

**JUSTICE AND PUBLIC SAFETY CABINET
PAROLE BOARD
(Amendment)**

501 KAR 1:030. Determining parole eligibility.

RELATES TO: KRS 49.480, 119.025, 197.410(2), 439.340, 439.3401, 439.563, 532.043, 532.060, 532.080, 640.080

STATUTORY AUTHORITY: KRS 439.340(3)

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 439.340(3) requires the Kentucky Parole Board to promulgate administrative regulations with respect to eligibility of prisoners for parole. This administrative regulation establishes the criteria for determining parole eligibility.

Section 1. Definitions.

- (1) "Board" is defined by KRS 439.250(5).
- (2) "Deferment" means a decision by the board that an inmate shall serve a specific number of months before further parole consideration.
- (3) "Detainer" means a document issued or made by a legal authority, authorizing the keeper of a prison or jail to keep the person named in the document in custody.
- (4) "Parole" means the release of an inmate with a signed parole certificate to:
 - (a) The community prior to the expiration of his sentence, subject to conditions imposed by the board and subject to its supervision; or
 - (b) Answer the detainer.
- (5) "Parole eligibility date" means the date set by the board for conducting parole hearings at the location designated for an inmate's parole release hearing to take place during the month the inmate becomes eligible for parole.
- (6) "Parole recommendation" means a decision of the board that an inmate may be released from incarceration prior to the expiration of his sentence.
- (7) "Parole for violent offender" is defined in KRS 439.3401.
- (8) "Physical injury" is defined in KRS ~~500.080(17)~~~~[500.080(13)]~~.
- (9) "Serious physical injury" is defined in KRS ~~500.080(19)~~~~[500.080(15)]~~.
- (10) "Serve-out", "SOT", or "serve-out-time" means a decision of the board that an inmate shall serve until the completion of his sentence.
- (11) "SOTP" means Sex Offender Treatment Program.

Section 2. Ineligibility.

- (1) An eligible sex offender, as defined in KRS 197.410(2), convicted prior to July 15, 1998 shall not be eligible for a parole consideration hearing unless:
 - (a) He has been denied entrance into the ~~SOTP~~~~[Sex Offender Treatment Program]~~;
 - (b) He has been terminated from the SOTP; or
 - (c) He has successfully completed the SOTP.
- (2) On or after July 15, 1998, a sex offender's eligibility shall be governed by KRS 197.045(4).
- (3) On or after July 15, 1998, a person confined to a state penal institution or county jail as a result of the revocation of his postincarceration supervision ~~[by the court]~~ pursuant to KRS 532.043 and 532.060 shall not be eligible for parole consideration.
- (4) If an inmate is within ~~ninety (90)~~~~[sixty (60)]~~ days of being released by minimum expiration, administrative release, or maximum expiration at the time of his next scheduled parole hearing, the inmate shall not be eligible for parole.

Section 3. Parole Eligibility.

(1) Initial parole review. Except as provided by Section 2 of this administrative regulation, a person confined to a state penal institution or county jail shall have his case reviewed by the board, in accordance with the following schedules:

(a) A nonviolent offender convicted of a Class D felony with an aggregate sentence of one (1) to five (5) years shall have his or her case reviewed by the Parole Board upon reaching his or her parole eligibility date as established in KRS 439.340(3)(a).

(b) For a felony offense committed prior to December 3, 1980:

Sentence Being Served	Time Service Required Before First Review (Minus Jail Credit)
1 year	4 months
More than 1 year and less than 18 months	5 months
18 months up to and including 2 years	6 months
More than 2 years and less than 2 1/2 years	7 months
2 1/2 years up to 3 years	8 months
3 years	10 months
More than 3 years, up to and including 9 years	1 year
More than 9 years, up to and including 15 years	2 years
More than 15 years, up to and including 21 years	4 years
More than 21 years, up to and including life	6 years

(c) For a felony offense committed after December 3, 1980:

Sentence Being Served	Time Service Required Before First Review (Minus Jail Credit)
1 year, up to but not including 2 years	4 months
2 years, up to and including 39 years	20% of sentence received
More than 39 years, up to and including life	8 years
Persistent felony offender I in conjunction with a Class A, B, or C felony	10 years

(d) For any crime, committed on or after July 15, 1986, but prior to July 15, 1998, which is a capital offense, Class A felony, or Class B felony where the elements of the offense or the judgment of the court demonstrate that the offense involved death or serious physical injury to the victim or Rape 1 or Sodomy 1:

Sentences of a number of years	50% of the sentence received or 12 years, whichever is less
Sentence of life	12 years

(e) For a crime:

1. Committed on or after July 15, 1998, which is a capital offense, Class A felony, or Class B felony where the elements of the offense or the judgment of the court demonstrate that the offense involved death or serious physical injury to the victim or Rape 1 or Sodomy 1;
2. Committed on or after July 15, 2002, which is:
 - a. Burglary in the first degree accompanied by the commission or attempted commission of a felony sexual offense in KRS Chapter 510;
 - b. Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - c. Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
 - d. Robbery in the first degree;
3. Committed on or after July 12, 2006, which is:
 - a. A capital offense;
 - b. Class A felony;
 - c. Complicity to a Class A felony;
 - d. Class B felony involving the death of the victim or serious physical injury to a victim;
 - e. The commission or attempted commission of a Class A or B felony sex offense in KRS Chapter 510;
 - f. The use of a minor in a sexual performance as described in KRS 531.310(2)(b) and 531.310(2)(c);
 - g. Promoting a sexual performance by a minor as described in KRS 531.320(2)(b) and 531.320(2)(c);
 - h. Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a) when the minor is less than sixteen (16) years old or if the minor incurs physical injury;
 - i. Promoting prostitution in the first degree as described in KRS 529.030(1)(a) when the minor is less than sixteen (16) years old or if the minor incurs physical injury;
 - j. Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - k. Burglary in the first degree accompanied by the commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
 - l. Robbery in the first degree; or
4. Committed on or after June 26, 2007, which is:
 - a. A capital offense;
 - b. Class A felony;
 - c. Complicity to a Class A felony;
 - d. Class B felony involving the death of the victim or serious physical injury to a victim;
 - e. The commission or attempted commission of a Class A or B felony sex offense in KRS Chapter 510;
 - f. The use of a minor in a sexual performance as described in KRS 531.310(2)(b) and 531.310(2)(c);
 - g. Promoting a sexual performance by a minor as described in KRS 531.320(2)(b) and 531.320(2)(c);
 - h. Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a) when the minor is less than sixteen (16) years old or if the minor

incurs physical injury;

- i. Human trafficking as described in KRS 529.010(5)(b) when the victim is a minor;
- j. Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
- k. Burglary in the first degree accompanied by the commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
- l. Robbery in the first degree:

Sentences of a number of years	85% of sentence received or 20 years, whichever is less
Sentences of life	20 years

5. Committed on or after June 25, 2013, including:

- a. Manslaughter under KRS 507.040 or Reckless Homicide under KRS 507.050 where a clearly identifiable peace officer or firefighter is killed in the line of duty:

Sentence Being Served At least 85% of the sentence imposed

- b. Manslaughter under KRS 507.040 or Reckless Homicide under KRS 507.050 where a peace officer or firefighter is killed in the line of duty:

Sentence Being Served At least 50% of the sentence imposed

6. Committed on or after March 25, 2015, but prior to June 29, 2017, including:

- a. Importing Heroin, under KRS 218A.1410;
- b. Trafficking in Controlled Substance – Heroin under KRS 218A.1412(3)(c);
- c. Aggravated Trafficking – Heroin under KRS 218A.142; or
- d. Homicide or Fetal Homicide under KRS 507 or 507A due to overdose, under KRS 439.3401(3)(d):

Sentence Being Served At least 50% of the sentence imposed

7. Committed on or after June 29, 2017, but prior to July 14, 2022, including:

- a. Importing Heroin, Carfentanil, Fentanyl, or Fentanyl Derivatives under KRS 218A.1410;
- b. Trafficking in Controlled Substance under KRS 218A.1412(3)(b)(2)(a);
- c. Trafficking in Controlled Substance under KRS 218A.1412(3)(c); or
- d. Aggravated Trafficking in Controlled Substance under KRS 218A.142:

Sentence Being Served At least 50% of the sentence imposed

8. Committed on or after July 14, 2018, including:

- a. Criminal Gang Syndicate under KRS 506.120;
- b. Enhancement of Criminal Gang-Related Felonies under KRS 506.170; or
- c. Criminal Attempt to Commit Murder of a Peace Officer or Firefighter under KRS 439.3401:

Sentence Being Served At least 85% of the sentence imposed

9. Committed on or after June 27, 2019, including:
- a. Manslaughter under KRS 507.040 or Reckless Homicide under KRS 507.050 where a clearly identifiable emergency medical services personnel is killed in the line of duty; or
 - b. Class B Criminal Attempt to Commit Murder where a clearly identifiable emergency medical services personnel is acting in the line of duty, regardless of whether injury occurs:

Sentence Being Served At least 85% of the sentence imposed

- c. Manslaughter under KRS 507.040 or Reckless Homicide under KRS 507.050 where an emergency medical services personnel is killed in the line of duty:

Sentence Being Served At least 50% of the sentence imposed

10. Committed on or after July 14, 2022, including:
- a. Class A or Class B Incest under KRS 530.020(2)(b) or (c);
 - b. Importing Carfentanil, Fentanyl, or Fentanyl Derivatives under KRS 218A.1410; or
 - c. Aggravated Trafficking in Controlled Substance under KRS 218A.142:

Sentence Being Served At least 85% of the sentence imposed

- d. Aggravated Trafficking in Heroin under KRS 218A.142:

Sentence Being Served At least 50% of the sentence imposed

9. Committed on or after July 15, 2024, which is:
- a. Commission or attempted commission of a Capital offense or Class A felony;
 - b. A felony involving the death or serious physical injury to a victim;
 - c. Burglary 1st Degree under KRS 511.020 if a person other than a participant in the crime was present in the building during commission of the offense;
 - d. Robbery 2nd Degree under KRS 515.030;
 - e. Arson 1st Degree under KRS 513.020;
 - f. Strangulation 1st Degree under KRS 508.170;
 - g. Carjacking under KRS 515.040;
 - h. Class C Promoting Contraband 1st Degree under KRS 520.050.
 - i. Wanton Endangerment 1st Degree under KRS 508.060 involving the discharge of a firearm; or
 - j. Distribution of matter portraying a sexual performance by a minor under KRS 531.340:

Sentence Being Served At least 85% of the sentence imposed

- (f) For an individual serving multiple sentences, if one (1) or more of the crimes resulted in a conviction committed under paragraph (e) of this subsection and one (1) or more of the crimes resulted in a conviction committed under paragraph (c) of this subsection, parole eligibility shall be calculated by applying the parole eligibility criteria in effect at the time the most recent crime was committed.
- (2) Subsequent parole review. Except as provided in KRS 439.340(14):

(a) After the initial review for parole, a subsequent review, during confinement, shall be at the discretion of the board; and

(b) The board, at the initial or a subsequent review, may order a serve-out on a sentence.

(3) Parole review with new felony conviction.

(a) If a confined prisoner is sentenced for a felony committed prior to the date of his current incarceration, he has not been discharged since his original admission, and if this new conviction will be served consecutively, the sentence received for the latter conviction shall be added to the sentence currently being served to determine his parole eligibility.

(b)

1. If a confined prisoner is a returned parole violator who receives an additional consecutive sentence, his parole eligibility shall be set on the length on the new sentence only, beginning from the date of his final sentencing, unless the board has previously set a new parole eligibility date.

2. If the board has previously set a new parole eligibility date, the parole eligibility date shall be the date which last occurs.

(c) If parole is recommended, and a confined prisoner receives an additional sentence after board consideration, but before his release:

1. The recommendation of parole shall automatically be voided; and

2. The new parole eligibility date shall be set based upon the date of original admission on the aggregate sentences.

(4) Parole review for crimes committed while in an institution or while on escape. If an inmate commits a crime while confined in an institution or while on an escape and receives a concurrent or consecutive sentence for this crime, eligibility time towards parole consideration on the latter sentence shall not begin to accrue until he becomes eligible for parole on his original sentence. This shall include a life sentence.

(a) Except as provided by paragraph (b) of this subsection, in determining parole eligibility for an inmate who receives a sentence for an escape, a sentence for a crime committed while in the institution, or on a sentence for a crime committed while on an escape, the total parole eligibility shall be set by adding the following, regardless of whether the sentences are ordered to run concurrently or consecutively:

1. The amount of time to be served for parole eligibility on the original sentence;

2. If the inmate has an additional sentence for escape, the amount of time to be served for parole eligibility on the additional sentence for the escape;

3. If the inmate has an additional sentence for a crime committed while in the institution, the amount of time to be served for parole eligibility on the additional sentence for the crime committed while in the institution; and

4. If the inmate has an additional sentence for a crime committed while on escape, the amount of time to be served for parole eligibility on the additional sentence for the crime committed while on escape.

(b) If the board has previously set a parole eligibility date for an inmate described in paragraph (a) of this subsection, and that date is later than that set under paragraph (a) of this subsection, the later date shall be the parole eligibility date.

(c)

1. Except as provided by paragraph (b) of this subsection, if a confined prisoner who has previously met the board is given a deferment, escapes during the period of the deferment, and returns from that escape without a new sentence for the escape, the time out on the escape shall be added to the original deferment date to arrive at the new adjusted date.

2.

- a. If the prisoner later receives a sentence for the escape, the previous deferment shall be automatically voided and the new parole eligibility date shall be set based on the new sentence beginning from the date of sentencing for the new sentence, unless the deferment date set by the board is a later date than that set based on the new sentence.
- b. If the deferment date set by the board is a later date, the parole eligibility date shall be the date which last occurs.
- (d) If an inmate receives a serve-out or deferment on his original sentence prior to receiving an additional sentence for escape~~[sentence]~~ or a sentence for a crime committed while on escape or while confined in an institution, his parole eligibility date shall be set from the date of his new sentence or from the date previously set by the board, whichever occurs last.
- (e) If an inmate receives a parole recommendation but escapes prior to being released, the parole recommendation shall be void. Upon return to a state institution, the board shall, as soon as possible, conduct a file review and set or fix his parole eligibility date. If the board so determines it may conduct a face-to-face hearing with this person at the institution with a three (3) member panel.
- (5) Parole reviews for persons on shock probation or on prerelease probation. If a person is shock probated, or on prerelease probation, and is later returned to the institution as a shock probation violator or prerelease probation violator, his new parole eligibility shall be calculated by adding the period of time the inmate is on shock probation or prerelease probation to his original parole eligibility date.
- (a) If a person on shock probation or prerelease probation is returned to the institution with a new consecutive sentence acquired while on shock probation or prerelease probation, he shall be eligible for a parole hearing if he has reached parole eligibility on the aggregate of the two (2) sentences. The time served toward parole eligibility prior to discharge by shock probation or prerelease probation shall be included as part of the total period of time to be served for parole eligibility on the aggregate sentences. The time spent out on shock probation or prerelease probation shall not be included as part of the total period of time to be served for parole eligibility.
- (b) If a person on parole is returned to the institution, has received a new sentence for a crime committed while on parole, and is probated or shock probated on the new sentence, the board shall, as soon as possible, conduct a file review and set or fix his parole eligibility date. If the board so determines, it may conduct a face-to-face hearing with this person at the institution with a panel of at least three (3)~~[two (2)]~~ members.

Section 4. Emergency Authority. If the Commissioner of the Department of Corrections gives notice to the board of a need to relieve state prison or local jail overpopulation, the board may authorize the Commissioner to release one (1) or more persons who have been granted parole but who remain in custody solely to meet the time service requirements of this administrative regulation, if:

- (1) Sixty (60) or fewer days remain between the date of the actual release and the date on which the inmate would otherwise be physically released on parole;
- (2) The release would not result in a violation of a statutorily set minimum service of time requirement, including that set out for violent offenders under KRS 439.3401; and
- (3) All other release requirements, including victim notification and re-entry planning, are completed.

The Chairperson of the Kentucky Parole Board, with the authorization and approval of a majority of the members of the Kentucky Parole Board, hereby approves the amendment of the regulation on behalf of the Kentucky Parole Board, as indicated by her signature below.
LADEIDRA N. JONES, Chairperson

APPROVED BY AGENCY: February 17, 2026

FILED WITH LRC: February 23, 2026 at 10:45 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation amendment shall be held May 26, 2026 at 9:00 a.m., at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five 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 wishes to be heard 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 the proposed administrative regulation. Written comments shall be accepted until April 30, 2026. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

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

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person:Nathan Goens

Subject Headings:Justice and Public Safety; Probation and Parole; Crimes and Punishments

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes the criteria for determining parole eligibility.

(b) The necessity of this administrative regulation:

To conform to the requirements of KRS 439.320, 439.340 and 439.3401.

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

KRS 439.340(3) requires the Kentucky Parole Board to promulgate administrative regulations with respect to eligibility of prisoners for parole. This administrative regulation establishes the criteria for determining parole eligibility.

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

The regulation provides direction and information to staff who assist the Kentucky Parole Board concerning eligibility requirements and managing parole review and to inmates concerning their parole eligibility.

(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 brings the regulation into conformity with the current statutes.

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

It is necessary to bring the regulation into conformity with the current statutes.

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

The amendment modifies the periods of time required for prisoners to serve before they are eligible for parole, to conform to the current statutes.

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

The regulation provides direction and information to staff who assist the Kentucky Parole Board concerning eligibility requirements and managing parole review and to inmates concerning their parole eligibility.

(3) Does this administrative regulation or amendment implement legislation from the previous five years? Yes, specifically, 22RS HB 215 and 24 RS HB 5.

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

This administrative regulation affects the Kentucky Parole Board members, the staff that assist the Board, offenders eligible for parole or on parole, members of the public that are victims of crime or that are affected by crime, and jails and prisons holding offenders already approved for parole.

(5) Provide an analysis of how the entities identified in question (4) 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 (4) will have to take to comply with this administrative regulation or amendment:

Parole Board members, staff that assist the Board, offenders, and jail or prison staff will have to follow the changes made in the amendment.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (4):

No additional cost is anticipated as a result of the regulation, which is being amended to conform with statutory requirements.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (4):

The expedited release will assist jails and prisons with overpopulation.

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

(a) Initially:

No additional cost is anticipated as a result of the regulation, which is being amended to conform with statutory requirements.

(b) On a continuing basis:

No additional cost is anticipated as a result of the regulation, which is being amended to conform with statutory requirements.

(7) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation or this amendment:

Budgeted Funds

(8) 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 is anticipated as a result of the regulation, which is being amended to conform with statutory requirements.

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

No fees are created by this regulation amendment.

(10) TIERING: Is tiering applied?

No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL IMPACT STATEMENT

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation:

KRS 439.340(3) requires the Kentucky Parole Board to promulgate administrative regulations with respect to eligibility of prisoners for parole. This administrative regulation establishes the criteria for determining parole eligibility.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act:

KRS 439.340(3) requires the Kentucky Parole Board to promulgate administrative regulations with respect to eligibility of prisoners for parole. This administrative regulation establishes the criteria for determining parole eligibility.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions:

Kentucky Parole Board, Department of Corrections, Justice and Public Safety Cabinet.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year:No additional expenditures are anticipated.

For subsequent years:No additional expenditures are anticipated.

2. Revenues:

For the first year:No additional revenues are anticipated.

For subsequent years:No additional revenues are anticipated.

3. Cost Savings:

For the first year:No cost savings are anticipated.

For subsequent years:No cost savings are anticipated.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts):

Local jails

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year:No additional expenditures are anticipated.

For subsequent years:No additional expenditures are anticipated.

2. Revenues:

For the first year:No additional revenues are anticipated.

For subsequent years:No additional revenues are anticipated.

3. Cost Savings:

For the first year:No cost savings are anticipated.

For subsequent years:No cost savings are anticipated.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a):

Inmates in the custody of the Department of Corrections that are eligible for or on parole.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year:No additional expenditures are anticipated.

For subsequent years:No additional expenditures are anticipated.

2. Revenues:

For the first year:No additional revenues are anticipated.

For subsequent years:No additional revenues are anticipated.

3. Cost Savings:

For the first year:No cost savings are anticipated.

For subsequent years:No cost savings are anticipated.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a)

(a) Fiscal impact of this administrative regulation:

The regulation amendment will not have a fiscal impact.

(b) Methodology and resources used to reach this conclusion:

This regulation amendment only conforms to changes made to the law by the state legislature, and therefore any impact is the result of statutory changes and not the regulation itself.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a "major economic impact", as defined by KRS 13A.010(14):

The regulation amendment will not have a "major economic impact."

(b) The methodology and resources used to reach this conclusion:

This regulation amendment only conforms to changes made to the law by the state legislature, and therefore any impact is the result of statutory changes and not the regulation itself.