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**LEGISLATIVE RESEARCH COMMISSION**  
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**Jay D. Hartz**  
Director

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**David W. Osborne**  
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Majority Caucus Chair  
**Derrick Graham**  
Minority Caucus Chair  
**Chad McCoy**  
Majority Whip  
**Angie Hatton**  
Minority Whip

**MEMORANDUM**

**TO:** Interim Joint Committee on Transportation  
**FROM:** Jay D. Hartz, LRC Director *JDH*  
**SUBJECT:** Administrative Regulations  
**DATE:** October 5, 2022

At its September 13, 2022, meeting, the Administrative Regulation Review Subcommittee completed its review of the following administrative regulation: 603 KAR 005:155.

Pursuant to the provisions of KRS Chapter 13A, this regulation has been assigned to the Interim Joint Committee on Transportation. Pursuant to KRS Chapter 13A, the committee has ninety (90) days from the date of this assignment to review this regulation.

The Subcommittee minutes will be delivered to your committee staff upon completion. The material considered by the Subcommittee in its review is attached to the appropriate administrative regulation.

cc: Administrative Regulation Review Subcommittee  
John Snyder

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MEMORANDUM

**TO:** Senator Robert Stivers, President of the Senate  
Representative David Osborne, Speaker of the House  
Members of the Legislative Research Commission

**FROM:** Senator Stephen West, Co-Chair  
Representative David Hale, Co-Chair  
Administrative Regulation Review Subcommittee

**RE:** Report of the Administrative Regulation Review Subcommittee

**DATE:** October 5, 2022

**Members:** Senator Stephen West, Co-Chair; Representative David Hale, Co-Chair; Senator David Yates, Representative Randy Bridges, MaryLou Marzian, and Deanna Frazier Gordon.

**LRC Staff:** Stacy Auterson, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, and Carrie Nichols.

**Guests:** Cassie Trueblood, Education Professional Standards Board; Cary Bishop, Ashley Dailey, Finance and Administration Cabinet; Chris Harlow, Board of Pharmacy; Jeff Allen, Board of Dentistry; Julie Campbell, Board of Cosmetology; Eddie Sloan, John Wood, Board of Emergency Medical Services; Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Clint Quarles, Department of Agriculture; Bradley Arterburn, Amy Baker, Department of State Police; Kyle Ray, Ricky Sizemore, Department of Highways; Bruce Roberts, Jeremy Rodgers, John Wood, Kentucky Fire Commission; Oran "Scotty" McFarlan, Education and Labor Cabinet; Misty Edwards, Kentucky Commission on Proprietary Education; Dale Hamblin, Scott Wilhoit, Department of Workers' Claims; Abigail Gall, Shawn Orme, Department of Insurance; Jonathan "Max" Fuller, Rick Rand, Department of Housing, Buildings and Construction; Julie Brooks, Department for Public Health; Jonathan Scott, Department for Medicaid Services.

The Administrative Regulation Review Subcommittee met on Tuesday, September 13, 2022, and submits this report:

Administrative Regulations Reviewed by this Subcommittee:

TRANSPORTATION CABINET  
Department of Highways  
Division of Maintenance  
(Amendment)

**603 KAR 5:155. Vegetation management. ~~[Removal and pruning of vegetation.]~~**

RELATES TO: KRS ~~176.010(2)~~, 176.050(1), 177.106, 177.830(5), 177.990(2)

STATUTORY AUTHORITY: KRS 176.050(1)(i)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 176.050(1)(i) requires the department to promulgate administrative regulations concerning the care and maintenance of roads in the Commonwealth. This administrative regulation establishes a vegetation management permitting process ~~[by which a noncommercial or a commercial entity may apply to the department]~~ for the removal and pruning of vegetation on department right-of-way~~[near state roads and highways]~~.

Section 1. Definitions.

(1) "Advertising device" is defined by KRS 177.830(5).

(2) "Department" is defined by KRS 176.010(2).

(3) "Person" means any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, cooperative, or any other group or combination acting as an individual or unit.

~~[(2)] ["Certified arborist" means an arborist prequalified within the landscaping classification of the Transportation Cabinet's Prequalification Committee and certified by the International Society of Arboriculture.]~~

~~[(3)] ["Commercial entity" means a business or company, including the owner of an outdoor advertising device, whose activities generate or are intended to generate revenue.]~~

~~[(4)] ["Illegal outdoor advertising device" means an outdoor advertising device that was erected or is maintained in violation of federal, state, or local law or ordinance.]~~

~~[(5)] ["Noncommercial entity" means a private landowner including a farm or single family residence.]~~

~~[(6)] ["REDA" means a roadside environmental district administrator located in each of the district offices of the Transportation Cabinet.]~~

~~[(7)] ["Specimen tree" means a native Kentucky tree outstanding for its size and quality that has been designated on the department's Web site.]~~

Section 2. Vegetation Management~~[Removal]~~ Permit Eligibility.

(1) A permit for vegetation management to remove or prune vegetation~~[in order to remove vegetative obstructions to the visibility of a noncommercial or commercial entity]~~, including vegetative obstructions to the visibility of an ~~[outdoor]~~ advertising device, located on~~[in a]~~ public right-of-way under the jurisdiction of the Kentucky Transportation Cabinet, shall be obtained from the department, in accordance with this administrative regulation, prior to entry or disturbance of the right-of-way.

(2) An applicant shall apply to the department for a permit for vegetation management to remove or prune vegetation by submitting a completed Application for Encroachment Permit, TC 99-1A form, to the Transportation Cabinet district office that is responsible for the area of the proposed vegetation management.

(3) An application for a permit to remove or prune vegetation ~~[by a noncommercial entity or a commercial entity]~~ shall be considered~~[approved]~~ by the department if the proposal:

(a) Improves ~~[In order to improve]~~ the safety of the traveling public;

(b) Is ~~[If]~~ necessary to eliminate hazards to personal property;

- (c) Enhances ~~[To enhance]~~ visibility for the travelling public;
  - (d) Eliminates ~~[To eliminate]~~ an unsightly condition and improves~~[improve]~~ roadway aesthetics ~~[if recommended by the department's arborist or REDA as established in Sections 4 and 5 of this administrative regulation];~~ or
  - (e) Removes ~~[To remove the]~~ undesirable vegetation listed on the department's Web site at [www.transportation.ky.gov/permits/](http://www.transportation.ky.gov/permits/).
- (4) ~~[(3)]~~ A permit to remove or prune ~~[or remove]~~ vegetation shall not be issued for the purpose of increasing visibility of an advertising device in violation of KRS Chapter 177 or KAR Title 603.~~[.]~~
- ~~[(a)]~~ ~~[For an illegal outdoor advertising device or if the legal status of an outdoor advertising device is in dispute;]~~
  - ~~[(b)]~~ ~~[If an applicant is required to enter through state right-of-way in order to access property for vegetation pruning or removal unless authorized by the department as part of the permit to remove vegetation; or]~~
  - ~~[(e)]~~ ~~[To remove specimen trees as listed on the department's Web site at www.transportation.ky.gov/permits/ unless recommended by the department's arborist or REDA.]~~
- ~~[(4)]~~ ~~[A noncommercial entity or a commercial entity shall apply to the department for a permit to remove or prune vegetation by using Application for Encroachment Permit, TC 99-1(A). The form shall be submitted to the Transportation Cabinet district office that is responsible for the area of the proposed vegetation management plan.]~~
- (5) Access to department right-of-way to perform vegetation management shall be from private property unless otherwise specified as part of the permit.

### Section 3. General Requirements for Vegetation Management~~[Removal]~~.

- (1) An applicant requesting a permit for vegetation management to remove or prune vegetation shall submit:
- (a) A completed Application for Encroachment Permit, TC 99-1A form;
  - (b) A general description of work to be performed;
  - (c) A location map;
  - (d) A detailed and scaled drawing showing the location of the vegetation proposed to be removed or pruned;
  - (e) The name, address, and phone number of the contractor that will be performing the work;
  - (f) A signed release from property owners whose property lines front the right-of-way where the vegetation management is proposed;
  - (g) A signed consent from a private property owner that gives the applicant access from the private property to the work site;
  - (h) A seeding and erosion control plan pursuant to the department's manual, Standard Specifications for Road and Bridge Construction;
  - (i) Evidence of bonding maintained until released by the department; and
  - (j) Proof of liability insurance equal to or more than \$1 million.
- (2) The following applicants are exempt from Section 3(1) (f), (g), (i), and (j):
- (a) Government agencies removing vegetation for purposes of installing or maintaining government facilities; or
  - (b) Public utility companies removing vegetation for purposes of installing or maintaining utility facilities.
- (3) An applicant shall:
- (a) Remove tree stumps and roots on a slope of 3:1 or less flush with the ground surface; ~~[Submit a mitigation plan to replant an area if a specimen tree is removed pursuant to Section 2(3)(e) of this administrative regulation unless the department's arborist or REDA indicates that replanting is not feasible;]~~

- (b) Remove tree stumps and roots on a slope greater than 3:1 to a height of three (3) inches or less above the surrounding ground surface. The height shall be measured from the top of the stump or root to its base on the lowest side of the slope; [Plant a designated area with noninvasive plant species that favor the bee and butterfly population if recommended by the department's arborist or REDA;]
- (c) Remove and dispose of cut material and debris from the state right-of-way as stated in the permit issued by the department; [Remove tree stumps and roots on a slope of 3:1 or less flush with the ground surface;]
- (d) Fill, grade, and compact a hole or void created by the performed work with top soil; [Remove tree stumps and roots on a slope greater than 3:1 to a height of three (3) inches or less above the surrounding ground surface. The height shall be measured from the top of the stump or root to its base on the lowest side of the slope;]
- (e) Use a seeding and erosion control plan; [Remove and dispose of cut material and debris from the state right-of-way as specified in the permit issued by the department;]
- (f) Not remove more than twenty-five (25) percent of the crown of each tree approved for pruning by the department; [Fill, grade, and compact a hole or void created by the performed work with top soil;]
- (g) Perform work during the time frame stated in the permit; and [Use a seeding and erosion control plan;]
- (h) Reimburse the department for any costs incurred associated with the vegetation removal and pruning permit. [Not remove or prune a redbud tree, dogwood tree, or designated state tree without approval of the department based on the health and condition of the trees at the permitting;]
  - [(i)] [Not remove more than twenty-five (25) percent of the crown of each tree approved for pruning by the department's arborist or REDA;]
  - [(j)] [Remove or prune vegetation with the supervision of a certified arborist or district REDA; and]
  - [(k)] [Perform work within 180 consecutive calendar days of the work start date.]
- [(2)] [A permit to remove vegetation shall be granted by the department in areas designated as a beautification project if the areas have become so unsightly and overgrown that they no longer meet the criteria for a beautification project.]
- (4) [(3)] Work shall not be performed until a [completed] permit [application] is issued [received and approved] by the department [pursuant to Sections 4 or 5 of this administrative regulation].
- (5) If a tree approved to be pruned dies related to executing the permit for vegetation management, the department shall require the permittee to remove the dead tree from department right-of-way, mitigate for the loss of vegetation, and restore department right-of-way.
- (6) If damage occurs to vegetation not included in the permit for vegetation management, the department shall require the permittee to mitigate for the loss of vegetation and restore department right-of-way.
- (7) The permittee shall be solely responsible for damage or destruction to private property that occurs in the course of executing the permit for vegetation management.
- (8) The permittee shall indemnify the department and the Transportation Cabinet pursuant to the permit if claims are brought against the department or Transportation Cabinet by third parties for damages sustained in the course of executing a permit for vegetation management.

#### Section 4. Mitigation.

- (1) An applicant shall be required to mitigate as part of a permit for vegetation management for removal of any tree with five (5) inch or greater diameter at breast height (dbh), except:

- (a) Government agencies removing vegetation for purposes of installing or maintaining government facilities; or
- (b) Public utility companies removing vegetation for purposes of installing or maintaining utility facilities.
- (2) For mitigation, the applicant shall make a contribution to the Kentucky Natural Lands Trust (KNLT), [www.knlt.org](http://www.knlt.org).
- (3) The department shall calculate the contribution amount pursuant to the department's Indiana Bat Conservation Memorandum of Agreement with the United States Fish and Wildlife Service.
- (4) The department shall not approve a permit for vegetation removal prior to receiving proof of the required contribution from the applicant.

~~{Section 4.} [Noncommercial Assistance of a REDA.]~~

- ~~{(1)} [A detailed explanation of the proposed vegetation management plan shall be included by the noncommercial entity with the submission of a TC Form 99-1(A) to the department.]~~
- ~~{(2)} [A non-commercial entity may use either a certified arborist or a department REDA to submit a vegetation management plan to the department. A certified arborist used by a noncommercial entity shall comply with Section 5 of this administrative regulation.]~~
- ~~{(3)} [The REDA shall review the submitted application to remove or prune vegetation and coordinate the process of removal with the permittee.]~~

~~{Section 5.} [Commercial Use of Arborist.]~~

- ~~{(1)} [A commercial entity shall be required to use a certified arborist for vegetation management.]~~
- ~~{(2)} [A commercial applicant with three (3) active permits for vegetation removal shall not be eligible for another permit until the work on at least one (1) active permit is completed.]~~
- ~~{(3)} [The completed application for a permit to remove or prune vegetation shall include:]~~
  - ~~{(a)} [A general description of work to be performed;]~~
  - ~~{(b)} [The address and telephone number of the party applying for a permit;]~~
  - ~~{(c)} [A photograph, location map, and a detailed and scaled drawing showing the location of the vegetation proposed to be trimmed or removed;]~~
  - ~~{(d)} [A vegetation management plan submitted by a certified arborist that shall include:]~~
    - ~~{1.} [A general description of vegetation proposed to be removed and the work to be performed;]~~
    - ~~{2.} [An inventory of trees larger than four (4) inches in diameter as measured twelve (12) inches from ground level within the area proposed for vegetation removal or pruning; and]~~
    - ~~{3.} [Documentation that the applicant consulted with the United States Fish and Wildlife Service regarding a potential for the proposed work to affect federally listed, threatened, or endangered species;]~~
  - ~~{(e)} [Proof that the applicant has obtained local, state, or federal approval as required;]~~
  - ~~{(f)} [The name and address of the contractor that will be performing the work;]~~
  - ~~{(g)} [A signed release from property owners whose property lines front the right-of-way where vegetation management is proposed;]~~
  - ~~{(h)} [A signed consent from a private property owner that gives the permittee access from the private property to the work site;]~~
  - ~~{(i)} [A seeding and erosion control plan pursuant to the department's manual, Standard Specifications for Road and Bridge Construction;]~~
  - ~~{(j)} [The proposed work schedule including the beginning and ending date of work;]~~

~~[(k)] [A payment bond and a performance bond until the project is released by the department; and]~~

~~[(l)] [Proof of liability insurance equal to or in excess of \$3 million. The department shall be listed as the "Certificate Holder."]~~

~~[(4)] [A permit shall not be granted if the vegetation removal will adversely affect federally listed, threatened, or endangered species unless the United States Department of Fish and Wildlife Service approves the permittee's proposal to minimize the impact.]~~

~~[(5)] [The certified arborist shall notify the department that the work is complete and certify that the work has been performed according to the permit.]~~

~~[(6)] [Two (2) years after the date the work is completed, a permittee shall submit to the department a report completed by a certified arborist that includes current color photographs of the area where the work was performed.]~~

~~[(7)] [If there are expenses related to the use of a certified arborist, or a review by the department, the applicant shall submit a completed Agreement for Services to be Performed, TC 99-22, to the department and reimburse the department for administrative expenses incurred as a result of the vegetation management plan.]~~

#### Section 5. ~~[Section 6.]~~ Notice of Violation; Appeals.

(1) The department shall provide notification~~[notify the permittee]~~ by certified letter if a violation of this administrative regulation has occurred.

~~[(2)] [If the permittee fails to respond to the certified notice or fails to remedy the violations within thirty (30) days, the department shall proceed to take legal action against the permittee.]~~

(2) ~~[(3)]~~

~~[(a)]~~ A person~~[vegetative permit holder]~~ aggrieved by the findings of the department may request an administrative hearing pursuant to KRS Chapter 13B.

(a) The request shall be made in writing ~~[and]~~ within thirty (30)~~[twenty (20)]~~ days of the certified letter~~[notice]~~.

(b) A request for a hearing shall thoroughly describe the grounds on which the hearing is requested.

(c) The hearing request shall be addressed to the Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622.

(3) If a request for an administrative hearing is not received by the department or the violation is not remedied within (30) days of notice, the department shall take action to impose penalties as established in Section 6 of this administrative regulation.

#### Section 6. ~~[Section 7.]~~ Penalties.

(1) Any person ~~[A vegetative permit holder]~~ who violates this administrative regulation shall:

(a) Be subject to ~~[be fined]~~ a civil penalty ~~[of \$500]~~ as established in KRS 177.106;~~[177.990(2).]~~

(b) Mitigate for loss of vegetation in accordance with Section 4 of this administrative regulation; and

(c) Be responsible for all costs associated with the restoration of the department right-of-way to an acceptable condition including the required remedial measures provided for in Section 3(3) of this administrative regulation. ~~[A corrective plan by a certified arborist or REDA shall be submitted within thirty (30) days of the notice of violation.]~~

(2) The department shall deny or revoke a permit that contains ~~[intentionally]~~ false or misleading information.

~~[(3)] [If a tree dies related to executing the vegetative plan, within two (2) years of being pruned or planted, the permittee shall remove the dead tree and:]~~

~~[(a)] [Repay the department for the loss of the state-owned tree; or]~~

~~[(b)] [Replant the area.]~~

~~[(4)] [If damage occurs, related to executing the vegetative plan, to vegetation not included in the vegetation permit, the permit holder shall be fined in accordance with subsection (1) of this section and shall be required to replant the area.]~~

~~[(5)] [The permittee shall be solely responsible for damage or destruction to private property that occurs in the course of executing the vegetation management plan.]~~

~~[(6)] [The permittee shall indemnify the department and the cabinet pursuant to the Application for Encroachment Permit, TC Form 99-1(A) in the event that claims are brought against the department or cabinet by third parties for damages sustained in the course of executing a vegetation management plan.]~~

~~[Section 8.] [Implementation. If a provision of this administrative regulation is found to be invalid by a court of competent jurisdiction, this administrative regulation shall be invalid in its entirety.]~~

Section 7. ~~[Section 9.]~~ Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Encroachment Permit", TC 99-1(A), October 2020; [~~"Agreement for Services to be Performed," TC 99-22, January 2015;~~]

(b) "Indiana Bat Conservation Memorandum of Agreement", September 2012 [~~"Application for Encroachment Permit", TC 99-1(A), January 2015;~~ and

(c) "Standard Specifications for Road and Bridge Construction", June 1, 2019~~[15, 2012]~~.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Transportation Cabinet, Department of Highways, 200 Mero Street, Frankfort, Kentucky 40622, Monday through Friday, 8 a.m. to 4:30 p.m.

(3) This material is also available on the Transportation Cabinet's Web sites at:

(a) <https://transportation.ky.gov/Permits>; and

(b) <https://transportation.ky.gov/Construction/Pages/Kentucky-Standard-Specifications.aspx>. ~~[cabinet's Web site at~~

~~<http://transportation.ky.gov/Construction/Pages/Kentucky-Standard-Specifications.aspx>.]~~

*JIM GRAY, Secretary*

*JAMES BALLINGER, P.E., State Highway Engineer*

APPROVED BY AGENCY: June 15, 2022

FILED WITH LRC: June 15, 2022 at noon

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Wednesday, August 24, 2022 at 10:00 a.m. EST, at the Kentucky Transportation Cabinet, 200 Mero Street, Frankfort, Kentucky 40622. Individuals interested in being heard at this hearing shall notify this agency in writing by five (5) working days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through August 31, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Jon Johnson, Staff Attorney Manager / Assistant General Counsel, Transportation Cabinet, Office of Legal Services, 200 Mero Street, Frankfort, Kentucky 40622, phone (502) 782-8180, fax (502) 564-5238, email [Jon.Johnson@ky.gov](mailto:Jon.Johnson@ky.gov).



## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

**Contact Person: Jon Johnson**

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:**

This administrative regulation establishes the guidelines and requirements of obtaining an encroachment permit to remove vegetation on Department of Highways right of way.

**(b) The necessity of this administrative regulation:**

This administrative regulation is required by KRS 176.050(1)(i).

**(c) How this administrative regulation conforms to the content of the authorizing statutes:**

This administrative regulation conforms to KRS 176.050(1)(i) by providing the requirements for vegetation removal encroachment permits.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:**

This administrative regulation will establish the regulatory requirements for vegetation removal encroachment permits as related to KRS 176.050(1)(i).

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:**

This amendment eliminates the commercial and non-commercial designation of applicants. This amendment eliminates the requirement for applicants to obtain the services of a pre-qualified arborist. This amendment provides a uniform method for determining mitigation, which is based on the same system that the Transportation Cabinet uses to determine tree mitigation on road projects.

**(b) The necessity of the amendment to this administrative regulation:**

The existing regulation created a lengthy and complicated process for the Transportation Cabinet to process vegetation removal encroachment permit applications. The existing regulation allows flexibility in determining mitigation, which has resulted in vastly varying mitigation requirements within the Districts on individual vegetation removal permits.

**(c) How the amendment conforms to the content of the authorizing statutes:**

This amendment conforms to KRS 176.050(1)(i) by providing requirements for vegetation removal encroachment permits.

**(d) How the amendment will assist in the effective administration of the statutes:**

This amendment will assist in the effective administration of the statutes by providing a simplified process and shorter timeline to obtain vegetation removal encroachment permits.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:**

This administrative regulation affects the Transportation Cabinet, Department of Highways, Division of Maintenance, Permits Branch along with all individuals and businesses intending to apply for a vegetation removal encroachment permit. (4) Provide an analysis of how the entities identified in question (3) will be impacted by

either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:**

Individuals and businesses seeking a vegetation removal encroachment permit will need to submit required documentation to the Transportation Cabinet for review. The Transportation Cabinet, Department of Highways, Division of Maintenance, Permits Branch will review the vegetation removal permit application and determine the required mitigation.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):**

Individuals and businesses seeking a vegetation removal encroachment permit will be responsible for paying the mitigation fee. There are no known direct costs for the Transportation Cabinet.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):**

The overall process to apply for and obtain a permit for vegetation management to prune or removal vegetation will be simplified, and the timeline will be shortened.

(5) Provide an estimate of how much it will cost the administrative body to implement the administrative regulation:

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:**

There are no additional costs associated with this amendment.

**(b) On a continuing basis:**

There are no continuing costs associated with this amendment.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:**

Road Fund

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**

No increase in fees or funding will be necessary.

**(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:**

The amendment indirectly establishes a fee, which is for mitigation. The amendment removes requirements for vegetation removal encroachment permit applicants to obtain a pre-qualified arborist during the application process and providing physical mitigation by planting trees and other vegetation after approval of the vegetation removal encroachment permit.

**(9) TIERING: Is tiering applied?**

No, all encroachment permit applications for vegetation removal will be treated equally.

## FISCAL NOTE

**(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?**

Transportation Cabinet, Department of Highways, Division of Maintenance

**(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.**

KRS 176.050(1)(i), 177.106.

**(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.**

There will be no effect on expenditures. There is potential for an indirect increase in revenue to the Transportation Cabinet as explained in the Notes section.

**(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?**

Specific dollar estimates cannot be determined. Please see notes below.

**(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?**

Specific dollar estimates cannot be determined. Please see notes below.

**(c) How much will it cost to administer this program for the first year?**

No change in cost is anticipated to administer this program.

**(d) How much will it cost to administer this program for subsequent years?**

No change in cost is anticipated to administer this program.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Revenues (+/-):** Applicants will be required to contribute to a mitigation organization specified by the department. Some mitigation organizations allow the Transportation Cabinet District Offices to utilize contributions for projects such as planting bee and butterfly habitats. The amount of funding will depend on the number of vegetation removal encroachment permits and the specifics of work covered under each permit.

**Expenditures (+/-):** There will be no effect on expenditures.

**Other Explanation:**

**(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.**

**(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?**

There is potential for cost savings for the entities regulated with this administrative regulation. This savings will vary depending on the amount of vegetation removal

being proposed, the time of year the removal is proposed, and the area of the state the removal is proposed.

**(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?**

There is potential for cost savings for the entities regulated with this administrative regulation. This savings will vary depending on the amount of vegetation removal being proposed, the time of year the removal is proposed, and the area of the state the removal is proposed.

**(c) How much will it cost the regulated entities for the first year?**

The costs for the entities regulated with this administrative regulation will vary depending on the amount of vegetation removal being proposed, the time of year the removal is proposed, and the area of the state the removal is proposed.

**(d) How much will it cost the regulated entities for subsequent years?**

The costs for the entities regulated with this administrative regulation will vary depending on the amount of vegetation removal being proposed, the time of year the removal is proposed, and the area of the state the removal is proposed.

**Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.**

**Cost Savings (+/-):**

**Expenditures (+/-):**

**Other Explanation:**

**(5) Explain whether this administrative regulation will have a major economic impact, as defined below.**

“Major economic impact” means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] This administrative regulation will not have a major economic impact.