

805 KAR 11:001. Definitions for 805 KAR Chapter 11.

RELATES TO: KRS 217.900(1), 218A.010(6), Chapter 342, 351.010, 351.182(8)

STATUTORY AUTHORITY: KRS 351.070, 351.186

NECESSITY, FUNCTION AND CONFORMITY: KRS 351.070(13) authorizes the Secretary of the Environmental and Public Protection Cabinet to promulgate administrative regulations necessary and suitable for the proper administration of KRS Chapter 351. KRS 351.186 authorizes the Office of Mine Safety and Licensing to certify drug-free workplace programs implemented by an employer who is also a licensee, for the licensee to be eligible to obtain a credit on the licensee's premium for workers' compensation insurance. This administrative regulation defines terms used in 805 KAR Chapter 11.

Section 1. Definitions. (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl, or spirit of wine, produced from any source or process.

(2) "Consortium" means an entity, which may involve varied pools of employers and their employees, established to provide cost-effective services to employers to help the employers comply with drug-free workplace program requirements and may provide employer education, supervisor training, and drug and alcohol testing at a reduced cost to the employers who choose to participate.

(3) "Drug" means a controlled substance as defined in KRS 218A.010(6) and as established in 902 KAR Chapter 55, including:

- (a) Substances listed in KRS 351.182(8);
- (b) Illicit substances; and
- (c) Volatile substances as defined in KRS 217.900(1).

(4) "Drug or alcohol rehabilitation program" means a service provider that provides confidential, timely, and expert identification, assessment, treatment, and resolution of employee drug or alcohol abuse.

(5) "Drug test" or "test" means a chemical, biological, or physical instrumental analysis administered by a qualified laboratory, for the purpose of determining the presence or absence of a drug or its metabolites or alcohol pursuant to standards, procedures, and protocols established by the U.S. Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA) for the collection and testing required by KRS 351.182.

(6) "Employee" means any person who works for a salary, wages, or other remuneration for an employer, licensee, or operator.

(7) "Employee Assistance Program" means an established program providing:

- (a) Professional assessment of employee personal concerns;
- (b) Confidential and timely services to identify employee alcohol or substance abuse;
- (c) Referrals of employees for appropriate diagnosis, treatment, and assistance with alcohol or substance abuse; and
- (d) Follow-up services for employees who participate in a drug or alcohol rehabilitation program and are recommended for monitoring after returning to work.

(8) "Employer" means a corporation, partnership, sole proprietorship, or other business entity doing business in Kentucky which is:

- (a) Required to comply with the provisions of KRS Chapter 342 or voluntarily covers excluded employees pursuant to KRS 342.660; and
- (b) A licensee.

(9) "Executive director" is defined by KRS 351.010(1)(ae).

(10) "Illicit substances" is defined by KRS 351.010(1)(m).

(11) "Independent contractor" means a person, business firm, partnership, or corporation with whom an owner, licensee, or operator may negotiate an agreement providing for construction, equipment, maintenance, personnel, management, and operation of a coal mine.

(12) "Licensee" is defined by KRS 351.010(1)(o).

(13) "Medical review officer" or "MRO" is defined by KRS 351.010(1)(p).

(14) "Office" is defined by KRS 351.010(1)(ad).

(15) "Operator" is defined by KRS 351.010(1)(u).

(16) "Qualified laboratory" means a laboratory certified in accordance with the National Laboratory Certification Program (NLCP) by the United States Department of Health and Human Services' Substance Abuse and Mental Health Services Administration (SAMHSA).

(17) "Reasonable suspicion testing" means drug or alcohol testing that meets the requirements in 805 KAR 11:020, Section 2(2).

(18) "Serious physical injury" is defined by KRS 351.010(1)(y).

(19) "Supervisory personnel" is defined by KRS 351.010(1)(ac). (33 Ky.R. 3126; 3416; 34 Ky.R. 249; eff. 8-23-2007; Crt eff. 6-27-2018.)