department and submitting the survey at the designated drop point by 3 p.m. the day of the hunt or be ineligible to hunt in department limited-access waterfowl hunts for the remainder of the current and following waterfowl season.

(e) The Sauerheber Unit shall be closed to the public from November 1 through March 15, except for persons participating in department-managed activities.

(f) The Jenny Hole Unit shall be closed to boats from Thanksgiving Day through January 31, except for persons participating in department-managed activities.

(g) The area open to hunting during the regular waterfowl season shall be open for the Light Geese Conservation Order season as established in 301 KAR 2:221.

(h) Blind, hunt unit, or hunt site restrictions shall not apply to the Light Geese Conservation Order season.

(24) South Shore WMA. The WMA shall be closed to hunting from November 15 through January 15, except for waterfowl and dove hunting.

(25) Taylorsville Lake WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(26) Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:

(a) The Greenbrier Creek embayment; and

(b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam, including the island.

(27) Yellowbank WMA. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(28) J.C. Williams WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

#### Section 4. Limited-Access Waterfowl Hunts.

(1) Permanent waterfowl blinds or hunt sites on Lake Barkley, Barren River Lake, Green River Lake, or Doug Travis Wildlife Management Area.

(a) The department shall announce the time and location of drawings on the department's Web site at fw.ky.gov at least two (2) weeks prior to the drawing.

(b) Applicants:

1. Shall apply in person;

2. Shall fill out the provided index card with the requested information completely and accurately;

3. Shall not mark or mutilate the index card in an attempt to increase the probability of being

selected:

4. Shall not apply more than once per drawing;

5. Be at least eighteen (18) years of age; and

6. Possess:

a. A valid Kentucky hunting license;

b. A valid Kentucky migratory game bird and waterfowl permit; and

c. A valid federal duck stamp.

(c) Drawing.

1. The department or U.S. Army Corps of Engineers shall conduct a random drawing of applicants.

2. A drawn hunter shall choose from available hunt sites before the next drawn hunter may select a hunt site.

3. Selected hunt sites **shall [will]** not be available for the next drawn hunter.

4. If a drawn hunter is not present, or does not select a hunt site, then the next drawn hunter may select a hunt site.

5. The drawing shall continue until all available hunt sites are selected or all applicants have been drawn.

(d) The department or U.S. Army Corps of Engineers shall designate the drawn hunter as the waterfowl permit holder for the selected hunt site.

(e) The drawn hunter may designate one (1) additional applicant to be a waterfowl permit holder for the selected hunt site.

(f) An applicant **shall [may]** not be a waterfowl permit holder for more than one (1) permanent blind or hunt site at Doug Travis WMA.

(g) Waterfowl permit holders for hunt sites shall:

1. Construct permanent blinds, if desired, before the start of any special or regular waterfowl season as established in 301 KAR 2:221;

2. Not lock a waterfowl blind; and

3. Remove the blind and blind materials within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit the following year unless an extension of time is granted by the department due to weather or water level conflicts.

(h) Waterfowl permit holders may take guest hunters to their assigned permanent blind or hunt site, but the total number of people in the party **shall [may]** not exceed four (4).

(i) A permanent blind or blind site not occupied by a waterfowl permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.

(2) Ballard WMA and Sloughs WMA waterfowl quota hunts.

(a) General procedures. A person applying to hunt in waterfowl quota hunts on Ballard WMA or Sloughs WMA shall:

1. Apply by completing the Ballard or Sloughs Waterfowl Quota Hunt online application on the department's Web site at fw.ky.gov;

2. Apply from September 1 through September 30;

3. Pay a three (3) dollar application fee for each application;

4. Select preferred **[hunt/]** hunts or select the no-hunt option; and

5. Not apply more than one (1) time for each hunt.

(b) Preference points.

1. A quota hunt applicant who is not selected shall be given one (1) preference point.
2. A quota hunt applicant who selects the no-hunt option shall be given one (1) preference point.
3. A person who applies for the no-hunt option shall not be drawn for a waterfowl quota hunt.
4. An applicant **may [can]** accumulate preference points across years.
5. For each hunt:
  - a. A random selection of applicants with the highest number of preference points shall be made; and
  - b. If there are still openings, a random selection of applicants with the next highest number of preference points shall be made.
6. If selected for a quota hunt, a person shall lose all accumulated preference points.
7. A person shall forfeit all accumulated preference points if the person does not apply or is ineligible to apply for:
  - a. A waterfowl quota hunt; or
  - b. The no-hunt option.
- (c) ~~[The commissioner may extend the application deadline]~~ If technical difficulties with the automated application system prevent applications from being accepted for one (1) or more days during the application period, **the commissioner may extend the application deadline.**
- (d) Ballard WMA waterfowl quota hunts.
  1. A drawn hunter and special commission waterfowl permit holder **shall [must]** check in the morning of their hunt in person by 5 a.m. CST.
  2. A drawn hunter and special commission waterfowl permit holder shall fill out the provided check-in card completely and accurately.
  3. A random drawing of all drawn hunters and special commission waterfowl permit holders **shall [will]** begin after the check-in period.
  4. A selected drawn hunter or special commission waterfowl permit holder shall choose from available hunting units or department blinds before the next applicant is drawn.
  5. A drawn hunter or special commission waterfowl permit holder who selects a hunting unit or department blind becomes the waterfowl permit holder for that hunting unit or department blind.
  6. Waterfowl permit holders may take up to three (3) guest hunters.
  7. Selected hunting units or department blinds **shall [will]** not be available for the next drawn hunter.
  8. Waterfowl hunt units or department blinds not claimed by drawn hunters **shall [will]** be available in a stand-by drawing.
- (e) Sloughs WMA waterfowl quota hunts.
  1. A drawn hunter shall be assigned a department blind or hunting unit and become waterfowl permit holders at the time of the drawing.
  2. A waterfowl permit holder shall check in by midnight CST on the Sunday prior to their hunt by sending an email to [sloughsquotahunt@ky.gov](mailto:sloughsquotahunt@ky.gov) **that [which]** includes the waterfowl permit holder's name, hunt unit, hunt dates, and hunt confirmation number or forfeit their spot.
  3. A waterfowl permit holder may take up to three (3) guest hunters.
  4. Waterfowl hunt units or department blinds forfeited by waterfowl permit holders **shall [will]** be available in a stand-by drawing.

(3) Boatwright WMA limited-access waterfowl hunts.

(a) A person applying to hunt waterfowl on Boatwright WMA shall:

1. Apply by completing the online Boatwright WMA Waterfowl Quota Hunt Form process on the department's Web site at <https://app.fw.ky.gov/HuntDraw/Index>;

2. Apply during the period Wednesday **through [thru]** Sunday before their intended hunt period; **and[:]**

3. Be eighteen (18) years of age or older.[:]

(b) A drawn hunter shall be assigned a department blind or hunting unit and become a waterfowl permit holder at the time of the drawing.

(c) A waterfowl permit holder may surrender a Boatwright WMA department blind or hunting unit on the department's Web site at <https://app.fw.ky.gov/HuntDraw/Index>.

(d) A surrendered department blind or hunting unit **shall [will]** be assigned by the department to a new drawn hunter.

(e) A waterfowl permit holder **shall [must]** check in the morning of their hunt in person by 4:45 a.m. CST.

(f) A waterfowl permit holder shall fill out the provided check-in card completely and accurately.

(g) A waterfowl hunt unit or department blind not claimed by a drawn hunter **shall [will]** be available in a stand-by drawing.

(h) A waterfowl permit holder may take up to three (3) guest hunters.

(4) Stand-by drawings.

(a) Ballard WMA.

1. An applicant **shall [must]** apply in person before 5 a.m. CST the day of their intended hunt.

2. An applicant shall fill out the provided check-in card completely and accurately.

3. A random drawing for unclaimed department blinds or hunting units **shall [will]** be conducted following the drawing for drawn hunters.

4. A selected applicant **shall [will]** choose an available department blind or hunting unit and be designated **as** a waterfowl permit holder.

(b) Boatwright WMA.

1. An applicant **shall [must]** apply in person before 4:45 a.m. CST the day of their intended hunt.

2. An applicant shall fill out the provided check-in card completely and accurately.

3. A random drawing for an unclaimed department blind or hunting unit **shall [will]** occur after 4:45 a.m. CST.

4. Selected applicants **shall [will]** choose an available department blind or hunting unit and be designated waterfowl permit holder.

(c) Sloughs WMA.

1. An applicant **shall [must]** apply in person before 6 p.m. CST the Monday before their intended hunt.

2. An applicant shall fill out the provided check-in card completely and accurately.

3. A random drawing for an unclaimed department blind or hunting unit **shall [will]** occur after 6:00 p.m. CST.

4. Selected applicants **shall [will]** choose an available department blind or hunting unit and be designated **as a** waterfowl permit holder.

(5) A person shall be declared ineligible to hunt in department limited-access waterfowl hunts

during the remaining portion of the regular waterfowl season and declared ineligible to hunt in or apply for any department limited-access hunt or department quota hunt the following year if the hunter violates state or federal regulations while waterfowl hunting on WMAs during a limited-access waterfowl hunt.

Section 5. State Parks. Waterfowl hunting shall be prohibited, except there shall be an open waterfowl hunt December 7 through January 31 on designated areas of state parks at:

- (1) Greenbo Lake;
- (2) Nolin Lake;
- (3) Paintsville Lake; and
- (4) Yatesville Lake.

Section 6. Youth-Mentor and Mobility-Impaired Waterfowl Hunts.

(1) There shall be youth-mentor waterfowl hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries each Saturday and Sunday in January.

(2) There shall be a mobility-impaired waterfowl hunt at Minor Clark Fish Hatchery that is held concurrently with each youth-mentor hunt.

(3) There shall be a waterfowl blind at Doug Travis WMA assigned by a random pre-season electronic drawing among all mobility-impaired applicants.

(4) A youth or mobility-impaired person shall:

(a) Apply on the department's Web site at fw.ky.gov between November 1 and November 15; and

(b) Carry a department-provided selection notification on the day of the hunt.

(5) A mobility-impaired person shall carry a mobility-impaired access permit pursuant to 301 KAR 3:026.

(6) Each youth shall be accompanied by an adult who is eighteen (18) years or older.

(7) At the youth-mentor hunts:

(a) Each youth shall not be accompanied by more than one (1) adult; and

(b) One (1) adult may accompany two (2) youths.

(8) A person shall:

(a) Hunt from an established blind; and

(b) Not change blinds.

(9) A blind shall not be used by more than four (4) individuals.

(10) A person shall only discharge a firearm from a blind.

(11) A person shall not possess more than twenty-five (25) shotshells.

(12) A waterfowl hunter, mentor, or assistant shall immediately retrieve downed birds.

(13) A person shall encase a firearm if traveling to or from a blind.

(14) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall:

(a) Cease hunting by noon; and

(b) Exit the area by 1 p.m.

(15) All decoys and equipment shall be removed at the end of each day's hunt.

(16) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall report harvest by depositing a completed hunt permit at the designated location.

[Section 1. Definitions.

(1) "Blind" means a:

(a) Concealed enclosure;

(b) Pit; or

(c) Boat.

(2) "Department blind" means a permanently fixed blind structure built by the department.

(3) "Hunt site" means a specific location where waterfowl hunting is allowed, as approved by the department or the U.S. Army Corps of Engineers.

(4) "Layout blind" means a portable blind that when fully deployed allows one (1) person to be concealed above the surface of the ground.

(5) "Party" means:

(a) A person hunting alone; or

(b) Two (2) to four (4) people who share a department blind or hunt site.

(6) "Permanent blind" means a blind left in place by a waterfowl hunter longer than twenty-four (24) hours.

(7) "Regular waterfowl season" means the open waterfowl season that does not include the Light Goose Conservation Order or the September wood duck, teal, and Canada goose seasons as established in 301 KAR 2:221 and 2:225.

(8) "Wildlife Management Area" or "WMA" means a tract of land:

(a) Controlled by the department through ownership, lease, license, or cooperative agreement; and

(b) That has "Wildlife Management Area" or "WMA" as part of its official name.

Section 2. Shot Requirements. A person hunting waterfowl shall not use or possess a shotgun shell:

(1) Longer than three and one-half (3 1/2) inches; or

(2) Containing:

(a) Lead shot;

(b) Shot not approved by the U.S. Fish and Wildlife Service for waterfowl hunting; or

(c) Shot larger than size "T".

Section 3.

(1) Except as established in this section or in Section 4 of this administrative regulation, on a Wildlife Management Area:

(a) A person hunting waterfowl shall not:

1. Establish or hunt from a permanent waterfowl blind; or

2. Hunt within 200 yards of:

a. Another occupied hunt site; or

b. Another legal waterfowl hunting party.

(b) A person shall not hunt in a designated recreation area or access point;

(c) More than four (4) persons shall not occupy a waterfowl blind or hunt site; and

(d) A hunter shall remove decoys and personal items daily, except that a hunter drawn for a multiday hunt may choose to leave decoys in place for the duration of the hunt.

(2) In order to establish or use a permanent waterfowl blind or hunt site on Lake Barkley, Barren River Lake, Buckhorn Lake, Green River Lake, Nolin River Lake, Paintsville Lake, Rough River Lake,

Sloughs, or Doug Travis Wildlife Management Areas, a person:

~~(a) Shall first obtain a waterfowl blind permit from the U.S. Army Corps of Engineers or the department;~~

~~(b) May designate one (1) other person as a partner; and~~

~~(c) Shall not hold more than one (1) permit per area.~~

~~(3) A person who participates in a drawing for a hunt site permit shall:~~

~~(a) Be at least eighteen (18) years of age; and~~

~~(b) Possess:~~

~~1. A valid Kentucky hunting license;~~

~~2. A Kentucky migratory game bird and waterfowl permit; and~~

~~3. A federal duck stamp.~~

~~(4) The holder of a hunt site permit shall:~~

~~(a) Construct or establish the blind or hunt site before November 20 or forfeit the permit;~~

~~(b) Not lock a waterfowl blind; and~~

~~(c) Remove the blind and blind materials within thirty (30) days after the close of the regular waterfowl season or be ineligible for a permit the following year, unless an extension of time is granted by the department due to weather or water level conflicts.~~

~~(5) A permanent blind, department blind, or blind site not occupied by the permit holder one (1) hour before sunrise shall be available to another hunter on a first-come, first-served basis.~~

~~(6) A waterfowl blind restriction established in this section shall not apply to a falconer if a gun or archery season is not open.~~

#### Section 4. Wildlife Management Area Requirements.

~~(1) The regular waterfowl season provisions shall apply, as established in 301 KAR 2:221, except as established in this section.~~

~~(2) The provisions of this section shall not apply to a waterfowl hunting season that opens prior to October 15, as established in 301 KAR 2:225.~~

~~(3) A person shall not:~~

~~(a) Hunt on an area marked by a sign as closed to hunting;~~

~~(b) Enter an area marked by signs as closed to public access; or~~

~~(c) Hunt a species on an area marked by signs as closed to hunting for that species.~~

~~(4) On Wildlife Management Areas in Ballard County:~~

~~(a) The shotgun shell possession limit shall be fifteen (15), except that the shotgun shell possession limit shall be twenty-five (25) if:~~

~~1. The daily bag limit for ducks is greater than three (3); and~~

~~2. The daily bag limit for Canada goose is greater than or equal to two (2); and~~

~~(b) At least one (1) person shall be eighteen (18) years of age or older if hunting in a department waterfowl blind or hunt site.~~

~~(5) At Ballard WMA:~~

~~(a) The duck, coot, merganser, and goose season shall be December 7 through January 31;~~

~~(b) Youth waterfowl season shall be the first full weekend in February;~~

~~(c) A person hunting waterfowl shall not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day; and~~

~~(d) A person hunting waterfowl shall:~~



~~1. Apply for the waterfowl quota hunt as established in Section 5 of this administrative regulation;~~

~~2. Not hunt waterfowl on the Ohio River from fifty (50) yards upstream of Dam 53 to fifty (50) yards downstream from the southern border of Ballard WMA from October 15 through March 15;~~

~~3. Stop hunting and exit the hunting area by 2 p.m. during the regular waterfowl season, except as authorized by the department;~~

~~4. Check out of the area by accurately completing the Daily Post-Hunt Survey provided by the department and submitting the survey at the department-designated drop point by 3 p.m. the day of the hunt, or be declared ineligible to hunt at Ballard WMA for the remainder of the current and following waterfowl season; and~~

~~5. Hunt in close proximity to other hunt party members so that each member of the party is within twenty-five (25) feet of another party member and no two (2) party members are more than 100 feet apart.~~

~~(6) At Boatwright WMA, including the Olmsted, Peal, and Swan Lake units:~~

~~(a) A party shall:~~

~~1. Not hunt on Monday, Tuesday, Christmas Eve, Christmas Day, or New Year's Day;~~

~~2. Obtain a daily check-in card by 8 a.m. before entering the area from December 7 through January 31; and~~

~~3. Check out the same day by:~~

~~a. Visiting the designated check station prior to 8 a.m.; or~~

~~b. Depositing the check-in card at a department-designated drop point after 8 a.m.;~~

~~(b) Duck season shall be open one-half (1/2) hour before sunrise to sunset beginning Thanksgiving Day for four (4) consecutive days on areas of Boatwright WMA that are open to hunting;~~

~~(c) A department blind or hunt site shall be assigned through a daily drawing from December 7 through January 31;~~

~~(d) A department blind or hunt site shall be offered to another hunter on a first-come, first-served basis, if the blind or hunt site has not been assigned during the daily drawing;~~

~~(e) Waterfowl hunters shall exit the area by 2 p.m. during the regular waterfowl season;~~

~~(f) A boat blind shall not be permitted in flooded timber, except:~~

~~1. During periods of flood if no other access is possible; or~~

~~2. A mobility-impaired hunter may hunt from a boat; and~~

~~(g) A party shall only hunt waterfowl:~~

~~1. From a department blind; or~~

~~2. From layout blinds set so that all layout blinds in the party lie within a twenty-five (25) foot radius from the center of the party, and within 200 yards of a hunt site during the regular waterfowl season.~~

~~(7) On the Peal unit of Boatwright WMA:~~

~~(a) More than seven (7) parties shall not hunt at the same time on Buck Lake or Flat Lake;~~

~~(b) More than four (4) parties shall not hunt at the same time on Fish Lake;~~

~~(c) More than three (3) parties shall not hunt at the same time on First Lake or Second Lake;~~

~~and~~

~~(d) A party shall not hunt waterfowl except within twenty-five (25) feet of a hunt site during the regular waterfowl season.~~

- (8) On the Swan Lake Unit of Boatwright WMA:
- (a) A person shall not hunt waterfowl from Thanksgiving Day through December 6;
  - (b) The area open to hunting during the regular waterfowl season shall be open for the Light Goose Conservation Order season as established in 301 KAR 2:221; and
  - (c) Blind restrictions shall not apply to the Light Goose Conservation Order season.
- (9) Lake Barkley WMA.
- (a) A permanent blind shall only be established within ten (10) yards of a blind site.
  - (b) Waterfowl refuge areas:
    - 1. The area west of the Cumberland River channel, as marked by buoys, between river mile 51, at Hayes Landing Light, south to the Tennessee Valley Authority's power transmission lines at river mile 55.5, shall be closed from November 1 through February 15; and
    - 2. The area within Honker Bay and Fulton Bay, as marked by buoys and signs, shall be closed from November 1 through March 15.
  - (c) A person shall not hunt from October 15 through March 15:
    - 1. On Duck Island; or
    - 2. Within 200 yards of Duck Island.
- (10) Barren River Lake WMA. A person hunting waterfowl:
- (a) May use a breech-loading shotgun along the shoreline of the Peninsula Unit; and
  - (b) Shall not use a breech-loading firearm elsewhere on the area.
- (11) Big Rivers WMA.
- (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
  - (b) A person shall not enter a hunting area prior to 4 a.m. daily.
- (12) Cedar Creek WMA.
- (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
  - (b) A person shall not enter a hunting area prior to 4 a.m. daily.
- (13) Miller Welch Central Kentucky WMA. A person shall not hunt waterfowl from October 15 through January 14.
- (14) Lake Cumberland WMA. The following sections shall be closed to the public from October 15 through March 15:
- (a) The Wesley Bend area, bounded by Fishing Creek, Beech Grove Road, and Fishing Creek Road; and
  - (b) The Yellowhole area, bounded by Fishing Creek Road and Hickory Nut Road.
- (15) Dix River WMA.
- (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
  - (b) A person shall not enter a hunting area prior to 4 a.m. daily.
- (16) Doug Travis WMA.
- (a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.
  - (b) A person shall not enter a hunting area prior to 4 a.m. daily.
  - (c) A person hunting waterfowl shall exit the area by 2 p.m. during waterfowl season, except as authorized by the department.
  - (d) On Black Lake, Fish Lake, Forked Lake, Indian Camp Lake, Number Four Lake, Town Creek Moist Soil Unit, and Upper Goose Lake, all waterfowl hunting after November 1 shall be:
    - 1. From hunt sites assigned by a random preseason drawing; and
    - 2. Within ten (10) yards of a hunt site, including periods of Mississippi River flooding.

~~(17) Grayson Lake WMA. A person shall not hunt waterfowl:~~

- ~~(a) Within the no-wake zone at the dam-site marina;~~
- ~~(b) From the shore of Camp Webb;~~
- ~~(c) On Deer Creek Fork; or~~
- ~~(d) Within three-quarters (3/4) of a mile from the dam.~~

~~(18) Green River Lake WMA.~~

- ~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~
- ~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(19) Kaler Bottoms WMA.~~

- ~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~
- ~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(20) Kentucky River WMA.~~

- ~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~
- ~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(21) Land Between the Lakes National Recreation Area.~~

~~(a) The following portions shall be closed to the public from November 1 through March 15:~~

- ~~1. Long Creek Pond;~~
- ~~2. The eastern one-third (1/3) of Smith Bay, as marked by buoys; and~~
- ~~3. The eastern two-thirds (2/3) of Duncan Bay, as marked by buoys.~~

~~(b) The following portions shall be closed to waterfowl hunting:~~

- ~~1. The Environmental Education Center; and~~
- ~~2. Energy Lake.~~

~~(c) A person shall possess an annual Land Between the Lakes Hunting Permit if hunting waterfowl:~~

- ~~1. Inland from the water's edge of Kentucky Lake or Barkley Lake; or~~
- ~~2. From a boat on a flooded portion of Land Between the Lakes when the lake level is above elevation 359.~~

~~(d) A person shall not hunt waterfowl on inland areas during a quota deer hunt.~~

~~(e) A person shall not establish or use a permanent blind:~~

- ~~1. On an inland area; or~~
- ~~2. Along the Kentucky Lake shoreline of Land Between the Lakes.~~

~~(f) A person hunting waterfowl shall remove decoys and personal items daily.~~

~~(22) Obion Creek WMA.~~

- ~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~
- ~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(23) Ohio River Islands WMA.~~

~~(a) A person shall not hunt from October 15 through March 15 on the Kentucky portion of the Ohio River from Smithland Lock and Dam upstream to the power line crossing at approximately river mile 911.5.~~

~~(b) Stewart Island shall be closed to public access from October 15 through March 15.~~

~~(c) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~

~~(d) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(24) Peabody WMA.~~

~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) The following areas, as posted by signs, shall be closed to the public from October 15 through March 15:

1. The Sinclair Mine area, bounded by Hwy 176, the haul road, and Goose Lake Road; and

2. The Ken area, bounded by Wysox Road, H2 Road, H1 Road, and H6 Road.

(25) Pioneer Weapons WMA. A person hunting waterfowl:

(a) May use a breech-loading shotgun along the shoreline of Cave Run Lake; and

(b) Shall not use a breech-loading firearm elsewhere on the area.

(26) Robinson Forest WMA. The main block of the WMA shall be closed to waterfowl hunting.

(27) Sloughs WMA.

(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.

(b) A person shall not enter a hunting area prior to 4 a.m. daily.

(c) A person hunting waterfowl shall exit the area by 2 p.m. during the regular waterfowl season.

(d) On the Highlands Creek and Grassy Pond Powell's Lake units, a person hunting waterfowl shall:

1. Hunt:

a. From a department blind;

b. Within twenty-five (25) yards of a hunt site; or

c. No closer than 200 yards of another hunting party; and

2. Remove decoys and personal items from the area on a daily basis.

(e) If the Ohio River reaches a level that requires boat access, a waterfowl hunter:

1. May hunt from a boat without regard to department blinds; and

2. Shall not hunt closer than 200 yards from another boat.

(f) If hunting waterfowl on the Crenshaw and Duncan Tracts of the Sauerheber Unit or the Jenny Hole Unit:

1. A person shall not hunt on a Tuesday or Wednesday;

2. A person shall hunt from a blind or a hunt site assigned by the department through a drawing as established in Section 5 of this administrative regulation;

3. A person shall not possess more than fifteen (15) shotgun shells, except that the shotgun shell possession limit shall be twenty-five (25) if:

a. The daily bag limit for ducks is greater than three (3); and

b. The daily bag limit for Canada goose is greater than or equal to two (2);

4. If under eighteen (18) years of age, a person shall be accompanied by an adult.

(g) The Crenshaw and Duncan tracts of the Sauerheber Unit shall be closed to hunting except for:

1. Waterfowl from November 1 through March 15; and

2. The modern gun deer season.

(h) The remainder of the Sauerheber Unit shall be closed to the public from November 1 through March 15.

(i) The Jenny Hole Unit shall be closed to boats from Thanksgiving Day through the last Sunday in January, except for persons participating in department-managed activities.

(j) A hunter participating in a quota waterfowl hunt at Sloughs WMA shall:

1. Hunt in close proximity to other hunt party members so that each member of the party is within twenty-five (25) feet of another party member and no two (2) party members are more

than 100 feet apart; and

2. Check out of the area by accurately completing the Daily Post-Hunt Survey provided by the department and submitting the survey at the designated drop point by 3 p.m. the day of the hunt or be ineligible to hunt at Sloughs WMA for the remainder of the current and following waterfowl season.

~~(28) South Shore WMA.~~

~~(a) The WMA shall be closed to hunting from November 15 through January 15, except for waterfowl and dove hunting.~~

~~(b) A hunter shall use a department blind.~~

~~(c) A department blind shall be available daily on a first-come, first-served basis.~~

~~(29) Taylorsville Lake WMA.~~

~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~

~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(30) Yatesville Lake WMA. The following areas shall be closed to waterfowl hunting, unless authorized by Yatesville Lake State Park:~~

~~(a) The Greenbrier Creek embayment; and~~

~~(b) The lake area north from the mouth of the Greenbrier Creek embayment to the dam, including the island.~~

~~(31) Yellowbank WMA. The area designated by a sign and painted boundary marker shall be closed to the public from October 15 through March 15.~~

~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~

~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

~~(32) J.C. Williams WMA.~~

~~(a) Shooting hours shall be one-half (1/2) hour before sunrise until 2 p.m.~~

~~(b) A person shall not enter a hunting area prior to 4 a.m. daily.~~

Section 5. Ballard WMA and Sloughs WMA Quota Hunts.

(1) A person applying to hunt waterfowl on Ballard WMA or the Sauerheber Unit of Sloughs WMA shall:

(a) Apply by completing the online Ballard or Sloughs Waterfowl Quota Hunt Form process on the department's Web site at [fw.ky.gov](http://fw.ky.gov);

(b) Apply from September 1 through September 30;

(c) Pay a three (3) dollar application fee for each application; and

(d) Not apply more than one (1) time for each hunt.

(2) A person drawn to hunt at Sloughs WMA shall check in on the Sunday prior to their hunt on the department's Web site at [fw.ky.gov](http://fw.ky.gov).

(3) A person drawn to hunt may bring up to three (3) additional hunters.

(4) A person shall be declared ineligible to hunt in department waterfowl quota hunts during the remaining portion of the waterfowl season and declared ineligible to apply for any department quota hunt the following year if the hunter violates state or federal regulations while waterfowl hunting on WMAs that have a preseason or daily drawing.

(5) A party applying to hunt waterfowl on the Jenny Hole Unit of Sloughs WMA shall:

(a) Apply by attending a weekly on-site drawing at the WMA; and

(b) Designate any other party members, if applicable, prior to the drawing.

~~(6) A party drawn to hunt on the Jenny Hole Unit of Sloughs WMA, as established in subsection (5) of this section, shall not be allowed to change any party members after being drawn.~~

~~Section 6. State Parks.~~

~~(1) Waterfowl hunting shall be prohibited, except there shall be an open waterfowl hunt December 13 through January 31 on designated areas of state parks at:~~

- ~~(a) Greenbo Lake;~~
- ~~(b) Lake Barkley;~~
- ~~(c) Lincoln Homestead;~~
- ~~(d) Nolin Lake;~~
- ~~(e) Paintsville Lake; and~~
- ~~(f) Yatesville Lake.~~

~~(2) Hunters shall check in and out each day at the designated check station.~~

~~(3) During check in, hunters shall be provided a map showing designated areas of the park that are open to waterfowl hunting.~~

~~Section 7. Youth Mentor and Mobility Impaired Waterfowl Hunts.~~

~~(1) There shall be youth mentor waterfowl hunts on the Minor Clark and Peter W. Pfeiffer fish hatcheries each Saturday and Sunday in January.~~

~~(2) There shall be a mobility impaired waterfowl hunt at Minor Clark Fish Hatchery that is held concurrently with each youth mentor hunt.~~

~~(3) There shall be a waterfowl blind at Doug Travis WMA assigned by a random pre-season electronic drawing among all mobility impaired applicants.~~

~~(4) A youth or mobility impaired person shall:~~

~~(a) Apply on the department's Web site at fw.ky.gov between November 1 and November 15; and~~

~~(b) Carry a department provided postcard notification on the day of the hunt.~~

~~(5) A mobility impaired person shall carry a mobility impaired access permit pursuant to 301 KAR 3:026.~~

~~(6) Each youth shall be accompanied by an adult who is eighteen (18) years or older.~~

~~(7) At the youth mentor hunts:~~

~~(a) Each youth shall not be accompanied by more than one (1) adult; and~~

~~(b) One (1) adult may accompany two (2) youths.~~

~~(8) A person shall:~~

~~(a) Hunt from an established blind; and~~

~~(b) Not change blinds.~~

~~(9) A blind shall not be used by more than four (4) hunters.~~

~~(10) A person shall only discharge a firearm from a blind.~~

~~(11) A person shall not possess more than twenty-five (25) shotshells.~~

~~(12) A waterfowl hunter, mentor, or assistant shall immediately retrieve downed birds.~~

~~(13) A person shall encase a firearm if traveling to and from a blind.~~

~~(14) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall:~~

~~(a) Cease hunting by noon; and~~

~~(b) Exit the area by 1 p.m.~~

~~(15) All decoys and equipment shall be removed at the end of each day's hunt.~~

~~(16) A hunter at Minor Clark or Peter Pfeiffer Fish Hatcheries shall report harvest by depositing a completed hunt permit at the designated location.]~~

Section 7.~~[Section 8.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Daily Post-hunt Survey", 2023 edition;~~["Sloughs WMA Waterfowl Hunter Survey Report", 2014 edition;]~~

(b) "Ballard or Sloughs Waterfowl Quota Hunt Form", 2014 edition;

(c) "Boatwright WMA Waterfowl Quota Hunt Form", 2023 edition;

(d) "Hatcheries Youth-Mentor/Mobility-Impaired Canada Goose Hunt Application", 2017 edition; and

(e)~~(d)~~ "Doug Travis WMA Mobility-Impaired Waterfowl Hunt Application", 2017 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Department of Fish and Wildlife Resources, #1 Sportsman's Lane, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material may also be found on the department's Web site at fw.ky.gov.

CONTACT PERSON: Jenny Gilbert, Legislative Liaison, Kentucky Department of Fish and Wildlife Resources, 1 Sportsman's Lane, phone (502) 564-3400, fax (502) 564-0506, email fwpubliccomments@ky.gov.



ANDY BESHEAR  
GOVERNOR

**ENERGY AND ENVIRONMENT CABINET  
DEPARTMENT FOR ENVIRONMENTAL PROTECTION**

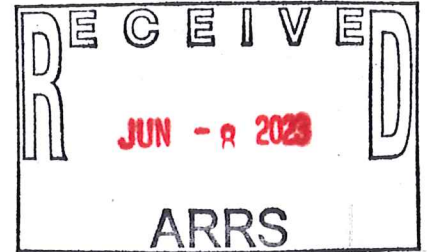
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June 8, 2023

Ms. Emily Caudill  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601



Dear Ms. Caudill:

After discussions with the Administrative Regulation Review Subcommittee staff of the issues raised by 401 KAR 58:040, the Division for Air Quality proposes the attached suggested amendment to 401 KAR 58:040.

Sincerely,

A handwritten signature in cursive script that reads "Chris Ewing".

Chris Ewing  
Environmental Scientist  
Division for Air Quality  
300 Sower Boulevard  
Frankfort, KY 40601



## SUGGESTED SUBSTITUTE

Final Version: 06/2/23 at 3:20 p.m.

### ENERGY AND ENVIRONMENT CABINET Department for Environmental Protection Division for Air Quality

#### 401 KAR 58:040. Requirements for asbestos abatement entities.

RELATES TO: KRS 224.10-100, 224.20-100, 224.20-110, 224.20-120, **224.99-010**, 29 C.F.R. 1910.1001, 40 C.F.R. 61.152

STATUTORY AUTHORITY: KRS 224.10-100(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 224.10-100(5) ~~authorizes~~requires the ~~[Environmental and Public Protection]~~ cabinet to ~~promulgate~~prescribe administrative regulations for the prevention, abatement, and control of air pollution. This administrative regulation provides for the control of asbestos emissions from asbestos abatement projects.

Section 1. Definitions. As used in this administrative regulation, all terms not defined ***in this section[herein]*** shall have the meaning given them in 401 KAR 50:010 or 401 KAR 58:025.

(1) "Air lock" means a system of enclosures within the containment area consisting of two (2) doorways, curtained with polyethylene sheeting, at least three (3) feet apart.

(2) "Asbestos abatement entity" means a partnership, firm, association, corporation, sole proprietorship[;] or other business concern, any governmental agency, or any other organization, composed of one (1) or more employees or members, or an individual involved in any of the asbestos-related activities ***established[specified]*** in subsection (3) of this section.

(3) "Asbestos abatement project" means any ***facility*** renovation or demolition activity ***that could[at a facility which may]*** cause a disturbance of friable asbestos material.

(4) "Certificate" means a permit issued by the cabinet pursuant to KRS 224.10-100(19)(b) to allow an asbestos abatement entity to engage in asbestos abatement projects, including the use of equipment or practices that control the emissions of asbestos fibers into the outside air.

(5) "Certification fee" means a fee, established by the cabinet pursuant to KRS 224.10-100(20), for the issuance of certificates to asbestos abatement entities according to this administrative regulation.

(6) "Clean room" means an uncontaminated area or room ***that[which]*** is part of the worker decontamination enclosure system with provisions for storage of workers' street clothes and clean protective equipment.

(7) "Clearance air monitoring" means the monitoring of air conducted inside the work area after cleanup of an asbestos abatement project has been completed.

(8) "Containment area" means the entire area in which an asbestos abatement project is conducted, ~~[;]~~ including the work area, equipment room, shower room, clean room, and all associated air locks.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.

(10) "Emergency operation" means a renovation operation that was not planned but results from a sudden, unexpected event. This term includes operations necessitated by nonroutine failures of equipment.

(11) "Equipment room" means a contaminated area or room ***that[which]*** is part of the worker decontamination enclosure system with provisions for storage of contaminated clothing and equipment.

(12) "Facility" means an institutional, commercial, or industrial structure, installation, or building, excluding apartment buildings having no more than four (4) dwelling units.

(13) "Facility component" means a:

(a) Pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a facility; or

(b) Structural member of a facility.

(14) "Friable asbestos material" means material containing more than one (1) percent asbestos by weight that hand pressure can crumble, pulverize, or reduce to powder when dry.

(15) "Glove bag" means a manufactured device consisting of plastic with a thickness of six (6) mils or more, two (2) inward-projecting long-sleeve rubber gloves, one (1) inward-projecting water-wand sleeve, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. The glove bag is constructed and installed so that it surrounds the object or area from which the asbestos containing material is to be removed and contains all asbestos fibers released during the removal process.

(16) "Glove bag technique" means a method of removing asbestos from pipes, ducts, valves, joints, and other nonplanar surfaces, which uses one (1) or more glove bags.

(17) "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than or equal to three-tenths (0.3) microns in size, with 99.97 percent efficiency.

(18) "HVAC" means a heating, ventilation, and air conditioning system.

(19) "Lockdown agent" means a protective coating or sealant **that/which** is applied to a surface from which asbestos-containing material has been removed.

(20) "OSHA" means the Occupational Safety and Health Administration.

(21) "Polyethylene sheeting" or "polyethylene bags" means sheeting or bags of polyethylene plastic with a thickness of six (6) mils or more, except as otherwise **established in this administrative regulation/specified**.

(22) "Publicly owned facility" means a facility owned by the state or any political subdivision thereof, municipality, or other public entity.

(23) "Renovation":

(a) Means altering in any way one (1) or more facility components; **and**

(b) **Does not mean** operations in which load-supporting structural members are wrecked or taken out **are excluded**.

(24) "Shower room" means a room between the clean room and the equipment room in the worker decontamination enclosure system with hot and cold running water controllable at the tap and suitably arranged for complete showering during decontamination.

(25) "Structure" means a whole facility, building, or a major portion thereof, such as a building wing.

(26) "Work area" means the contaminated area within the containment area that contains the friable asbestos material **that/which** is to be abated.

Section 2. Applicability. (1)(a) Except as **established/provided** in paragraph (b) of this subsection, the provisions of this administrative regulation shall apply to each asbestos abatement entity which is involved in any asbestos abatement project.

(b) An asbestos abatement entity shall not be required to obtain the certificate as required in Section 3 of this administrative regulation or attend the training required in Section 10 of this administrative regulation in order to conduct asbestos abatement projects **that are not required to comply with/which are not subject to** the provisions of 401 KAR 58:025. ~~however,~~ The asbestos abatement entity shall comply with the provisions of Sections 4(3) and 12 of this administrative regulation **if performing these/when performing such** projects.

(2) Any person may request that the cabinet determine ~~if~~**[whether]** a project is an asbestos abatement project. ~~The~~**[Such a]** request shall include the type of disturbance involved, a description of the friable asbestos materials, and laboratory data sheets with bulk sample results, methods of analysis, and the signature of the analyst. The cabinet shall make its determination **based on the information in the request in compliance with this administrative regulation and 401 KAR 58:025**, in writing, not later than ten (10) working days after it has received a written request with complete and accurate information adequate to make a determination. ~~[Section 2.] [Definitions. As used in this administrative regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or 401 KAR 58:025.]~~

~~[(1)] ["Air lock" means a system of enclosures within the containment area consisting of two (2) doorways, curtained with polyethylene sheeting, at least three (3) feet apart.]~~

~~[(2)] ["Asbestos abatement project" means any renovation or demolition activity at a facility which may cause a disturbance of friable asbestos material.]~~

~~[(3)] ["Asbestos abatement entity" means any partnership, firm, association, corporation, sole proprietorship, or other business concern, any governmental agency, or any other organization, composed of one (1) or more employees or members, or any individual involved in any of the asbestos-related activities specified in subsection (2) of this section.]~~

~~[(4)] ["Certificate" means a permit issued by the cabinet pursuant to KRS 224.10-100(19) to allow an asbestos abatement entity to engage in asbestos abatement projects, including the use of equipment or practices that control the emissions of asbestos fibers into the outside air.]~~

~~[(5)] ["Certification fee" means a fee established by the cabinet pursuant to KRS 224.10-100(20) for the issuance of certificates to asbestos abatement entities according to the provisions of this administrative regulation.]~~

~~[(6)] ["Clean room" means an uncontaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of workers' street clothes and clean protective equipment.]~~

~~[(7)] ["Clearance air monitoring" means the monitoring of air conducted inside the work area after cleanup of an asbestos abatement project has been completed.]~~

~~[(8)] ["Containment area" means the entire area in which an asbestos abatement project is conducted; this includes, but is not limited to, the work area, equipment room, shower room, clean room, and all associated air locks.]~~

~~[(9)] ["Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.]~~

~~[(10)] ["Emergency operation" means a renovation operation that was not planned but results from a sudden, unexpected event. This term includes operations necessitated by nonroutine failures of equipment.]~~

~~[(11)] ["Equipment room" means a contaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of contaminated clothing and equipment.]~~

~~[(12)] ["Facility" means any institutional, commercial, or industrial structure, installation, or building, excluding apartment buildings having no more than four (4) dwelling units.]~~

~~[(13)] ["Facility component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a facility; or any structural member of a facility.]~~

~~[(14)] ["Friable asbestos material" means any material containing more than one (1) percent asbestos by weight that hand pressure can crumble, pulverize, or reduce to powder when dry.]~~

~~[(15)] ["Glove bag" means a manufactured device consisting of plastic with a thickness of six (6) mils or more, two (2) inward-projecting long-sleeve rubber gloves, one (1) inward-projecting water-wand sleeve, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. The glove bag is constructed~~

and installed in such a manner that it surrounds the object or area from which the asbestos-containing material is to be removed, and contains all asbestos fibers released during the removal process.]

[(16)] ["Glove bag technique" means a method of removing asbestos from pipes, ducts, valves, joints, and other nonplanar surfaces, which uses one (1) or more glove bags.]

[(17)] ["HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than or equal to three-tenths (0.3) microns in size, with 99.97 percent efficiency.]

[(18)] ["HVAC" means a heating, ventilation, and air conditioning system.]

[(19)] ["Lockdown agent" means a protective coating or sealant which is applied to a surface from which asbestos-containing material has been removed.]

[(20)] ["OSHA" means the Occupational Safety and Health Administration.]

[(21)] ["Polyethylene sheeting" or "polyethylene bags" means sheeting or bags of polyethylene plastic with a thickness of six (6) mils or more, except as otherwise specified.]

[(22)] ["Publicly owned facility" means any facility owned by the state, or any political subdivision thereof, municipality, or other public entity.]

[(23)] ["Renovation" means altering in any way one (1) or more facility components. Operations in which load-supporting structural members are wrecked or taken out are excluded.]

[(24)] ["Shower room" means a room between the clean room and the equipment room in the worker decontamination enclosure system with hot and cold running water controllable at the tap and suitably arranged for complete showering during decontamination.]

[(25)] ["Structure" means a whole facility, building, or a major portion thereof, such as a building wing.]

[(26)] ["Work area" means the contaminated area within the containment area that contains the friable asbestos material which is to be abated.]

Section 3. Prohibition. ***Except as established in Section 2(1)(b) of this administrative regulation,*** an[No] asbestos abatement entity shall not engage in any asbestos abatement project ***that would be under the requirements of[subject to]***[which is subject to the provisions of] 401 KAR 58:025 after April 1, 1988, unless:

(1) A certificate to [so]engage in an asbestos abatement project[such projects] has been issued by the cabinet in accordance with [the provisions of]this administrative regulation[;] and is currently in effect. [The provisions of]This subsection shall not apply during the [demonstration of]compliance demonstration required in Section 6(2) of this administrative regulation; ***and[;]***

(2) At least one (1) person ***as established[identified]*** in Section 10***(1)*** of this administrative regulation is in attendance at the site of the containment area during the execution of the project.

Section 4. Work Practice Requirements. (1) [Except as specified,]The work practice requirements of subsections ***(2) and (3)[2 and 3]*** of this section shall apply to asbestos abatement entities[which perform the indicated asbestos abatement projects]. [The provisions of]This section shall not apply to ***an asbestos abatement entity that performs[asbestos abatement entities which perform]*** asbestos abatement projects at the entities' own manufacturing or industrial facilities if[when] the ***project is[projects are]*** performed exclusively by employees of the manufacturer or industry.

(2)[(4)] Work practice requirements for renovations ***established[addressed]*** in 401 KAR 58:025. ***Except as established in subsection (5) of this section,*** an[Any] asbestos abatement entity that engages in an[any] asbestos abatement project, including emergency operations ***under the requirements of[;]***[which is determined to be][***subject to***][the provisions of]401 KAR 58:025, and ***that*** involves renovation shall comply with the ***[following]***work practice requirements ***established in paragraphs (a) through (v) of this subsection.[;]***

(a) All objects and exposed surfaces in the work area shall be cleaned. Movable objects may then be removed. Objects not removed from the work area shall be covered with polyethylene sheeting secured in place. All openings within the containment area, including windows, doorways, elevator openings, corridor entrances, drains, ducts, grills, grates, diffusers, skylights, and openings created by the construction of any barriers, shall be sealed with polyethylene sheeting. Containment areas shall be established by permanent walls extending from the floor to the ceiling, or where permanent walls do not exist, by barriers. Barriers shall be constructed of polyethylene sheeting attached securely in place.

(b) Floor sheeting shall be installed within the containment area and shall ~~be~~~~consist of~~ at least two (2) layers of polyethylene sheeting. Floor sheeting shall extend up side walls at least twelve (12) inches and shall be sized to minimize seams. ~~Seams~~~~No seams~~ shall not be located at wall-to-floor joints.

(c) Wall sheeting shall be installed throughout the containment area ~~according to the procedures specified in this paragraph~~. All wall sheeting shall ~~be~~~~consist of~~ polyethylene sheeting, with each layer ~~having a thickness of~~ at least four (4) mils thick, shall be securely installed to minimize seams, and shall extend beyond each wall-to-floor joint at least twelve (12) inches. ~~No~~ Seams shall not be located at wall-to-wall joints.

1. Within the work area. Wall sheeting on a permanent wall shall ~~be~~~~consist of~~ at least two (2) layers. Wall sheeting on a barrier shall ~~be~~~~consist of~~ at least one (1) layer.

2. Within all other areas of the containment area. Wall sheeting on a permanent wall shall ~~be~~~~consist of~~ at least one (1) layer. ~~No~~ Wall sheeting shall not be ~~is~~ required where barriers are used.

(d) A worker decontamination enclosure system shall be provided, consisting of a clean room, shower room, and equipment room, each separated from each other and from the work area by air locks and accessible through doorways protected with two (2) overlapping polyethylene sheets.

(e) All HVAC equipment in or passing through the containment area shall be shut down, locked out, and tagged out to advise personnel not to activate the equipment. All intake and exhaust openings and any seams in system components shall be sealed with polyethylene sheeting and waterproof tape.

(f) **A warning sign**~~Warning signs~~ shall be displayed at **each approach**~~all approaches~~ to any location where airborne fiber levels can be expected to exceed background levels. Warning signs shall conform with OSHA 29 C.F.R. 1910.1001 standards/specifications.~~[Such signs shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall contain the following information which shall be printed in letters of sufficient size and contrast as to be readily visible and legible: [ DANGER ASBESTOS CANCER AND LUNG DISEASE HAZARD AUTHORIZED PERSONNEL ONLY RESPIRATORS AND PROTECTIVE CLOTHING ARE REQUIRED IN THIS AREA ]~~

(g) Negative pressure ventilation units with HEPA filtration and in sufficient number to provide one (1) workplace air change every fifteen (15) minutes shall operate~~be operated~~ continuously for the duration of the project. The duration of the project ~~for this requirement~~ shall be ~~considered to be~~ from the time that a containment area is established and wall and floor sheeting are installed until~~through the time that~~ acceptable final clearance air monitoring results are obtained.

(h) All friable asbestos material shall be thoroughly wetted through to the substrate prior to removal.

(i) Facility components shall be removed intact or in large sections ~~if~~~~whenever~~ possible and shall be carefully lowered to the floor. Other friable asbestos material shall be removed in small sections.

(j) Materials located at heights greater than fifteen (15) feet but less than or equal to fifty (50) feet above the floor shall be dropped into inclined chutes or onto scaffolding or containerized at their elevated levels for eventual disposal. For materials more than~~located at heights greater than~~ fifty (50) feet above the floor, a dust-tight enclosed chute shall be constructed to transport removed material to containers on the floor.

- (k) ~~[At no time shall the]~~ Friable asbestos material that has been removed shall not be allowed to accumulate or become dry.
- (l) For porous surfaces ~~[that have been]~~ stripped of friable asbestos materials, a lockdown agent shall be applied to securely seal any residual fibers~~[that may be present]~~. The lockdown agent shall~~[should be chosen so as to]~~ be compatible with subsequent covering.
- (m) Following abatement, wall sheeting and floor sheeting shall be removed and containerized for disposal. A sequence of HEPA filtration vacuuming, wet wiping all exposed surfaces, and surface drying shall be performed until ~~[no]~~ visible residue is not observed in the work area. A minimum of twenty-four (24) hours after wet wiping shall be required to ensure that sufficient drying has occurred.
- (n) All asbestos-containing waste, except for large facility components, shall be thoroughly wetted before being placed into containers for disposal. Large components shall be thoroughly wetted before being wrapped in polyethylene sheeting for disposal. Disposal shall occur at locations identified in paragraph (u) of this subsection.
- (o) Wet asbestos-containing waste shall be double bagged in polyethylene bags placed in sealed, rigid containers such as steel drums, fiber drums, or heavy cardboard boxes~~[(for example: steel drums, fiber drums, or heavy cardboard boxes)]~~ for transport to the approved landfill identified in paragraph (u) of this subsection. Large facility components **shall alternatively**~~[may]~~ be wrapped in **at least** two (2) layers of polyethylene sheeting, which **shall be**~~[are]~~ secured with waterproof tape for disposal.
- (p) All polyethylene sheeting ~~[that is]~~ used in an asbestos abatement project shall be treated as asbestos-containing waste.
- (q) All wrapping or containerizing of asbestos-containing waste shall be completed~~[done]~~~~[in such a manner so as]~~ to prevent the outside of the wrapping or container from being contaminated with asbestos fibers.
- (r) All packaged wastes including boxes, drums, and wrapped components~~[(boxes, drums, and wrapped components)]~~ shall be labeled in accordance with~~[according to the provisions of]~~ 40 C.F.R. 61.152, **as referenced**~~[adopted]~~~~[filed]~~**[by reference]** in 401 KAR 58:025.
- (s) Clearance air monitoring shall be performed. At least five (5) samples of air per work area, or one (1) sample per room, whichever is greater, shall be obtained for the clearance air monitoring. A sample volume of 3,000 liters of air shall be used. The air samples shall be obtained **while**~~[when]~~ the air is being artificially circulated so ~~[that]~~ the fibers remain airborne during the sampling. Barriers shall not be dismantled, and openings shall not be uncovered, until the final samples show total fiber concentrations of less than or equal to 0.01 fibers per cubic centimeter of air. The method for determining compliance with ~~[the provisions of]~~ this paragraph shall be either of the methods **established**~~[specified]~~ in Appendix M to ~~[“]Guidance for Controlling Asbestos-Containing Materials in Buildings[“]~~ (U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, EPA 560/5-85-024, June 1985).~~[Appendix M, “Detailed Specifications for Sampling and Analyzing Airborne Asbestos,” is hereby adopted and filed herein by reference.]~~
- ~~[1.] [Copies of Appendix M to “Guidance for Controlling Asbestos-Containing Materials in Buildings” are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.]~~
- ~~[2.] [Copies of the material incorporated by reference in this administrative regulation shall be available for public review at the offices of the Division for Air Quality as listed in 401 KAR 50:015.]~~
- (t) Transport and disposal of asbestos-containing waste shall ~~[occur in a manner that will]~~ not ~~[permit the]~~ release ~~[of]~~ asbestos fibers into the outside air.

(u) Disposal shall occur at a site approved by~~[that has approval from]~~ the Division of Waste Management to accept asbestos-containing waste in accordance with 401 KAR Chapter 47~~[according to the provisions of Title 401, Chapter 47,]~~ and shall meet all other applicable local, state, and federal laws.

(v) The asbestos abatement entity shall submit copies of all results of sampling obtained during clearance air monitoring and all disposal receipts to the building owner and the cabinet.

~~(3)~~**(2)** Work practice requirements for demolitions addressed in 401 KAR 58:025. An~~[Any]~~ asbestos abatement entity that engages in any asbestos abatement project ***that is under the requirements of***~~[which is determined to be]~~***[subject to]*** 401 KAR 58:025 and ***that*** involves demolition shall comply with the ~~[following]~~***work practice requirements established in paragraphs (a) through (d) of this subsection.***~~[:]~~

(a) Any partial or full demolition of a structure ~~[or portion of a structure]~~ ***that***~~[which]~~ contains facility components composed of or covered by friable asbestos material shall be removed~~[be preceded by a removal of all such materials]~~ prior to demolition, according to the requirements of subsection ~~(2)~~**(4)** of this section.

(b) Instead~~[In lieu]~~ of the requirements ***established***~~[specified]~~ in subsection ~~(2)~~**(4)**(a), (b), (c), (e), and (l) of this section, asbestos abatement entities engaging in demolition activities shall ***comply with the following requirements***:

1. Before beginning a demolition project, ***seal off with polyethylene sheeting and waterproof tape***, all doors, windows, floor drains, vents, and other openings to the outside of the building and to areas within the building that do not contain asbestos materials~~]; shall be sealed off with polyethylene sheeting and waterproof tape~~; and

2. ***Ensure that***, if a structure is to be partially demolished, all HVAC equipment in the demolition area or passing through it but servicing areas of the building ***that***~~[which]~~ will remain, shall be shut down, locked out, tagged out to advise personnel not to activate the equipment, and thoroughly sealed with polyethylene sheeting and waterproof tape.

(c) Clearance air monitoring as ***established***~~[described]~~ in subsection ~~(2)~~**(4)**(s) of this section shall be required, following abatement activities conducted for demolition purposes, prior to demolition.

(d) All other requirements of subsection ~~(2)~~**(4)** of this section, unless ***established***~~[specified]~~~~[specifically deleted]~~ in paragraph (b) of this subsection, shall apply to demolition abatement activities.

~~(4)~~**(3)** An~~[Any]~~ asbestos abatement entity engaged in an asbestos abatement project, including emergency operations, not ***under***~~[subject to]~~ the requirements of subsections ~~(2) and (3)~~**(4) and (2)** of this section shall take reasonable precautions to prevent the release of asbestos fibers to the outside air. ~~[Such]~~Precautions shall include~~]; but not be limited to~~:

(a) Construction of adequate barriers or use of wall and floor sheeting to contain asbestos fibers released within the containment area;

(b) Wetting of all friable asbestos materials prior to removal and keeping them wet until containerized;

(c) Use of HEPA filtration vacuum equipment and wet cleaning techniques to clean up the work area following the project until there is no visible residue;

(d) Appropriately wrapping or containerizing asbestos-containing waste and labeling the packaged waste including wrapped components, boxes, or fiber or metal drums~~(wrapped components, boxes, or fiber or metal drums)~~; and

(e) Transportation to and disposal at a location identified in subsection ~~(2)~~**(4)**(u) of this section in a manner that does not release fibers into the outside air.

(5)~~(4)~~ ~~In lieu~~ of the work practice requirements of ~~subsection (2)~~~~(1)~~(a) ~~through (e)~~ (e), (g), (i), (m), (n), (p), and (s) of this section:~~;~~ ~~subsection (3)~~~~(2)~~(b) and (c) of this section, and ~~subsection (4)~~~~(3)~~(a) and (c) of this section, the asbestos abatement entity may elect to use the glove bag technique for an asbestos abatement project. ~~The glove bag technique~~~~Such technique~~ **shall be**~~is~~ an acceptable alternative to those requirements. The cabinet ~~shall~~~~may, on a case-by-case basis,~~ approve other alternative work practice requirements for an asbestos abatement project ~~if~~~~provided that~~ the asbestos abatement entity submits the alternative to the requirements to the cabinet, in writing prior to beginning the asbestos abatement project, and demonstrates to ~~the satisfaction of~~the cabinet that:

(a) Compliance with the requirements ~~established~~~~prescribed~~ in this section is not practical or not feasible; and

(b)~~that~~ The proposed alternative to the requirements provides an equivalent control of asbestos and is not in conflict with any applicable local, state, or federal law.

Section 5. Applications. (1) ~~An~~~~No~~ asbestos abatement entity shall not be considered for certification unless the training requirements of Section 10 of this administrative regulation have been completed prior to application.

(2) Applications for certification required under Section 3 of this administrative regulation shall be made on form DEP 7034, **Application for Asbestos ~~Contractor~~Certification**~~Application~~~~[a form prepared by the cabinet for such purpose and shall contain such information as the cabinet shall deem necessary to determine whether the certificate should be issued]~~.

(3) Applications for certification shall be signed by ~~an~~~~a duly~~ authorized agent of the asbestos abatement entity. ~~The~~~~Such~~ signature shall constitute personal affirmation that the statements made in the application are true and complete.

(4) Failure to supply information required~~for deemed necessary~~ by the cabinet to enable it to act upon the certification application shall result in denial of the certificate.

(5) ~~An~~~~Any~~ asbestos abatement entity ~~that~~~~which~~ submits an application for certification shall include with the application a filing fee, as ~~established~~~~specified~~ in Section 8 of this administrative regulation.

Section 6. Consideration of Applications. (1) Within thirty (30) days after receipt of an application for certification, the cabinet shall advise the asbestos abatement entity as to whether or not the application is complete, and if not complete, what additional information is necessary in order to evaluate the application.

(2) Within fifteen (15) days after the application for certification is deemed complete, the cabinet shall contact the asbestos abatement entity to establish a date when the cabinet can witness an asbestos abatement project, which shall be performed by the entity to demonstrate compliance with ~~the provisions of~~this administrative regulation.

(3) The cabinet shall make its application determination **as established in subsection (5) of this section**~~concerning the application~~, including its approval or denial, within thirty (30) days after attendance at the asbestos abatement project demonstration, unless ~~the cabinet determines that~~an additional period of time is necessary to adequately review the application or its evaluation of the demonstration. The cabinet shall notify the asbestos abatement entity, in writing, of ~~the~~~~its~~ determination and include any reasons for denial~~shall set forth its reasons for any denials~~.

(4) If the application is approved, the asbestos abatement entity shall submit the certification fee, as ~~established~~~~specified~~ in Section 8 of this administrative regulation. Upon receipt of the certification fee, the cabinet shall issue to the asbestos abatement entity the certificate to engage in asbestos abatement projects, in accordance with~~according to the provisions of~~ this administrative regulation.



(5)(a) The cabinet shall deny an application for certification if:

**1.** ~~[the cabinet determines that]~~ The requirements~~[any provision]~~ of this administrative regulation or 401 KAR 58:025 ~~are[is]~~ not met;

**2.** ~~[if]~~ The asbestos abatement entity ~~knowingly~~~~[willfully]~~ made any misstatements in the application;

**or**

**3.** ~~[or if]~~ The owner or operator of an asbestos abatement entity~~[,]~~ or an entity with a different name to which a certificate had previously been issued, cannot reasonably be expected to conduct **the abatement**~~[himself]~~~~[or herself]~~ in a manner that is consistent with the acceptance of responsibility for asbestos abatement projects.

(b) The cabinet shall make determinations regarding issuance or denial of the certification based upon:

**1.** The applicant's actions during any prior term of certification;

**2.** ~~[,]~~ The information contained in the application;~~[,]~~ and

**3.** Any other pertinent information that is available to the cabinet.

(6) **The holder of a certificate**~~[Certificates]~~ issued in accordance with **Sections 5 and 6**~~[Section 5]~~ of this administrative regulation~~[hereunder]~~ shall **comply with**~~[be subject to]~~ the~~[such]~~ terms and conditions ~~[as set forth and embodied]~~ in the certificate~~[as the cabinet shall deem necessary]~~ to ensure compliance with the requirements of this administrative regulation and of 401 KAR 58:025.

Section 7. Duration and Renewal of Certificates. (1) Unless the cabinet revokes a certificate, that certificate, including renewal of certification, shall remain in effect for one (1) year after the date of issuance.

(2) An~~[No]~~ asbestos abatement entity shall not be considered for renewal of certification unless the training requirements of Section 10 of this administrative regulation have been completed prior to application.

(3) Applications for renewal of certification shall be made on form DEP 7034, **Application for Asbestos Contractor Certification**~~[Application]~~~~[a form prepared by the cabinet for such purpose and shall contain such information as the cabinet shall deem necessary to determine whether the certificate should be issued]~~. An application~~[applications]~~ for renewal shall be submitted not earlier than ninety (90) days and not later than thirty (30) days before the date of expiration.

(4) Applications for renewal of certification shall be signed by an~~[a duly]~~ authorized agent of the asbestos abatement entity. The signature~~[Such Signature]~~ shall constitute personal affirmation that the statements made in the application are true and complete.

(5) Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the renewal application shall result in denial of ~~the~~~~[that]~~ renewal application.

(6) An~~[Any]~~ asbestos abatement entity **that**~~[which]~~ submits an application for renewal of certification shall include with the application a filing fee, as established~~[specified]~~ in Section 8 of this administrative regulation.

(7) The cabinet shall make its renewal application determination **as established in subsections (8) and (9) of this section**~~[concerning the application]~~, including its approval or denial, within thirty (30) days of receipt of a complete renewal application. The cabinet shall notify the asbestos abatement entity, in writing, of the~~[its]~~ determination including~~[and shall set forth]~~ its reasons for any denials.

(8) If the renewal is approved, the asbestos abatement entity shall submit the fee for renewal of certification, as established~~[specified]~~ in Section 8 of this administrative regulation. Upon receipt of the fee, the cabinet shall issue to the asbestos abatement entity the renewed certificate to engage in asbestos abatement projects, in accordance with~~[according to the provisions of]~~ this administrative regulation.

(9) The cabinet ~~shall~~may deny an application for renewal of certification if the asbestos abatement entity has failed to comply fully with all applicable requirements of this administrative regulation or of 401 KAR 58:025 during the year preceding the renewal application.

Section 8. Fees. ~~[The provisions of]~~This section shall not apply to any publicly owned facility, as defined **by Section 1(22)[in Section 1]**[2] of this administrative regulation. All fees shall be submitted to the cabinet as a certified check, cashier's check, or money order, payable to the Kentucky State Treasurer, ~~[i]~~ or may be submitted electronically online.

(1) Filing fee. Each asbestos abatement entity shall submit with the application for certification or renewal of certification, a filing fee, as ~~established~~specified in paragraph (a) or (b) of this subsection. The filing~~[Such]~~ fee **shall not be**~~[is not]~~ refundable if the certification is denied or the application is withdrawn. The filing fee, shall be applied toward the certification or renewal fee ~~if~~when the certificate is issued, pursuant to Section 6 or 7 of this administrative regulation.

(a) The filing fee for certification shall be \$100.

(b) The filing fee for renewal of certification shall be fifty (50) dollars.

(2) Certification or renewal fee. A fee as ~~established~~specified in paragraph (a) or (b) of this subsection, shall be submitted to the cabinet prior to the issuance of the certificate or renewed certificate to ~~an~~any asbestos abatement entity.

(a) The certification fee shall be \$500.

(b) The fee for renewal of certification shall be \$250.

Section 9. Certification Revocation. The cabinet may revoke any certification issued pursuant to~~under~~ this administrative regulation if the asbestos abatement entity:

(1) ~~Knowingly~~Willfully makes any misstatements or ~~[knowingly]~~ omits information in the certification application, renewal application, or any amendments thereto;

(2) Fails to comply with the terms or conditions of the certification;

(3) Fails to comply with the work practice requirements in Section 4 of this administrative regulation; or

(4) Fails to properly dispose of friable asbestos materials.

Section 10. Training Requirements. (1) **Except as established in Section 2(1)(b) of this administrative regulation and** as a part of the certification as required in Section 3 of this administrative regulation, the asbestos abatement entity shall ~~identify~~provide at least one (1) ~~supervisor~~supervisory person who ~~shall~~will be in attendance during the execution of each asbestos abatement project, and shall be trained with an initial training course **and an annual training course, both** approved by the cabinet **as established in Section 11 of this administrative regulation**, ~~and an annual retraining course approved by the cabinet~~.

(2) **A person established**~~[Persons identified]~~ in subsection (1) of this section shall be required to successfully complete a written examination, administered by the training sponsors, at the completion of the training or retraining course ~~in order~~ to demonstrate familiarity with ~~those issues relevant to~~ ]the safe performance of asbestos abatement activities. Correct ~~responses~~response to at least seventy (70) percent of the examination questions shall be necessary to meet the requirements of this subsection.

(3) As a part of the certification pursuant to~~as required in~~ Section 3 of this administrative regulation, ~~supervisors~~persons **established**~~[identified]~~ in subsection (1) of this section shall attend an orientation program sponsored by the cabinet, concerning the requirements, procedures, and standards established by this administrative regulation.

(4) If at any time, the ~~supervisor~~~~[supervisory person]~~ **established**~~[identified]~~ in subsections (1) through (3) of this section is no longer employed by the ~~certified asbestos abatement entity~~~~[to which the certificate has been issued]~~, or is no longer in attendance during the execution of asbestos abatement projects~~[for such entity]~~, the entity shall immediately notify the cabinet. The cabinet **shall**~~[may]~~ continue the certificate, ~~if~~~~[based upon a showing that]~~ there is another employee who has fulfilled the training requirements in this section, and who will be in attendance during the execution of asbestos abatement projects for the entity.

Section 11. Training Course Requirements. (1) The initial training course required in Section 10~~[(4)]~~ of this administrative regulation shall provide~~[, as a minimum,]~~ information on **[the following topics]**:

- (a) The physical characteristics of asbestos, including fiber size, aerodynamic characteristics, and physical appearance;
- (b) The health hazards of asbestos;
- (c) Employee personal protective equipment;
- (d) Recommended medical monitoring procedures, benefits of medical monitoring, and employee access to records;
- (e) Air monitoring procedures;
- (f) State-of-the-art work practices for asbestos abatement activities;
- (g) Personal hygiene;
- (h) Additional safety hazards that **could**~~[may]~~ be encountered during abatement activities and how to deal with them;
- (i) The requirements, procedures, and standards established by federal regulations;
- (j) Contract specifications and bidding procedures, liability insurance and bonding, and legal consideration related to asbestos abatement; and
- (k) Establishing respiratory protection programs, medical surveillance programs, and U.S. EPA and OSHA recordkeeping requirements.

(2) The yearly retraining course required in Section 10(1) of this administrative regulation shall~~[, as a minimum, adequately]~~ review the topics in subsection (1) of this section, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations.

(3) The course **titled**~~[entitled ""]~~ "Supervision of Asbestos Abatement Projects," as approved by the U.S. EPA, shall satisfy the requirements for initial training and retraining courses, as ~~established~~~~[specified]~~ in subsections (1) and (2) of this section.

(4) Training courses, ~~except~~~~[other than]~~ the course **established**~~[referenced]~~ in subsection (3) of this section, may be approved by the cabinet~~[on a case-by-case basis. The cabinet may approve]~~~~[such ]~~~~[training courses,]~~ based on the ~~[cabinet's]~~ determination that ~~it provides~~~~[the course would provide]~~ equivalent training as the course **established**~~[specified]~~ in subsection (3) of this section. A prospective course sponsor shall submit~~[, as a minimum,]~~ **[the following information]**:

- (a) Information about the course sponsor;
- (b) Course location and fees;
- (c) Copies or description of course handouts;
- (d) A detailed description of course content and the amount of time allotted to each major topic;
- (e) A description of teaching methods ~~[to be utilized]~~ and a list of all audio-visual materials;
- (f) A list of all personnel to be involved in course preparation and presentation and a brief description of the background, special training, and qualifications of each;
- (g) A description of student evaluation methods~~[to be used]~~;
- (h) A description of course evaluation methods~~[to be used]~~;
- (i) Any restriction on attendance including language barriers~~[(language, etc.)]~~; and

(j) A copy of the written examination to ~~to~~<sup>[which will]</sup> be administered at completion of the course.

Section 12. Records. (1) Each asbestos abatement entity shall maintain records of all asbestos abatement projects ~~[which it performs]~~ and shall make these records available to the cabinet upon request. The asbestos abatement entity shall retain the records for at least six (6) years.

- (2) The asbestos abatement entity shall record the following information for each project:
- (a) Name and address of supervisor responsible for the project;
  - (b) The location and description of the project and the estimated amount of asbestos removed;
  - (c) Starting and completion date. If the completion date differs from that originally scheduled, include reasons for delay;
  - (d) Summary of the procedures used to comply with all applicable requirements, including copies of all notifications, if applicable;
  - (e) Name and address of the waste disposal site and disposal receipts, including the amount of asbestos-containing material disposed; and
  - (f) Results of all air sampling conducted during the asbestos abatement project, if applicable, including personal, area, and clearance samples.

Section 13. Penalties. ~~An~~<sup>[Any]</sup> asbestos abatement entity ~~that~~<sup>[which]</sup> violates any provision of this administrative regulation shall **comply with any penalty issued pursuant [be subject]** to ~~the appropriate enforcement action as provided under~~ KRS 224.99-010.

Section 14. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) Appendix M (Detailed Specifications for Sampling and Analyzing Airborne Asbestos) to "Guidance for Controlling Asbestos-Containing Materials in Buildings", (U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, EPA 560/5-85-024, June 1985); and

(b) ~~DEP 7034,~~ "Application for Asbestos ~~[Contractor]~~ Certification ~~[Application]~~", DEP 7034, (February 2023).

(2)(a) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Division for Air Quality, 300 Sower Boulevard, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

(b) Copies of Appendix M to "Guidance for Controlling Asbestos-Containing Materials in Buildings" are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

CONTACT PERSON: Chris Ewing, Environmental Scientist, Division for Air Quality, 300 Sower Boulevard, 2nd Floor, Frankfort, Kentucky 40601, phone (502) 782-6604, fax (502) 564-4245, email Christian.Ewing@ky.gov.



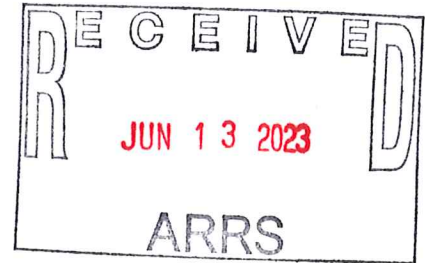
**Andy Beshear**  
GOVERNOR

## JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street  
Frankfort, Kentucky 40601  
Phone: (502) 564-7554  
Fax: (502) 564-4840

**Kerry Harvey**  
SECRETARY

June 13, 2023



Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
702 Capital Avenue  
Room 83, Capital Annex  
Frankfort KY 40601

Re: **505 KAR 1:120**, Department of Juvenile Justice Policies and Procedures Manual:  
Health and Safety Services.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 1:120, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:120.

Sincerely,

Amy V. Barker  
Assistant General Counsel

enclosure

**SUGGESTED SUBSTITUTE**

**JUSTICE AND PUBLIC SAFETY CABINET  
Department of Juvenile Justice**

**505 KAR 1:120. Department of Juvenile Justice Policies and Procedures Manual: Health and Safety Services.**

RELATES TO: KRS 15A.065, 15A.067, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference policies and procedures concerning health and safety for~~[into regulatory form materials used by]~~ the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference.

(1) The "Department of Juvenile Justice Policy and Procedures Manual: Health and Safety Services", June 13~~[May 12]~~[January 13], 2023~~[July 13, 2020]~~, is incorporated by reference and includes the following:

400	Health Services Definitions (Amended <del>06/13/23</del> <u>01/13/23</u> <del>[07/13/20]</del> )
400.1	Health Services (Amended 04/15/20)
401	Health Services Administration and Personnel (Amended 03/30/18)
402	Access to Treatment and Continuity of Care (Amended 04/15/20)
402.1	Continuity of Care and Medical Discharge (Amended 04/15/20)
403	Medical Records (Amended 04/15/20 )
404.1	Admission Screening for Physical and Behavioral Health Challenges (Amended 07/13/20)
404.2	Ectoparasite Control (Amended 03/30/18)
404.3	Health Assessment and Physical Examination (Amended 03/30/18)
404.4	Sick Call (Amended 03/30/18)
404.5	Access to Diagnostic Services (Amended 03/30/18)
404.6	Emergency Medical Services (Amended 03/30/18)
404.7	First Aid, AED, and First Aid Kits (Amended 03/30/18)
404.8	Hospital Care (Amended 03/30/18)
404.10	Special Needs Treatment Plans (Amended 03/30/18)
404.11	Perinatal Care (Amended 03/30/18)
404.12	Oral Screening and Oral Care (Amended 03/30/18)
404.13	Preventative Health Care (Amended 03/30/18)
404.14	Family Planning Services (Amended 03/30/18)

405	Behavioral Health Services Administration and Personnel (Amended 07/13/20)
405.1	Behavioral Health Screening and Evaluation (Amended <del>06/13/23</del> <del>[04/15/20]</del> )
405.2	Forced Psychotropic Medications (Amended 07/10/18)
405.3	Referral for Behavioral Health Services (Amended 07/13/20)
405.4	Suicide Prevention and Intervention (Amended <del>06/13/23</del> <del>[05/12/23]</del> <del>[07/13/20]</del> )
405.5	Behavioral Health Emergencies (Amended 04/15/20)
405.6	Psychiatric Hospitalization (Amended 07/13/20)
<del>[406]</del>	<del>[Therapeutic Restraints (Amended <del>01/13/23</del>[03/30/18])] ]</del>
407	Pharmaceuticals (Amended 03/30/18)
408.1	Forensic Information (Amended 03/30/18)
409	Substance Abuse and Chemical Dependency (Amended 03/30/18)
410	Orthoses, Prostheses, and Other Aids to Reduce the Effects of Impairment (Amended 08/14/18)
411	Notification in Emergencies (Amended 03/30/18)
414	Environmental Health and Safety (Amended 03/30/18)
415	Occupational Exposure to Bloodborne Pathogens (Amended 03/30/18)
416	HIV/AIDS/STI (Amended 03/30/18)
416.1	Infectious Communicable Disease (Amended 03/30/18)
424	Emergency Plans (Amended 03/30/18)
424.1	Emergency Plans for Central Office (Amended 03/30/18)
426	Dietary Services (Amended 03/30/18)
427	Maintenance (Amended 03/30/18)
427.1	Control and Use of Tools and Sharps (Amended 03/30/18)
428	Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials (Amended 03/30/18)
428.1	Control of Hazardous Materials in Central Office (Amended 03/30/18)
430	Pets and Domestic Animals (Amended 03/30/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/About%20DJJ/Pages/lrcfilings.aspx>.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email [Justice.RegContact@ky.gov](mailto:Justice.RegContact@ky.gov).

**CHANGES TO MATERIAL INCORPORATED BY REFERENCE:**

**DJJPP 400**

**Page 1**

**References Box**

After "4C-01,08", delete "I-JDTP-3B-18"

**III.E. Definition of Chemical agent**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**Page 2**

**III.M. Definition of Conductive energy device**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**Page 2**

**III.R. Definition of Incident**

Remove definition and its deletion in its entirety as this is not existing text. Renumber remaining paragraphs.

**Page 3**

**III.Q. Definition of Dispensing (Now renumbered as O.)**

After "KRS 315.010", insert "(9)".

Delete "(8)".

**Page 4**

**III.AA. Definition of Fixed restraint**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**III.BB. Definition of Forensic purposes**

After "BB" (which is now renumbered as "Y"), insert a period.

**III.EE. Definition of Health care provider**

Delete this paragraph in its entirety.

Renumber remaining paragraphs.

**III.FF. Definition of Health Care Coordinator (now renumbered as BB.)**

After "coordinate the provision of health care.", insert the following:

CC. "Health care provider" is defined by KRS 304.17A-005.

Renumber remaining paragraphs.

**Page 5**

**III.KK. Definition of Isolation (now renumbered as II.)**

After "from the general population.", insert the following:

JJ. "Licensed Behavioral Health Professional" or "LBHP" means:

1. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the



American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;

2. A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;

3. A psychologist licensed and practicing in accordance with KRS 319.050;

4. A psychologist certified and practicing in accordance with KRS 319.056;

5. A licensed psychological associate licensed and practicing in accordance with KRS 319.064;

6. A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;

7. A clinical social worker licensed and practicing in accordance with KRS 335.100;

8. A social worker certified and practicing in accordance with KRS 335.080;

9. An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;

10. A physician assistant licensed under KRS 311.840 to 311.862;

11. A licensed marriage and family therapist as defined by KRS 335.300(2);

12. A marriage and family therapy associate as defined by KRS 335.300(3);

13. A licensed professional clinical counselor as defined by KRS 335.500(3);

14. A licensed professional counselor associate as defined by KRS 335.500(4);

15. A licensed professional art therapist as defined by KRS 309.130(2);

16. A licensed professional art therapist associate as defined by KRS 309.130(3);

17. A licensed behavior analyst as defined by KRS 319C.010(6); or

18. A registered behavior technician under the supervision of a licensed behavior analyst.

Then insert the following as existing text and mark it as deleted:

JJ. "Licensed Behavioral Health Professional" or "LBHP" means any Qualified Mental Health Professional (QMHP) as defined in KRS 202A.011 or an independently licensed clinical social worker, independently licensed marriage and family therapist, or independently licensed professional clinical counselor.

Renumber remaining paragraphs.

### **III.MM. Definition of Licensed practical nurse (now renumbered as KK.)**

After "KRS 314.011(9).", insert the following:

LL. "Line of sight" means an imaginary line extending from an observer's eye to a subject.

Renumber remaining paragraphs.

### **III.QQ. Definition of Mental health referral (now renumbered as PP.)**

After "any staff member alerts the designated", insert "Licensed Behavioral Health Professional (LBHP)" as existing text.

Delete "qualified mental health professional ~~[(QMHP)]~~" as non-existing text.

After "Licensed Behavioral Health Professional", delete "(LBHP)".

## **Page 8**

### **III.SSS. Definition of Therapeutic restraints**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

## **DJJPP 405.1**

### **Page 1**

### **Header**

After "APPROVAL:", insert "Vicki Reed".

Delete "LaShana M. Harris".

**Page 2**

**IV.B.**

After "join the general population", insert a comma.

Delete "or".

After "be referred for immediate evaluation by a LBHP", insert the following:  
, or be referred for immediate medical evaluation

**IV.C.**

After "Residents with acute conditions shall be maintained", insert "under continuous observation".

Delete "on one-to-one supervision".

**DJJPP 405.4**

**Pages 1-9**

Replace all references to "juvenile" or "juveniles" with "youth" to match remainder of policies.

**Page 1**

**II.**

After "II. APPLICABILITY", insert "A.".

After "and detention centers." and before "Limited Applicability", insert "B.".

After "*Limited Applicability for Group Homes*", insert "and Day Treatment Programs".

**Page 2**

**III.E.**

After "or commit suicide with", insert "a".

**IV.B.3.**

After "immediate evaluation by a", insert "LBHP".

Delete "mental health professional".

**Page 3**

**IV.B.5.**

After "in accordance with DJJPP", insert "405.1, 405.5, and 405.6".

Delete "Series 400".

**Pages 3-4**

**IV.C.1.**

After "1.", insert the following:

Juvenile detention centers, youth development centers, and group homes.

Renumber subparagraphs "1." through "5." as "a." through "e.".

After "or supervisory assistance is obtained", insert the following:  
in accordance with DJJPP 405.1

After "continuous observation in a safe area", insert the following:  
or a safe cell, if available.

**IV.C.3. (now renumbered as c.)**

After "The previous shift supervisor shall", insert "brief".

Delete "be responsible for briefing".

**IV.C.5. (now renumbered as e.)**

After "or the Chief of Mental Health Services.", insert the following:

2. Day Treatment Programs.

a. Any staff member that hears a youth verbalizing a desire or intent to commit suicide shall place the youth on Level 2 fifteen (15) minute continuous observation and call the parent or caregiver for pick up and behavioral health care.

b. If a youth engages in self-harm or attempts suicide, staff shall call 911 or other emergency services and the youth shall be placed on Level 1 five (5) minute continuous watch.

**Page 4**

**IV.E.1.a.**

After "a.", insert the following:

i. Juvenile detention centers and youth development centers.

After "Staff shall maintain", insert "a".

After "line of sight", insert "with".

Delete "of".

After "relieved by other staff.", insert the following:

ii. Group homes. The youth shall be assigned continuous supervision and placed in an area designated as safe. This continuous observation may be conducted by any staff. The door shall remain open and the observing staff shall remain within an arm's reach of the youth.

**IV.E.1.f.**

After "of any potentially harmful objects.", insert the following:

At a minimum, the search shall include a pat down, but circumstances may require a more thorough search.

**IV.E.1.g.**

After "placed in a suicide smock.", insert the following:

If the situation requires staff to remove the youth's clothing, the staff shall be the same sex as the youth except for exigent circumstances.

**IV.E.1.k.**

After "(NTI) packets", delete ", if at all possible".

**Page 6**

**IV.E.2.c.**

After "c. Staff shall maintain", insert "a".

After "line of sight", insert "with".

Delete "of".

**IV.E.2.d.**

After "Level 1 (high level observation) and the juvenile", insert "shall".

Delete "will".

**IV.E.2.i.**

After "i. If the", insert the following:

youth engages in self-harm or attempts suicide

Delete the following:

situation deteriorates or the juvenile verbalizes intent to harm

After "may initiate moving a juvenile", delete "back".

**Page 7**

**IV.F.2.**

After "to conduct a face-to-face evaluation of the juvenile in an individual session", insert the following:

in person or through telehealth. In exigent circumstances, the evaluation may be performed by telephone.

**Page 8**

**IV.F.11.b.**

After "and problems on the observation log.", insert the following:

The LBHP shall notify the supervisor of any significant mental health or behavioral concerns and the supervisor shall immediately notify the superintendent or designee.

Delete the following:

Significant concerns, as defined by the LBHP, shall immediately be relayed by the supervisor to the superintendent or designee. The supervisor shall be notified of any existing problems.

**IV.G.4.**

After "4." The, insert the following:

Superintendent, LBHP, and the FRA

Delete the following:

staff conducting the professional review

**DJJPP 406**

Delete this policy in its entirety.

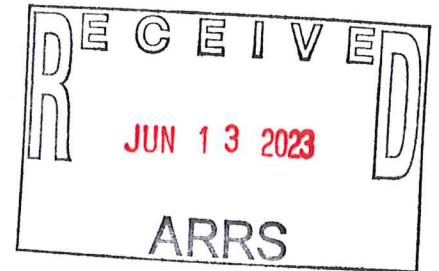


Andy Beshear  
GOVERNOR

## JUSTICE AND PUBLIC SAFETY CABINET

125 Holmes Street  
Frankfort, Kentucky 40601  
Phone: (502) 564-7554  
Fax: (502) 564-4840

Kerry Harvey  
SECRETARY



June 13, 2023

Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
702 Capital Avenue  
Room 83, Capital Annex  
Frankfort KY 40601

Re: **505 KAR 1:140**, Department of Juvenile Justice Policies and Procedures Manual:  
Detention Services.

Dear Ms. Caudill:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 501 KAR 1:140, the Justice and Public Safety Cabinet, Department of Juvenile Justice proposes the attached suggested amendment to 505 KAR 1:140.

Sincerely,

Amy V. Barker  
Assistant General Counsel

enclosure

**SUGGESTED SUBSTITUTE**

**JUSTICE AND PUBLIC SAFETY CABINET  
Department of Juvenile Justice**

**505 KAR 1:140. Department of Juvenile Justice Policies and Procedures Manual: detention services.**

RELATES TO: KRS 15A.065, 15A.067, 15A.200-15A.245, 15A.305, 200.080-200.120, Chapters 600-645

STATUTORY AUTHORITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305, 200.115, 605.150, 635.095, 635.100(7), 640.120, 645.250

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.065(1), 15A.067, 15A.160, 15A.210, 15A.305(5), 605.150, 635.095 and 640.120 authorize the Justice and Public Safety Cabinet and the Department of Juvenile Justice to promulgate administrative regulations for the proper administration of the cabinet and its programs. This administrative regulation incorporates by reference policies and procedures concerning detention services for~~[into regulatory form materials used by]~~ the Department of Juvenile Justice in the implementation of a statewide juvenile services program.

Section 1. Incorporation by Reference.

(1) The "Department of Juvenile Justice Policy and Procedures Manual: Detention Services", June 13/May 12/January 13, 2023~~[July 10, 2018]~~, is incorporated by reference and includes the following:

- 700 Definitions (Amended 06/13/23/01/13/23[03/30/18])
- 700.1 Detention Services Delivery System (Amended 06/13/23/01/13/23[Added 03/30/18])
- 701 Criteria for Admissions (Amended 03/30/18)
- 702 Intake, Reception and Orientation (Amended 07/10/18)
- 703 Detention Risk Assessment (Amended 03/30/18)
- 704 Alternatives to Secure Detention (Amended 01/13/23/07/10/18)
- 704.1 Supervision of Juveniles in Alternative to Secure Detention Programs (Amended 03/30/18)
- 704.2 Revocation of Juveniles in Alternative to Secure Detention Programs (Amended 03/30/18)
- 704.3 Juvenile Justice and Delinquency Prevention Act (Added 03/30/18)
- 705 Individual Client Records (Amended 03/30/18)
- 705.2 Progress Notes (Amended 03/30/18)
- 706 Grievance Procedure (Amended 03/30/18)
- 707 Bed Capacities and Staffing of Juvenile Detention Centers (Amended 01/13/23/03/30/18)
- 708 Classification of Juveniles for Housing and Program Assignment (Amended 01/13/23/03/30/18)
- 709 Security and Control (Amended 03/30/18)
- 710 Shift and Log Reports (Amended 03/30/18)
- ~~[711] [Transportation of Juveniles (Amended 01/13/23[03/30/18])] ]~~
- 712 Escape/AWOL (Amended 06/13/23/01/13/23[03/30/18])
- ~~[713] [Restraints (Amended 05/12/23/01/13/23[07/10/18])] ]~~
- 714 Searches (Amended 03/30/18)
- 715 Incident Reports (Amended 03/30/18)
- 716 Behavior Management (Amended 03/30/18)
- 717 Discipline and Special Behavior Management (Amended 06/13/23/01/13/23[03/30/18])
- 718 Disciplinary Review (Amended 07/10/18)
- 720 Programs and Services (Amended 03/30/18)
- 720.1 Library Services (Amended 01/13/23/03/30/18)
- 720.2 Recreation and Structured Activities (Amended 01/13/23/03/30/18)
- 720.3 Religious Programs (Amended 03/30/18)

- 720.4 Juveniles Work Details (Amended 03/30/18)
- 720.5 Social Services (Amended 07/10/18)
- 720.6 Family and Community Contact (Amended 07/10/18)
- 725 Educational Programming and Assessment (Amended 07/10/18)
- 725.1 Instructional Staffing (Amended 03/30/18)
- 725.2 Education Records (Amended 07/10/18)
- 726 Leaves (Amended 03/30/18)
- 729 Release From Detention (Amended 03/30/18)
- 730 Inspections of Secure Juvenile Detention Facilities (Amended ~~01/13/23~~~~[03/30/18]~~)
- 731 Complaint Investigations of Secure Juvenile Detention Centers and Juvenile Holding Facilities (Amended 03/30/18)

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department of Juvenile Justice, Office of the Commissioner, 1025 Capital Center Drive, Third Floor, Frankfort, Kentucky 40601, or at any department field office, Monday through Friday, 8 a.m. to 4:30 p.m. This material may be obtained from the Department of Juvenile Justice Web site at <https://djj.ky.gov/About%20DJJ/Pages/lrcfilings.aspx>.

CONTACT PERSON: Amy V. Barker, Assistant General Counsel, Justice & Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-3279, fax (502) 564-6686, email [Justice.RegContact@ky.gov](mailto:Justice.RegContact@ky.gov).

**CHANGES TO MATERIAL INCORPORATED BY REFERENCE:**

**DJJPP 700, Definitions**

**Page 1**

**II.D. Definition of Chemical agent**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**II.F. Definition of Conductive energy device**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**Page 2**

**II.I. Definition of Dangerous contraband (now renumbered as G.)**

After "any quantity of marijuana", insert the following:

H. "Dangerous instrument" is defined by KRS 500.080(3).

Renumber remaining paragraphs.

**II.J. Definition of Deadly weapon (now renumbered as I.)**

After "I. "Deadly weapon"", insert "is defined by".

Delete " – see".

**Page 3**

**II.S. Definition of Fixed restraint**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.

Renumber remaining paragraphs.

**II.Y. Definition of Jail**

Delete this paragraph in its entirety.  
Renumber remaining paragraphs.

**Pages 3-4**

**II.BB. Definition of Juvenile holding facility (now renumbered as Y.)**

After "per day supervision", insert the following:

Z. "Licensed Behavioral Health Professional" or "LBHP" means:

1. A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc. or the American Osteopathic Board of Neurology and Psychiatry;
2. A physician licensed in Kentucky to practice medicine or osteopathy in accordance with KRS 311.571;
3. A psychologist licensed and practicing in accordance with KRS 319.050;
4. A psychologist certified and practicing in accordance with KRS 319.056;
5. A licensed psychological associate licensed and practicing in accordance with KRS 319.064;
6. A certified psychologist with autonomous functioning or licensed psychological practitioner practicing in accordance with KRS 319.056;
7. A clinical social worker licensed and practicing in accordance with KRS 335.100;
8. A social worker certified and practicing in accordance with KRS 335.080;
9. An advanced practice registered nurse licensed and practicing in accordance with KRS 314.042;
10. A physician assistant licensed under KRS 311.840 to 311.862;
11. A licensed marriage and family therapist as defined by KRS 335.300(2);
12. A marriage and family therapy associate as defined by KRS 335.300(3);
13. A licensed professional clinical counselor as defined by KRS 335.500(3);
14. A licensed professional counselor associate as defined by KRS 335.500(4);
15. A licensed professional art therapist as defined by KRS 309.130(2);
16. A licensed professional art therapist associate as defined by KRS 309.130(3);
17. A licensed behavior analyst as defined by KRS 319C.010(6); or
18. A registered behavior technician under the supervision of a licensed behavior analyst.

**Page 4**

**II.DD. Definition of Mechanical restraint**

Delete this paragraph in its entirety due to the filing of 505 KAR 1:210 & E, Restraints and Control Methods.  
Renumber remaining paragraphs.

**II.LL. Definition of Secure juvenile detention facility (now renumbered as II.)**

After "KRS 15A.200", insert "(2)".  
Delete "(4)".

**Pages 4-5**

**II.NN. Definition of Special Incident (now renumbered as KK.)**

After "3. Engages in any sexual activity to include any contact or interaction", insert "that".  
Delete ", which".  
After "uses", insert a comma.  
Delete "or".  
After "permits", insert a comma.



## **DJJPP 700.1, Detention Services Delivery System**

**Page 2**

### **IV.H.**

Delete the following:

H. DJJ shall operate at least one female only facility.

Renumber remaining paragraphs.

### **IV.I.**

After "I." (which is now renumbered as "H"), delete "For male youth,".

After "1. The "high-security" detention centers shall house", delete "male".

After "2. The "low security" detention centers shall house", delete "male".

After "Class C felony or above and all", delete "male".

## **DJJPP 711, Transportation of Juveniles**

Delete this policy in its entirety as it has been replaced by 505 KAR 1:220 and E, Transportation of Juveniles.

## **DJJPP 712, Escape/AWOL**

**Page 4**

### **IV.D.4.(second occurrence)**

Before "After approval,", insert "5.".

Delete "4."

## **DJJPP 713, Restraints**

Delete this policy in its entirety as it has been replaced by 505 KAR 1:210 and E, Restraints and Control Methods.

## **DJJPP 717, Discipline and Special Behavior Management**

**Page 4**

### **IV.E.9.e.**

After "shall not exceed (48) hours", insert "and shall require".

Delete "with".

**Page 7**

### **IV.F.16.**

Before "In the absence", renumber as "15.".

After "a designated", insert "LBHP".

Delete "QMHP".

### **IV.F.17.**

Before "Each facility shall track", renumber as "16.".

### **IV.G.**

After "G. Protocol for Suicidal Youth and Isolation", insert "See DJJPP 405.4".

**Pages 7-8**

### **IV.G.1.-4.**

Delete subparts 1. through 4. in their entirety.

**Page 8**

**IV.K.**

After "activity suspension," delete "group restriction,".

After "room restriction," insert "or".

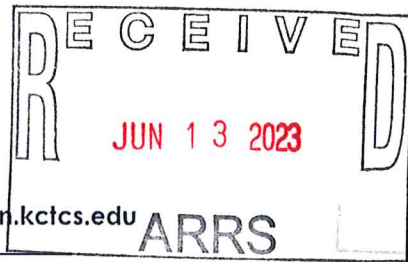
After "isolation", delete ", or confinement".

110 Cleveland Drive  
Paris, KY 40361



(800) 782-6823

kyfirecommission.kctcs.edu



June 1, 2023

Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
c/o Emily Caudill, Regulations Compiler  
Administrative Regulation Review Subcommittee  
Legislative Research Commission  
029, Capitol Annex  
Frankfort, KY 40601

**RE: 739 KAR 2:060. Certification and qualifications of fire and emergency services instructors.**

Dear Co-Chairs West and Hale:

After discussions with Administrative Regulation Review Subcommittee staff of the issues raised by 739 KAR 2:060, the Kentucky Fire Commission proposes the attached suggested amendment to 739 KAR 2:060.

Sincerely,

A handwritten signature in black ink that reads "Ricky King". The signature is written in a cursive style and is positioned above a horizontal line.

Ricky King, Chair  
Kentucky Fire Commission  
110 Cleveland Drive  
Paris, KY 40361

**Staff-suggested Amendment**

**Final Version 6/1/2023  
KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM  
Kentucky Fire Commission**

**739 KAR 2:060. Certification and qualifications of fire and emergency services instructors.**

**Page 1**

**STATUTORY AUTHORITY paragraph**

**Line 7**

After "KRS 95A.", insert "040".

Delete "050".

**Page 1**

**NECESSITY, FUNCTION, AND CONFORMITY paragraph**

**Line 10**

After "protection instructors.", insert the following:

KRS 95A.050(3) authorizes the Kentucky Fire Commission to promulgate reasonable administrative regulations relating to fire protection personnel.

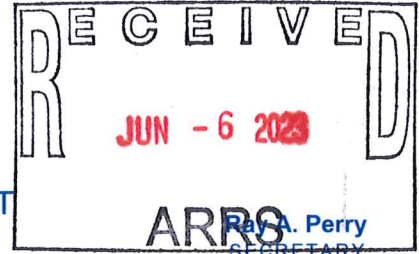
**Page 8**

**Section 6(1)**

**Lines 11 and 12**

After "Misconduct shall include", delete the following:

conduct such as the following



**Andy Beshear**  
GOVERNOR

**Jacqueline Coleman**  
LIEUTENANT GOVERNOR

**PUBLIC PROTECTION CABINET**  
**Kentucky Horse Racing**  
**Commission**

4063 Iron Works Parkway, Building B  
Lexington, KY 40511  
Phone: (859) 246-2040  
Fax: (859) 246-2039

**Ray A. Perry**  
SECRETARY

**Jamie Eads**  
EXECUTIVE DIRECTOR

**Jonathan Rabinowitz**  
CHAIRMAN

June 6, 2023

Ms. Emily Caudill, Regulations Compiler  
Legislative Research Commission  
083, Capitol Annex  
702 Capitol Avenue  
Frankfort, Kentucky 40601

Re: Agency Amendment to 810 KAR 7:040

Dear Ms. Caudill:

Please find attached the Agency Amendment for the referenced regulation and copies of the materials incorporated by reference that have been edited to reflect the amendments.

Please contact us with any questions or comments you may have. Thank you for your time and attention.

Sincerely,

Jennifer Wolsing  
General Counsel

**Agency Amendment  
Kentucky Horse Racing Commission**

**810 KAR 7:040. Kentucky Standardbred Development Fund and Kentucky  
Standardbred Breeders' Incentive Fund.**

**Page 13**

**Section 20(4)**

**Line 20**

After " submitting a " ", delete "Late".

After "KSBIFF", insert the following:

Application for Late Mare Registration

Delete the following:

Mare Certificate of Eligibility Form

**Page 15**

**Section 23(1)(a)**

**Line 5**

After "7-040-1,", insert "2023".

Delete "11/2018".

**Page 15**

**Section 23(1)(b)**

**Line 6**

After "7-040-2,", insert "2023".

Delete "11/2018".

After semicolon, delete "and".

**Page 15**

**Section 23(1)(c)**

**Line 7**

After "7-040-3,", insert the following:

2023; and

(d) "KSDF/KSBIF Application for Late Mare Registration", KHRC 7-040-4,

2023

Delete "11/2018".

---

**MATERIAL INCORPORATED BY REFERENCE:**

*(See page 2 of Agency Amendment)*

**KSDF/KSBIF Stallion Certificate of Eligibility Form, KHRC 7-040-2**

**KSDF/KSBIF Mare Certificate of Eligibility Form, KHRC 7-040-3**

**KSDF/KSBIF Application for Late Mare Registration, KHRC 7-040-4**

**FOR ALL THREE (3) OF THE ABOVE NAMED FORMS**

**Page 1**

**Second paragraph from the bottom**

After "I \_\_\_\_\_", insert the following:  
affirm

Delete the following:  
under the penalty of perjury, being duly sworn, depose and say

**KSDF/KSBIF Stallion Certificate of Eligibility Form**

**MUST BE COMPLETED TO MAKE A STALLION'S FOAL(S) ELIGIBLE TO THE KENTUCKY STANDARDBRED DEVELOPMENT FUND AND KENTUCKY STANDARDBRED BREEDERS' INCENTIVE FUND: 810 KAR 7:040**

**MUST INCLUDE WITH NOMINATION:**

- \$20 Per Nomination** - Proper Payment in U.S. Funds Only (check or money order)
- A copy of the stallion's registration paperwork or USTA pathway report
- If under lease, a copy of the lease or contract must be filed along with this form

**Must be Postmarked by December 31<sup>st</sup> of the Year of Conception & Submitted to:**

**KENTUCKY HORSE RACING COMMISSION**  
4063 Iron Works Parkway, Building B | Lexington, KY 40511  
Telephone: (859) 246-2847 | Fax: (859) 246-2887

The undersigned hereby makes application for a KSDF/KSBIF Stallion Certificate of Eligibility for the following stallion:

STALLION: \_\_\_\_\_

REGISTRATION / MICROCHIP #: \_\_\_\_\_ GAIT: \_\_\_\_\_ YOB: \_\_\_\_\_

WILL STAND AT: \_\_\_\_\_ PHONE: \_\_\_\_\_

FARM'S PHYSICAL ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

KY RESIDENCY: FROM: \_\_\_\_/\_\_\_\_/\_\_\_\_ TO: \_\_\_\_/\_\_\_\_/\_\_\_\_ TOTAL DAYS: \_\_\_\_\_ (A)  
(Minimum: 180 Days)

NON-KY RESIDENCY: FROM: \_\_\_\_/\_\_\_\_/\_\_\_\_ TO: \_\_\_\_/\_\_\_\_/\_\_\_\_ ST: \_\_\_\_\_ TOTAL DAYS: \_\_\_\_\_ (B)  
(Lines A + B Must Equal 365)

STALLION OWNED BY: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

This registration is subject to, and I agree to abide by, all applicable statutes, regulations and rules, including, but not limited to, KRS Chapter 230 and KAR Title 810. The regulation concerning the Kentucky Standardbred Development Fund and the Kentucky Standardbred Breeders' Incentive Fund can be found at 810 KAR 7:040.

I certify that the above stallion shall reside in Kentucky for one hundred eighty (180) days in the calendar year of conception.

I \_\_\_\_\_, affirm that the above statements are true and correct to the best of my knowledge and belief and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial and any and all other penalties available under the law. I understand that failure to meet any requirement contained in 810 KAR 7:040 may subject me to the penalties contained therein and other applicable penalties provided by Kentucky statute or regulation. I agree to promptly provide any additional information requested by the Kentucky Horse Racing Commission relating to the registration. I certify that I will keep accurate and updated records on file for any transactions related to transportation and all invoicing related to a stallion's residency so that I will have all documentation readily available to produce at the request of the Kentucky Horse Racing Commission.

If submitted by an authorized agent, then the agent, as well as the stallion owner, may be subject to all appropriate penalties. All filings are subject to audit by the Commission.

\_\_\_\_\_  
**QUALIFIED OWNER, LESSEE OR AUTHORIZED AGENT**  
(Clearly Print Name)

\_\_\_\_\_  
**Signature/Date**



**KSDF/KSBIF Mare Certificate of Eligibility Form**

**MUST BE COMPLETED TO MAKE A MARE'S FOAL(S) ELIGIBLE TO THE KENTUCKY STANDARDBRED DEVELOPMENT FUND AND KENTUCKY STANDARDBRED BREEDERS' INCENTIVE FUND: 810 KAR 7:040**

**MUST INCLUDE WITH NOMINATION:**

- \$20 Per Nomination - Proper Payment in U.S. Funds Only (check or money order)
- A copy of the mare's registration paperwork or USTA pathway report
- If under lease, a copy of the lease or contract must be filed along with this form

**Must be Postmarked by December 31<sup>st</sup> of the Year of Conception & Submitted to:**

**KENTUCKY HORSE RACING COMMISSION**  
4063 Iron Works Parkway, Building B | Lexington, KY 40511  
Telephone: (859) 246-2847 | Fax: (859) 246-2887

The undersigned hereby makes application for a KSDF/KSBIF Mare Certificate of Eligibility for the following mare:

MARE: \_\_\_\_\_ BRAND / MICROCHIP # \_\_\_\_\_

MARE'S YOBB: \_\_\_\_\_ EMBRYO TRANSFER: YES:  NO:

BRED TO: \_\_\_\_\_ STATE WHERE STALLION STANDS: \_\_\_\_\_

MARE WILL RESIDE AT: \_\_\_\_\_ PHONE: \_\_\_\_\_

FARM'S PHYSICAL ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

KY RESIDENCY: FROM: \_\_\_/\_\_\_/\_\_\_ TO: \_\_\_/\_\_\_/\_\_\_ TOTAL DAYS: \_\_\_\_\_ (A)  
(Minimum: 180 Days)

NON-KY RESIDENCY: FROM: \_\_\_/\_\_\_/\_\_\_ TO: \_\_\_/\_\_\_/\_\_\_ ST: \_\_\_\_\_ TOTAL DAYS: \_\_\_\_\_ (B)  
(Lines A + B Must Equal 365)

OWNER / NOMINATOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ ST: \_\_\_\_\_ ZIP: \_\_\_\_\_

PHONE: \_\_\_\_\_ EMAIL: \_\_\_\_\_

This registration is subject to, and I agree to abide by, all applicable statutes, regulations and rules, including, but not limited to, KRS Chapter 230 and KAR Title 810. The regulation concerning the Kentucky Standardbred Development Fund and the Kentucky Standardbred Breeders' Incentive Fund can be found at 810 KAR 7:040.

I certify that the above mare shall reside in Kentucky for one hundred eighty (180) days in the calendar year of conception.

I \_\_\_\_\_, affirm that the above statements are true and correct to the best of my knowledge and belief and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial and any and all other penalties available under the law. I understand that failure to meet any requirement contained in 810 KAR 7:040 may subject me to the penalties contained therein and other applicable penalties provided by Kentucky statute or regulation. I agree to promptly provide any additional information requested by the Kentucky Horse Racing Commission relating to the registration. I certify that I will keep accurate and updated records on file for any transactions related to transportation and all invoicing related to a mare's residency so that I will have all documentation readily available to produce at the request of the Kentucky Horse Racing Commission.

If submitted by an authorized agent, then the agent, as well as the mare owner, may be subject to all appropriate penalties. All filings are subject to audit by the Commission.

**QUALIFIED OWNER, LESSEE OR AUTHORIZED AGENT**

(Clearly Print Name)

**Signature / Date**

# KSDF/KSBIF Application for Late Mare Registration

**MUST INCLUDE:**

- A copy of the mare's registration paperwork or USTA pathway report
- If under lease, a copy of the lease or contract must be filed along with this form

Registration Deadlines and Fees:

- \$750** January 1<sup>st</sup> of Foaling Year – May 15<sup>th</sup> of the Yearling Year
- \$1,500** May 16<sup>th</sup> of the Yearling Year – December 31<sup>st</sup> of the Yearling Year

**Submit To:**

**KENTUCKY HORSE RACING COMMISSION**  
 4063 Iron Works Pkwy, Bldg. B | Lexington, KY 40511  
 Ph: 859-246-2847 | Fax: 859-246-2887

NAME OF MARE	MARE'S YOYB	SIRE OF MARE	BRAND / MICROCHIP #	ET (Y/N)

**MARE'S BOARDING FARM INFORMATION DURING THE YEAR OF CONCEPTION:**

(Mare **MUST** have maintained 180 days of residency in Kentucky during the year of conception.)

**\* SUFFICIENT DOCUMENTATION SUPPORTING THE MARE'S RESIDENCY MUST BE INCLUDED \***

Boarding Farm: \_\_\_\_\_ Owner/Manager: \_\_\_\_\_

Street: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_  
(Physical Address ONLY, no PO Boxes)

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

NAME OF FOAL/YEARLING	YOYB	FOAL/YEARLING SIRE	BRAND / MICROCHIP #	S/G

Owner(s) of Foal/Yearling: \_\_\_\_\_

Street: \_\_\_\_\_ City: \_\_\_\_\_ ST: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ E-Mail: \_\_\_\_\_

This registration is subject to, and I agree to abide by, all applicable statutes, regulations and rules, including, but not limited to, KRS Chapter 230 and KAR Title 810. The regulation concerning the Kentucky Standardbred Development Fund and the Kentucky Standardbred Breeders' Incentive Fund can be found at 810 KAR 7:040.

I certify that the above mare resided in Kentucky for one hundred eighty (180) days in the calendar year of conception:

I \_\_\_\_\_, affirm that the above statements are true and correct to the best of my knowledge and belief and that this statement is executed with the knowledge that misrepresentation or failure to reveal information requested may be deemed sufficient cause for denial and any and all other penalties available under the law. I understand that failure to meet any requirement contained in 810 KAR 7:040 may subject me to the penalties contained therein and other applicable penalties provided by Kentucky statute or regulation. I agree to promptly provide any additional information requested by the Kentucky Horse Racing Commission relating to the registration.

If submitted by an authorized agent, then the agent, as well as the owner, may be subject to all appropriate penalties. All filings are subject to audit by the Commission.

\_\_\_\_\_  
**QUALIFIED OWNER OR AUTHORIZED AGENT**  
(Clearly Print Name)

\_\_\_\_\_  
**Signature / Date**