

CABINET FOR HEALTH AND FAMILY SERVICES
Department for Public Health
Division of Public Health Protection and Safety
(New Administrative Regulation)

902 KAR 100:195. Licensing of special nuclear material.

RELATES TO: KRS 194A.005(1), 211.180(1), 211.842-211.852, 211.990(4), 10 C.F.R. Part 70, 42 U.S.C. 2021(b)

STATUTORY AUTHORITY: KRS 194A.050(1), 211.844(1)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary of the Cabinet for Health and Family Services to promulgate administrative regulations necessary to operate the programs and fulfill the responsibilities vested in the cabinet. KRS 211.844(1) requires the Cabinet for Health and Family Services to provide by administrative regulation for the registration and licensing of the possession or use of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste. This administrative regulation establishes procedures, criteria, terms, and conditions upon which the cabinet issues licenses for special nuclear material.

Section 1. Definitions.

- (1) "Agreement state" means a state that the United States Nuclear Regulatory Commission (NRC) or the United States Atomic Energy Commission has entered into an effective agreement under subsection 274 b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2021(b) et seq.).
- (2) "Cabinet" is defined by KRS 194A.005(1).
- (3) "Licensee" means a person who holds:
 - (a) A specific license issued by the cabinet pursuant to 902 KAR 100:040 and this administrative regulation;
 - (b) A specific license issued by the U.S. Nuclear Regulatory Commission or an agreement state; or
 - (c) A general license pursuant to 902 KAR 100:050 or equivalent regulations of the U.S. Nuclear Regulatory Commission or an agreement state.

Section 2. Applicability. This administrative regulation shall apply to a licensee. Except as established in subsections (1) through (4) of this section, the licensee shall comply with 10 C.F.R. Part 70.

- (1) The licensee shall not be subject to:
 - (a) 10 C.F.R. 70.1(c), (d), and (e);
 - (b) 10 C.F.R. 70.4 Definitions:
 1. Commencement of Construction (2); and
 2. Construction (9)(ii);
 - (c) 10 C.F.R. 70.5;
 - (d) 10 C.F.R. 70.8;
 - (e) 10 C.F.R. 70.10(b);
 - (f) 10 C.F.R. 70.13;
 - (g) 10 C.F.R. 70.14;
 - (h) 10 C.F.R. 70.20a;
 - (i) 10 C.F.R. 70.20b;
 - (j) 10 C.F.R. 70.21(a)(1), (c), (f), (g), and (h);
 - (k) 10 C.F.R. 70.22(b), (c), (f), (g), (h), (i), (j), (k), (l), (m), and (n);
 - (l) 10 C.F.R. 70.23(a)(6), (a)(7), (a)(8), (a)(9), (a)(10), (a)(11), (a)(12), and (b);
 - (m) 10 C.F.R. 70.23a;

- (n) 10 C.F.R. 70.24;
- (o) 10 C.F.R. 70.25(a)(1);
- (p) 10 C.F.R. 70.31(c), (d), and (e);
- (q) 10 C.F.R. 70.32(a)(1), (a)(4), (a)(5), (a)(6), (a)(7), (b)(1), (b)(3), (b)(4), (c), (d), (e), (f), (g), (h), (i), (j), and (k);
- (r) 10 C.F.R. 70.37;
- (s) 10 C.F.R. 70.40;
- (t) 10 C.F.R. 70.42(b)(6);
- (u) 10 C.F.R. 70.44;
- (v) 10 C.F.R. 70.52;
- (w) 10 C.F.R. 70.55(c);
- (x) 10 C.F.R. 70.59;
- (y) 10 C.F.R. 70.60;
- (z) 10 C.F.R. 70.61;
- (aa) 10 C.F.R. 70.62;
- (bb) 10 C.F.R. 70.64;
- (cc) 10 C.F.R. 70.65;
- (dd) 10 C.F.R. 70.66;
- (ee) 10 C.F.R. 70.72;
- (ff) 10 C.F.R. 70.73;
- (gg) 10 C.F.R. 70.74;
- (hh) 10 C.F.R. 70.76
- (ii) 10 C.F.R. 70.82; and
- (jj) 10 C.F.R. Appendix A to Part 70.

(2) Reference to the NRC, the Commission, or an agreement state shall be deemed to reference the Cabinet for Health and Family Services, Department for Public Health, Radiation Health Branch, the NRC, or an agreement state.

(3) Each application for a specific license shall be filed pursuant to 902 KAR 100:0195.

(4) Notifications, reports, and correspondence required by 10 C.F.R. 70 shall be directed to the manager, Radiation Health Branch, at:

- (a) 275 East Main Street, Mailstop HS1-C-A, Frankfort, Kentucky 40621;
- (b) (502) 564-1492: Facsimile
- (c) (502) 564-3700: Telephone, Monday through Friday, 8 a.m. to 4:30 p.m.; or
- (d) (800) 255-2587: Telephone, for hours except those established in paragraph (c) of this subsection.

STEVEN J. STACK, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: May 26, 2023

FILED WITH LRC: June 7, 2023 at 2:35 p.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on August 21, 2023, at 9:00 a.m. using the CHFS Office of Legislative and Regulatory Affairs Zoom meeting room. The Zoom invitation will be emailed to each requestor the week prior to the scheduled hearing. Individuals interested in attending this virtual hearing shall notify this agency in writing by August 14, 2023, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends virtually will be given an opportunity to comment on the proposed administrative regulation. 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 this

proposed administrative regulation until August 31, 2023. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Krista Quarles, Policy Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621; phone 502-564-6746; fax 502-564-7091; email CHFSregs@ky.gov.