

## **201 KAR 31:100. Administrative subpoena.**

RELATES TO: KRS 322A.030(12)

STATUTORY AUTHORITY: KRS 322A.030(5), (12)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 322A.030(5) authorizes the Kentucky Board of Registration for Professional Geologists to promulgate administrative regulations required to perform its duties. KRS 322A.030(12) authorizes the board to issue subpoenas to assist in the investigation of a complaint or a suspected violation of KRS Chapter 322A. This administrative regulation establishes procedures for issuing an administrative subpoena.

Section 1. Definitions. (1) "Document" means information in any form or format that is relevant to a review or investigation conducted by the board and may include:

- (a) Originals, copies, and drafts;
- (b) Written documents;
- (c) Papers;
- (d) Books;
- (e) Computer files;
- (f) Photographs;
- (g) Audio and video recordings;
- (h) Correspondence;
- (i) Electronic mail; or
- (j) Drawings and blueprints.

(2) "Respondent" means any person, individual, corporation, business trust, estate, trust partnership, limited liability company, association, organization, joint venture, government or any subdivision, agency or instrumentality thereof, or any other legal or commercial entity.

Section 2. The Kentucky Board of Registration for Professional Geologists may issue an administrative subpoena to investigate a complaint or suspected violation of KRS Chapter 322A.

Section 3. Administrative Subpoenas. (1) The board shall issue a subpoena in accordance with KRS 322A.030(12) to require the production of books, papers, documents, or other evidence at a specified time and place.

(2) If information requested by the board is encrypted, the respondent shall:

- (a) Provide the information in a readable format; and
- (b) Provide proof acceptable to the board that the requested information has been translated to a readable format without error or omission.

(3) A person or entity served with a subpoena in accordance with subsection (1) of this section shall not intentionally destroy, alter, or falsify documents requested by the board.

Section 4. Noncompliance. (1) If a person fails without good cause to produce requested documents in accordance with Section 3(1) of this administrative regulation, the board may apply to the circuit court of the county in which compliance is sought for an appropriate order to compel compliance with the provisions of the subpoena.

(2) If a person served with a subpoena issued pursuant to Section 3(1) of this administrative regulation believes that the subpoena seeks to compel the production of documents that are protected, privileged, or not properly the subject of an administrative subpoena, the individual may, prior to the date designated for the production of the documents, apply to the circuit court of the county in which compliance is sought for an appropriate protective order limiting the

scope of the subpoena or quashing it entirely. (41 Ky.R. 210; Am. 441; eff. 10-3-2014.)