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LEGISLATIVE RESEARCH COMMISSION

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Jay D. Hartz
Director

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Lindsey Burke
Minority Whip

MEMORANDUM

TO: Senate Standing Committee on Transportation
House Standing Committee on Transportation

FROM: Jay D. Hartz, Director 

SUBJECT: Administrative Regulations

DATE: March 5, 2025

At its February 10, 2025, meeting, the Administrative Regulation Review Subcommittee completed its review of the following administrative regulation: 502 KAR 010:120.

Pursuant to the provisions of KRS Chapter 13A, this regulation has been assigned to the Senate Standing Committee on Transportation and the House Standing Committee on Transportation. Pursuant to KRS Chapter 13A, the committees have 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.

Attachments

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 Derek Lewis, Co-Chair
Administrative Regulation Review Subcommittee

RE: Report of the Administrative Regulation Review Subcommittee

DATE: March 5, 2025

Members: Senator Stephen West, Co-Chair; Representative Derek Lewis, Co-Chair; Senators Julie Raque Adams and Mike Wilson; and Representatives Randy Bridges, Deanna Gordon, and Mary Lou Marzian.

LRC Staff: Sarah Amburgey, Stacy Auterson, Laura Begin, Emily Caudill, Ange Darnell, Emily Harkenrider, Karen Howard, Anna Latek, Callie Lewis, and Carrie Nichols.

Guests: Jennifer Scutchfield, Secretary of State; Christopher Bowlin, Steve Humphress, Office of the Attorney General; Sara Boswell Janes, Jennifer Lutes, Board of Speech-language Pathology and Audiology; Steven Fields, Jenny Gilbert, Department of Fish and Wildlife Resources; Brian Osterman, Tyler Shields, Division of Waste Management; Nathan Goens, Department of State Police; Todd Allen, Dr. Robbie Fletcher, Matt Ross, Department of Education; Jason Hernandez, Robin Maples, Chuck Stribling, Department of Workplace Standards; Shaun Orme, Beth Taylor, Department of Insurance; Katie Adams-Cornett, Hannah Carlin, Marni Gibson, Department of Financial Institutions; and Kelli Blair, Julie Brooks, Gail Hooper, Jonathan Scott, Cabinet for Health and Family Services.

The Administrative Regulation Review Subcommittee met on Monday, February 10, 2025.

JUSTICE AND PUBLIC SAFETY CABINET: Department of State Police: Driver Training

502 KAR 010:120. Hazardous materials endorsement requirements. Nathan Goens, assistant general counsel, represented the department.

In response to a question by Co-Chair West, Mr. Goens stated that the increased hazardous materials, commercial driver's license fee would be just over twenty-three (23) dollars. This fee was federally mandated.

A motion was made and seconded to approve the following amendments: to amend Sections 2 and 3 to: (1) delete references to incorporated material that is no longer used; (2) delete language allowing an extension of the expiration date of the Hazardous Materials Endorsement to conform with current cabinet processes; and (3) comply with the drafting and formatting requirements of KRS Chapter 13A. Without objection, and with agreement of the agency, the amendments were approved.

heduled for March 10, 2025, at 1 p.m. in Room 149 of the Annex.

JUSTICE AND PUBLIC SAFETY CABINET
Department of Kentucky State Police
(Amended at ARRS Committee)

502 KAR 10:120. Hazardous materials endorsement requirements.

RELATES TO: KRS 281A.120, 281A.130, 281A.150, 281A.160, 281A.170, 49 U.S.C. 5103a, 49 C.F.R. Parts 383, 1515, 1572

STATUTORY AUTHORITY: KRS 281A.040

NECESSITY, FUNCTION, AND CONFORMITY: KRS 281A.040 authorizes any state agency vested with a specific responsibility to have the necessary power and authority to promulgate administrative regulations to reasonably carry out the provisions of KRS Chapter 281A. 49 C.F.R. Part 1572 requires fingerprint verified criminal background checks on all persons obtaining or renewing a hazardous materials endorsement for a commercial driver's license. This administrative regulation establishes the necessary procedures for conducting fingerprint verified criminal background checks and establishing the location of the fingerprinting centers where the Kentucky State Police shall take fingerprints and transmit them to the federal government.

Section 1. Definitions.

- (1) "CDL" or "Commercial Driver's License" is defined by KRS 281A.010(5) and 49 C.F.R. 383.5.
- (2) "CDL testing location" means the department's regional CDL testing offices.
- (3) "Determination of no security threat" is defined by 49 C.F.R. 1572.15(d)(1).
- (4) "DOT" means the federal Department of Transportation.
- (5) "Final Determination of Threat Assessment" is defined by 49 C.F.R. 1572.15(d)(4).
- (6) "HME" means hazardous materials endorsement.
- (7) "Initial Determination of Threat Assessment" is defined by 49 C.F.R. 1572.15(d)(2).
- (8) "KSP" means the Kentucky State Police.
- (9) "Proper identification" means:
 - (a) A driver's license issued by the applicant's state where they will obtain or have obtained a commercial driver's license; or
 - (b) With respect to non-United States citizens applying for a hazardous materials endorsement for a commercial driver's license, proper identification means valid and unrestricted documentation establishing lawful nonimmigrant alien, asylee, or refugee status.
- (10) "TSA" means the federal Transportation Security Administration.

Section 2. Initial Applications for HME.

(1) An applicant applying for a hazardous materials endorsement shall first obtain a commercial driver's instruction permit or CDL prior to requesting a security threat assessment from the TSA. [~~The applicant shall submit application information in accordance with 49 C.F.R. 1572.9. The applicant shall further submit to a fingerprint verified criminal background check conducted by KSP.~~]

(2) To begin the process, an applicant shall contact KSP at the following phone number to make an appointment: 1-888-655-9655.

(3) An applicant shall bring proper identification, be prepared to provide the information required by 49 C.F.R. 1572.9, and submit to a fingerprint verified criminal background check at the appointment[~~and a completed "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652~~].

(4) An applicant shall pay a [~~\$115 fee for a fingerprint-based background check until December 1, 2024. Beginning December 2, 2024, an applicant shall pay a~~] \$138.25 fee for a fingerprint-based background check. The fee may be paid by:

(a) Certified check;

(b) Cashier's check;

(c) Money order; or

(d) Electronically before the appointment at https://secure.kentucky.gov/formservices/KSP/hazmat_FP.

(5) An applicant shall be fingerprinted by KSP at a regional CDL testing location. KSP shall send the fingerprints to the Federal Bureau of Investigation for a fingerprint-verified criminal background check and send the biographical information sheet to the TSA.

(6) If TSA informs the Commonwealth of a finding of Determination of No Security Threat, then the applicant shall be notified by the Transportation Cabinet that he or she is eligible [] to take the knowledge test required to qualify for the HME.

(7) If TSA informs the Commonwealth of a finding of Initial Determination of Threat Assessment, the applicant shall not be issued a HME. The applicant may appeal the TSA's determination in accordance with 49 C.F.R. 1515.5 or 1515.9. Following appeal, if the applicant receives a Final Determination of Security Threat Assessment, the applicant may seek a waiver from the TSA in accordance with 49 C.F.R. 1515.7.

(8) Within fifteen (15) days after the TSA has notified the Commonwealth of a Determination of No Security Threat or of a finding of Final Determination of Security Threat Assessment, the Transportation Cabinet shall update the applicant's permanent record to reflect the results of the security threat assessment, the issuance or denial of an HME, and the new expiration date of the HME.

Section 3. Renewal Applications for HME.

(1) The Transportation Cabinet shall send persons holding a HME notice of renewal at least sixty (60) days prior to expiration.

(2) Persons wishing to renew their HME shall begin the renewal process at least thirty (30) days prior to expiration.

(3) To begin the renewal process, a renewal applicant shall contact KSP at the following phone number to make an appointment: 1-888-655-9655. ~~***A renewal applicant shall submit to fingerprinting and further complete the "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027, containing all information necessary for the TSA to complete the required assessment as described in 49 C.F.R. 1572.9 no later than thirty (30) days prior to the expiration of the HME endorsement.***~~

(4) A renewal applicant shall bring to the appointment proper identification, be prepared to provide the information required by 49 C.F.R. 1572.9, and submit to a fingerprint verified criminal background check at the appointment~~***a completed "Transportation Security Administration Application for a Hazardous Materials Endorsement," OMB No. 1652-0027.***~~

(5) A renewal applicant shall pay a [\$115 fee for a fingerprint-based background check until December 1, 2024. Beginning December 2, 2024, a renewal applicant shall pay a] \$138.25 fee for a fingerprint-based background check. The fee may be paid by:

- (a) Certified check;
- (b) Cashier's check;
- (c) Money order; or
- (d) Electronically before the appointment at https://secure.kentucky.gov/formservices/KSP/Hazmat_FP.

(6) A renewal applicant shall be fingerprinted by KSP at a regional CDL testing location. KSP shall send the fingerprints to the Federal Bureau of Investigation for a fingerprint verified criminal background check and send the biographical information sheet to the TSA.

~~***(7) [If the Commonwealth has not received notification from TSA of the results of the security threat assessment prior to the expiration of the renewal applicant's HME, the Transportation Cabinet may extend the expiration date of the HME for a period] [of] [up to ninety (90) days. Any additional extension shall be approved by TSA.]***~~

~~***(8)***~~ If TSA informs the Commonwealth of a finding of Determination of No Security Threat, then the renewal applicant shall be notified by the Transportation Cabinet that he or she is eligible [to take the knowledge test required to qualify for the HME.

~~***(8)***~~ ~~***(9)***~~ If TSA informs the Commonwealth of a finding of Initial Determination of Threat Assessment, the renewal applicant shall not be issued an~~***a***~~ HME. The

renewal applicant may appeal the TSA's determination under the procedures set forth in 49 C.F.R. 1515.5 or 1515.9. Following appeal, if the renewal applicant receives a Final Determination of Security Threat Assessment, the applicant may seek a waiver from TSA in accordance with 49 C.F.R. 1515.7.

(9)~~(10)~~ Within fifteen (15) days after the TSA has notified the Commonwealth of a Determination of No Security Threat or of a finding of Final Determination of Security Threat Assessment, the Transportation Cabinet shall update the applicant's permanent record to reflect the results of the security threat assessment, the issuance or denial of an HME, and the new expiration date of the HME.

(10)~~(11)~~ An applicant who has received a passing score on the HME test and is applying for a Class C CDL with a hazardous materials endorsement shall drive a Class C placarded vehicle for the skills test.

Section 4. Transfer Applications For HME. ~~(4)~~ In accordance with 49 C.F.R. 1572.13(e), an applicant who applies to transfer an existing HME from another state to the Commonwealth shall not be required to undergo a new security threat assessment until the security threat assessment renewal period established in the preceding issuing state, not to exceed five (5) years, expires.

FILED WITH LRC: February 10, 2025

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.